



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 July 2012

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NOTE

from:	General Secretariat of the Council
to:	Working Party on Internal and External Fisheries Policy
No. Cion prop.:	8558/12 PECHE 112 CODEC 931 - COM (2012) 155 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending 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

Delegations will find attached the Opinion of the European Economic and Social Committee on the above-mentioned subject.



European Economic and Social Committee

NAT/561
Multi-annual plan for the
Baltic cod stocks

Brussels, 11 July 2012

OPINION

of the

European Economic and Social Committee

on the

**Proposal for a Regulation of the European Parliament and of the Council amending
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
COM(2012) 155 final – 2012/0077 (COD)**

Rapporteur working without a study group: **Seppo Kallio**

On 18 April 2012 the European Parliament and on 24 April 2012 the Council decided to consult the European Economic and Social Committee, under Article 43(2) of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending 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

COM(2012) 155 final – 2012/0077 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 June 2012.

At its 482nd plenary session, held on 11 and 12 July 2012 (meeting of 11 July), the European Economic and Social Committee adopted the following opinion by 141 votes and 10 abstentions.

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1. Conclusions And Recommendations

- 1.1 The EESC is very pleased with the success of the plan for the Baltic cod stocks and feels that it is important that the plan be extended.
- 1.2 The EESC believes that the proposed amendments to Articles 4, 5 and 8 and to Article 29(2), (3) and (4) are acceptable and necessary technical changes to comply with the TFEU.
- 1.3 The EESC is not in favour of delegating legislative power to the Commission to determine fishing mortality rates, as proposed in Articles 27 and 29 a. The EESC considers that it is the privilege of the Council to take decisions in this area under Article 43(3) TFEU.

2. Introduction

- 2.1 According to reports by the International Council for the Exploration of the Sea (ICES), Baltic cod stocks were overfished in the early 2000s. In ICES subdivisions 25–32, the fishing mortality rate for eastern Baltic cod had reduced the stock to a level at which it was in danger of collapsing. The western Baltic cod stock in ICES subdivisions 22–24 was in slightly better condition, but stock yield was clearly below its long-term potential level. That was why a multi-annual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks was established by Council Regulation (EC) No 1098/2007 on 18 September 2007. The purpose of the plan was to ensure that Baltic cod stocks could be exploited under sustainable economic, environmental and social conditions.
- 2.2 To achieve this objective, the plan laid down rules for the establishment of the annual fishing opportunities for the stock in terms of total allowable catch and fishing effort. These rules include a fishing mortality parameter based on annual scientific recommendations and used to determine a stock's viability. Furthermore, Article 27 of the Regulation stipulated that the Council determines the fishing mortality rate by qualified majority and based on a proposal by the Commission to ensure that the plan's management objectives can be met. Similarly, Article 26 made it possible for the Council to modify the plan to ensure that the objectives are met.
- 2.3 The plan's implementation has been a success. The fishing mortality rate of both Baltic cod stocks is below the target level in the current plan. Fishing mortality for the eastern Baltic cod stock is also below the maximum sustainable yield (MSY), and its spawning stock has almost quadrupled since the plan has been in place. The trend for the western Baltic cod stock has been more gradual, but it is clearly moving in the right direction.

3. Commission proposal

- 3.1 The purpose of the Commission's proposal is 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), and it therefore needs to be amended in accordance with the new Treaty.

