Conservation of fishery resources through technical measures: alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0208(COD) - 02/08/2012 - Legislative proposal

PURPOSE: to align Council Regulation (EC) No 850/98 concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms with the new rules of the Treaty on the Functioning of the European Union (delegated and implementing acts of the Commission).

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,

- firstly, the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act as laid down in **Article 290(1) of the TFEU (delegated acts)** and, secondly,
- the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts as laid down in **Article 291(2) of the TFEU (implementing acts)**.

In this context Regulation (EC) No 850/98 needs to be aligned with the new rules of the TFEU. Powers currently conferred upon the Commission by that Regulation should be reclassified into delegated and implementing powers.

IMPACT ASSESSMENT: it was not necessary to carry out an impact assessment.

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

CONTENT: the main legal action is to **identify the powers conferred upon the Commission in Regulation (EC) No 850/98 and to classify these as delegated or implementing powers**.

(1) The Commission should be empowered to adopt delegated acts concerning:

- the division of regions into geographical areas;
- the amending of the rules for the use of mesh size combinations;
- the establishment of rules for obtaining the percentage of target species taken by more than one fishing vessel in order to ensure that such catch compositions are respected by all the vessels involved in the fishing operation;
- the drawing up of rules concerning the technical descriptions and method of use of authorised devices that might be attached to the fishing net, and which do not obstruct or diminish the effective mesh opening of the net;
- conditions under which vessels exceeding eight meters length overall shall be permitted to use beam trawls within certain waters of the Union;
- measures designed to address unexpectedly small or large recruitments of juveniles, changes in migration patterns or any other changes in the conservation status of fish stocks, with immediate effect.

(2) Likewise, the Commission should be empowered to adopt implementing acts concerning:

- technical rules for measuring mesh sizes;
- square-meshed netting and twine thickness;
- technical rules related to the construction of netting materials;
- listing of devices that may obstruct or otherwise diminish the effective mesh opening in a fishing net;
- transmission of lists of vessels to which a special fishing permit to use beam trawls has been issued;
- technical rules related to measuring engine power and gear dimensions;
- the obligation of Member States to ensure that levels of fishing effort are not exceeded in certain areas of ICES Division IXa, and
- temporary measures where the conservation of stocks of marine organisms calls for immediate action.

The implementing powers conferred upon the Commission, except those concerning the obligation of Member States to ensure that levels of fishing effort are not exceeded in certain areas of ICES Division IXa, should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

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