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INFORMATION NOTE

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| from: | General Secretariat |
| to: | Permanent Representatives Committee/Council |
| Subject: | Proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1300/2008 of 18 December 2008 establishing a multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock - Outcome of the European Parliament's first reading (Strasbourg, 11 to 14 June 2012) |

I. INTRODUCTION

The Rapporteur, Mr Struan STEVENSON (ECR - UK), submitted a report on behalf of the Committee on Fisheries containing 14 amendments.

II. DEBATE

The Rapporteur opened the debate, which took place on 14 June 2012, and:

- stated that there would be no first-reading agreement on this proposal because of the inter-institutional disagreement over the application of Article 43 of the Treaty;
- emphasised the Parliament's insistence on the use of delegated acts for the implementation of multiannual management plans. He argued that the Parliament should have a decision-making role in this matter, not a merely advisory role;

- stressed the need for multiannual stock management plans in order to ensure long-term sustainable fishing. Without such assurance, many fishermen would remain unable to obtain vital funding from the banks; and
- warned that the Article 43 issue is threatening to derail the entire CFP reform process.

Commissioner DALLI:

- stated that the Commission fully shares the Parliament's position that multiannual management plans should not be adopted under the Ordinary Legislative Procedure;
- thanked the Parliament for supporting the Commission's empowerment to adjust parameters in the management plan in case science evolves;
- stated that the Commission could accept:
 - the Rapporteur's amendment regarding the definition of the stock and the area covered by the plan; and
 - the proposal for a three-year renewable empowerment period for the Commission - but noted that the management plan foresees a four-year cycle for its review and evaluation so it might be useful if the two cycles coincided; and
- stated that the Commission was opposed to the amendment requiring the Commission, before adopting delegated acts, to consult the Scientific, Technical and Economic Committee on Fisheries and the North-Western Waters Regional Advisory Council. This is because the Common Understanding on delegated acts of May 2011 requires the Commission to carry out appropriate consultations before adopting delegated acts. The proposed amendment would go beyond this requirement and would limit the Commission's discretion.

Speaking on behalf of the S&D political group, Mr Guido MILANA (S&D - IT) called on the Council to accept delegated acts.

Speaking on behalf of the ALDE political group, Mr Pat the Cope GALLAGHER (ALDE - IE):

- expressed his full support for the Rapporteur and for the Committee's report;
- particularly supported the amendment requiring regular consultation of the Pelagic RAC and the STECF;

- called on the Council to accept the Ordinary Legislative Procedure. The loser in this interinstitutional disagreement is the fishing sector and sustainable fisheries. He had encountered the same issue in his role as Rapporteur for the Atlantic horse mackerel proposal. He expressed his hope that the Cypriot fisheries minister would seek to resolve this issue;
- stated that some Member States' fisheries ministers had completely ignored the role of the Parliament as a co-legislator. This does not bode well for the coming CFP negotiations; and
- stated that the Council's position on discards is flawed. Avoidance, minimisation and escapement in the first instance is key. Landing dead fish does not contribute to sustainable fisheries management.

Speaking on behalf of the Greens/EFA political group, Mr Ian HUDGHTON (Greens/EFA- UK):

- stressed the importance of decentralisation. Member States should be allowed to cooperate on a regional basis; and
- called for an end to inter-institutional disagreements over Article 43 and delegated acts. Fish stocks and fishing communities should come first.

Mr Alain CADEC (EPP - FR) argued that the Commission's proposal for zero discards is not realistic and should be phased in gradually.

Mr Chris DAVIES (ALDE - UK):

- stated that numerous ministers in the recent Fisheries Council had emphasised the need for a fishery-by-fishery approach based upon multiannual plans. He asserted that this was a nonsense and a fraud so long as the Council continued to block the creation of these multiannual plans;
- stated that the Council had over the years consistently set annual TACs and quotas which are too high. The Parliament wants to put an end this by committing the Council to long-term management plans; and
- called for rapid resolution of the Article 43 issue. He stated that this is a genuine dispute which can only be resolved by face to face negotiation.

The Rapporteur once more took the floor and stated that the Chairman of the Committee on Fisheries, Mr Gabriel MATO ADROVER (EPP - ES), had raised the Article 43 issue with the President of the Parliament, who had been immensely supportive and had stated that he was ready to raise the matter with the President of the European Council.

III. VOTE

When it voted on 14 June 2012, the Parliament adopted all 14 of the Committee's amendments to the proposed Regulation.

The text of the amendments adopted and the European Parliament's legislative resolution are annexed to this note.

Stock of herring distributed to the west of Scotland *I**

European Parliament legislative resolution of 14 June 2012 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1300/2008 of 18 December 2008 establishing a multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock (COM(2011)0760 – C7-0432/2011 – 2011/0345(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0760),
 - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0432/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 18 January 2012¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A7-0145/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 68, 6.3.2012, p. 74.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Council Regulation (EC) No 1300/2008 establishing a multi-annual plan for the stock of herring distributed to the West of Scotland and the fisheries exploiting that stock empowers the Council to follow-up and revise the maximum fishing mortality rates and associated spawning stock biomass levels specified **in Article 3(2) and referred to in Articles 4(2), 4(5) and 9 thereof.**

Amendment

(1) Council Regulation (EC) No 1300/2008 establishing a multi-annual plan for the stock of herring distributed to the West of Scotland and the fisheries exploiting that stock empowers the Council to follow-up and revise the maximum fishing mortality rates and associated spawning stock biomass levels specified **therein.**

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) In accordance with Article 290 of the Treaty the Commission may be empowered to supplement or amend non-essential elements of a legislative act by means of delegated acts.