- 3.2 Article 290 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. The Commission is proposing that the decision-making procedure foreseen in Article 26 and 27 of the Regulation be converted into a system of delegated powers to be exercised by the Commission in order to monitor the plan and fishing mortality targets.
- 3.3 The plan requires evaluation of the impact of the management measures on the stocks and fisheries concerned every three years. This requirement is very difficult to comply with due to the limited availability of relevant data needed to carry out a proper assessment. According to scientific advice, a full evaluation of the three-year performance of the plan cannot be carried out until five years after the plan is introduced. Consequently, the timeline for evaluating the plan should be modified.
- 3.4 The Commission also proposes that it be given implementing powers to confirm whether the conditions established in Article 29 on removing certain Baltic areas from the scope of measures are fulfilled.
- 3.5 Additionally, 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 this is not stated as an objective of the plan. To avoid any ambiguities in the plan, it should include a reference to the MSY.
- 3.6 Articles 5 and 8 establishing the total allowable catch (TAC) for cod stocks and maximum number of days absent from port should be amended accordingly to clarify that the procedure at issue is that provided for by the Treaty.
4. **Specific comments**
- 4.1 The EESC is very pleased with the success of the plan for the Baltic cod stocks and feels that it is important that the plan be extended.
- 4.2 The Commission proposal amends the plan's objectives, in Article 4. The EESC considers the proposed reference to maximum sustainable yield (MSY) to be in line with the common EU target for fish stocks.

- 4.3 The Commission proposes to amend Articles 5 and 8 of the plan, replacing qualified majority decisions by the Council with decisions that comply with the new Treaty. These are technical changes reflecting the change in the decision-making procedure introduced by the TFEU.
- 4.4 With respect to Article 26, the Commission proposes that evaluation of the plan take place at five-year intervals. The EESC accepts the reasons given for this, but observes that the state of cod stocks should be monitored annually with reference to the plan in connection with ICES fish stock assessments.
- 4.5 In view of the current decision-making procedure, the Commission proposes amending Article 29 (2), (3) and (4) to allow it to grant exemptions to catch limits. Under the proposal, the Commission would confirm the exemptions each year by means of implementing acts, and a committee of Member State representatives would assess and issue a report on the matter. The EESC is in favour of expanding the Commission's remit in this area, but stresses that draft decisions should be submitted early enough for an assessment to be carried out before the following fishing period.
- 4.6 The proposal amends Articles 27 and 29 to give the Commission the power to adopt delegated acts. The EESC has expressed its view on this matter in earlier opinions¹. Those opinions note that the power to adopt delegated acts must be subject to a time limit. Furthermore, delegated acts should be reserved for areas where decisions need to be reached quickly.
- 4.7 The proposal in Article 29 a to empower the Commission to adopt delegated acts on the basis of Articles 26 and 27 would significantly alter the principles of EU fisheries policy making. The delegation of power is justified by the present slow pace of joint decision-making by the Commission and the Parliament. The EESC considers that a solution to this problem should first be sought through clarification of the distribution of authority between the Parliament and the Council under Article 43(2) and (3) TFEU. The EESC's understanding is that the fishing mortality rate determined in accordance with Article 27 of the plan is directly linked to the fixing and allocation of fishing opportunities, i.e. it falls within the sole competence of the Council in accordance with Article 43(3) of the TFEU.

¹ CESE 357/2011, OJ C 107, 6.4.2011, p. 33-36 and CESE 1858/2011, OJ C 43, 15.2.2012, p. 56-59.

- 4.8 The plan for the Baltic cod stocks is also designed to ensure stable fishing opportunities, based on which commercial fishing companies can develop their fishing activities with a sense of certainty. The EESC fears that if the Commission is delegated the power to change the target fishing mortality rate, on which basis catch quotas are determined, this could in the short term lead to a rapid change in catch quotas that would be damaging to the fishing industry.
- 4.9 Another reason for the Council to retain decision-making responsibility for the target fishing mortality rates applied in the plan is the change in the principles underlying scientific advice from one year to the next. Scientific advice does not take into account the need for socio-economic stability. A change in the principles or methods of calculation can significantly alter the resulting target fishing mortality rate recommended by researchers, without there having been any noteworthy change in the fish stock.
- 4.10 The EESC also notes the current efforts to develop a common model for regulating Baltic cod and pelagic species. A plan based on this model will eventually replace the multi-annual plan for the Baltic cod stocks, and there is no reason to make other than necessary changes to the current plan, which is generating positive results.

Brussels, 11 July 2012

The President
of the
European Economic and Social Committee

Staffan Nilsson
