# Fishery resources: recovery of cod stocks, long-term plan; aligning the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0013(COD) - 31/01/2012 - Legislative proposal

PURPOSE: to bring Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks ('the cod plan') into line with the new rules of the TFEU (Commission's powers of adopting delegated acts and implementing acts.)

PROPOSED ACT: Regulation of the European Parliament and of the Council. BACKGROUND : the Treaty on the Functioning of the European Union (TFEU) makes a distinction between:

- powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act, as laid down in Article 290 (1) TFEU **(delegated acts);**

- and on the other hand, powers conferred on the Commission to adopt uniform conditions for implementing legally binding Union acts, as laid down in Article 291(2) TFEU **(implementing acts).**

Article 10(1) of Regulation (EC) No 1342/2008 stipulates that if it appears in the light of scientific advice that the fishing mortality rates and associated spawning stock biomass levels used for the purposes of the plan are no longer appropriate, the Council must revise such parameters so as to ensure that the plan can attain its management objectives. The Regulation currently in force confers the power to amend these non-essential elements of the plan on the Council. Such a decision-making procedure is no longer possible under the TFEU.

The powers conferred on the Commission by Council Regulation (EC) No 1342/2008 must therefore be classified as delegated or implementing measures.

IMPACT ASSESSMENT: there was no need for interested parties to be consulted or for an impact assessment to be carried out.

LEGAL BASIS: Article 43(2) of the Treaty on the Functioning of the European Union.

CONTENT: the main thrust of the proposal is to identify the powers conferred on the Commission by Council Regulation (EC) No 1342/2008 and to classify them as delegated or implementing powers.

In order to amend or supplement non-essential elements of the provisions of Regulation (EC) No 1342 /2008, the power to adopt acts in accordance with Article 290 of the Treaty is **delegated to the Commission** in respect of the following:

- changes to the established values for the maximum fishing mortality rates and associated spawning stock biomass levels, when the target fishing mortality rate has been reached;

- the rules concerning: (i) the adjustment of the fishing effort where a group of vessels is excluded from or re-included in the effort regime; (ii) the method for calculating the fishing capacity and the adjustment of the maximum capacity levels due to permanent cessation of fishing activities and capacity transfers; (iii) the calculation method for adapting the maximum allowable fishing effort; and (iv) changes to the composition of the geographical areas and gear groupings.

Furthermore, **implementing powers are conferred on the Commission** in respect of detailed rules on the procedure and format for transmitting the information required to the Commission, and the format of the special fishing permit and of the list of vessels holding such special permit.

BUDGETARY IMPLICATIONS: this measure does not involve any additional Union expenditure.