Amendment

deleted

Amendment 3

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) In order to **allow for an efficient achievement of** the targets set in the multi-annual plan and **for a swift** reaction to changes in stock conditions, the power to revise maximum fishing mortality rates and associated spawning stock biomass levels, when scientific data indicate that these values are no longer appropriate to reach the objective of the plan, **should be delegated to the Commission in accordance with Article 290 of the Treaty.**

Amendment

(3) In order to **ensure that** the targets set in the multi-annual plan **are achieved efficiently** and **that the** reaction to changes in stock conditions **is swift**, the power to **adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to** revise maximum fishing mortality rates and associated spawning stock biomass levels, when scientific data indicate that these values are no longer appropriate to reach the objective

of the plan. *It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.*

Amendment 4

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) Since herring *in the west of Scotland* is a *migrating* species, the specification of the area *it* currently inhabits should serve to *identify* it from other stocks, but should not prevent this plan *for* applying in the event that *the species* changes its mobility patterns. *Articles 1 and 2 should be modified accordingly.*

Amendment

(4) Since herring is a *migratory* species, the specification of the area *that the stock of herring distributed to the west of Scotland* currently inhabits should serve to *distinguish* it from other stocks, but should not prevent this plan *from* applying in the event that *that stock* changes its mobility patterns.

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) *It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.*

Amendment

deleted

Amendment 6

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) *The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.*

Amendment

deleted

Amendment 7

Proposal for a regulation

Recital 7

Text proposed by the Commission

Amendment

(7) At the occasion of this amendment, a mistake in the heading of Article 7 should be corrected.

deleted

Amendment 8

Proposal for a regulation

Article 1 – point 1

Regulation No 1300/2008

Article 1

Text proposed by the Commission

Amendment

This Regulation establishes a multi-annual plan for the fisheries exploiting the stock of herring in the **West** of Scotland.

This Regulation establishes a multi-annual plan for the fisheries exploiting the stock of herring in the **area west** of Scotland.

Amendment 9

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1300/2008

Article 2 – point (e)

Text proposed by the Commission

Amendment

(e) “stock **of herring** in the **West** of Scotland” means the stock of herring (*clupea harengus*) which inhabits Union and international waters of ICES **divisions** Vb, **VIa** and VIb.

(e) “**herring** stock in the **area west** of Scotland” means the stock of herring (*clupea harengus*) **distributed to the west of Scotland** which **currently** inhabits Union and international waters of ICES **zones** Vb and VIb **and the part of ICES zone VIa which lies east of the meridian of longitude 7°W and north of the parallel of latitude 55°N, or west of the meridian of longitude 7°W and north of the parallel of latitude 56°, excluding the Clyde.**

Amendment 10

Proposal for a regulation

Article 1 – point 3

Regulation No 1300/2008

Article 7

Text proposed by the Commission

Where scientific data *indicates* that *the values for* the fishing mortality rates and associated spawning stock biomass levels specified in Article 3(2), Article 4(2) to 4(5) and Article 9 are no longer appropriate to reach the objective set *forth* in Article 3(1), *the Commission* shall *fix* new values for *such* rates and levels *by means of delegated acts in accordance with Article 9a*.

Amendment

Where *the Commission, on the basis of advice from STECF and possibly other scientific data and after consulting fully with the Pelagic Regional Advisory Council, finds* that the fishing mortality rates and associated spawning stock biomass levels specified in Article 3(2), Article 4(2) to 4(5) and Article 9 are no longer appropriate to reach the objective set *out* in Article 3(1), *it shall adopt delegated acts in accordance with Article 9a fixing* new values for *those* rates and levels.

Amendment 11

Proposal for a regulation

Article 1 – point 4

Regulation No 1300/2008

Article 8

Text proposed by the Commission

Every four years from 18 December 2008, the Commission shall evaluate the operation and performance of the multi-annual plan. Where *appropriate*, the Commission *may propose adaptations to* the multi-annual plan *or shall adopt delegated acts in accordance with Article 7*.

Amendment

1. At least every four years from 18 December 2008, the Commission shall evaluate the operation and performance of the multi-annual plan. *For the purpose of this evaluation, the Commission shall seek the advice of STECF and of the Pelagic Regional Advisory Council.* Where *necessary*, the Commission *shall make appropriate proposals, for adoption in accordance with the ordinary legislative procedure, for the amendment of* the multi-annual plan.

2. Paragraph 1 shall be without prejudice

Amendment 12

Proposal for a regulation

Article 1 – point 5

Regulation No 1300/2008

Article 9 a (new) – paragraph 2

Text proposed by the Commission

2. The **delegation of** power referred to in Article 7 **and 8** shall be conferred for **an indeterminate** period of **time** from [dd/mm/yyyy] **[insert date of** entry into force of **this** regulation].

Amendment

2. The power **to adopt delegated acts** referred to in Article 7 shall be conferred **on the Commission** for a period of **three years** from [entry into force of **the** Regulation]. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

Amendment 13

Proposal for a regulation

Article 1 – point 5

Regulation No 1300/2008

Article 9 a (new) – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in **Articles 7 and 8** may be revoked at any time by the European Parliament or by the Council. A decision **of revocation** shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in **Article 7** may be revoked at any time by the European Parliament or by the Council. A decision **to revoke** shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or **at** a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 14

Proposal for a regulation

Article 1 – point 5

Regulation No 1300/2008

Article 9 a (new) – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to **Articles 7 and 8** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **2** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **2** months at the initiative of the European Parliament or the Council.

Amendment

5. A delegated act adopted pursuant to **Article 7** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **two** months at the initiative of the European Parliament or **of** the Council.