Conservation of fishery resources: cod stocks in the Baltic Sea, multi-annual plan; aligning the Regulation with the TFEU

2012/0077(COD) - 02/04/2012 - Legislative proposal

PURPOSE: to amend Council Regulation (EC) No 1098/2007 2007 establishing a multi-annual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks (alignment of new provisions of the TFEU regarding the Commission's delegated and implementing powers).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

IMPACT ASSESSMENT: no impact assessment was undertaken.

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

CONTENT: this proposal aims to amend Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multi-annual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks. This act was adopted prior to the entry into force of the Treaty on the Functioning of the European Union (TFEU).

Powers conferred on the Commission: the main legal action is to identify the powers conferred upon the Commission in Council Regulation (EC) No 1098/2007 and to classify these as delegated or implementing powers.

The core objective of the plan is to ensure that Baltic cod stocks can be exploited under sustainable economic, environmental and social conditions. Science may evolve and improve, and the plan needs to contain the necessary provisions to ensure it is kept up to date with the best science available.

Article 27 of the Regulation stipulates that if scientific advice indicates that that the fishing mortality rates are disaccording with the objectives of the plan, the Council must by qualified majority revise mortality rates as to ensure that the plan can attain its management objectives. The current text therefore confers the power to amend these non-essential elements of the plan on the Council. Such decision-making procedure is no longer possible under the TFEU. Similarly, Article 26 provides for modification by the Council of certain non-essential elements of the plan to ensure that the objectives are met.

Article 290 of the TFEU provides that a legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act. By way of consequence, the decision-making procedure in Article 26 and 27 of the Regulation should be converted into a **system of delegated powers** to be exercised by the Commission under the conditions set out in the plan itself. The plan should therefore be amended accordingly.

Evaluation: the plan requires evaluation of the impact of the management measures on the stocks concerned and on the fisheries concerned. The timeline set in the Regulation in force is neither feasible nor efficient. This requirement means considerable difficulties due to the limited availability of relevant data to carry out appropriate assessment. Consequently, the timeline for evaluation of the plan should be modified.

Furthermore, implementing powers should be given to the Commission to confirm whether the conditions established in Article 29 of the Regulation are fulfilled and, consequently whether relevant provisions apply in the subdivisions concerned.

Maximum sustainable yield: the Commission and Member States signed up to the aim of achieving a maximum sustainable yield (MSY) for depleted stocks by 2015 at the latest, but it is not indicated as objective of the plan. To avoid any ambiguities in the plan the reference to the maximum sustainable yield should be included in the plan.

The Regulation is amended accordingly to clarify that the procedure at issue is that provided for by the Treaty.

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.