

# Procedure file

## Basic information

COD - Ordinary legislative procedure (ex-codecision procedure)  
Regulation

Procedure completed

Long-term plan for cod stocks and the fisheries exploiting those stocks:  
management

Amending Regulation (EC) No 1342/2008 [2008/0063\(CNS\)](#)

### Subject

- 3.15.01 Fish stocks, conservation of fishery resources
- 3.15.04 Management of fisheries, fisheries, fishing grounds
- 3.15.05 Fish catches, import tariff quotas

## Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	 <a href="#">PECH</a> Fisheries	NI <a href="#">DODDS Diane</a>	04/02/2015
		Shadow rapporteur	
		 <a href="#">WAŁĘSA Jarosław</a>	
		 <a href="#">CHRISTENSEN Ole</a>	
		 <a href="#">DUNCAN Ian</a>	
		 <a href="#">TORVALDS Nils</a>	
		 <a href="#">ENGSTRÖM Linnéa</a>	
	Former committee responsible		
	 <a href="#">PECH</a> Fisheries	NI <a href="#">DODDS Diane</a>	09/10/2012
	Former committee for opinion		
	 <a href="#">ENVI</a> Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Agriculture and Fisheries</a>	<a href="#">3212</a>	18/12/2012
European Commission	Commission DG	Commissioner	
	<a href="#">Maritime Affairs and Fisheries</a>	DAMANAKI Maria	
European Economic and Social Committee			

## Key events

12/09/2012	Legislative proposal published	<a href="#">COM(2012)0498</a>	Summary
22/10/2012	Committee referral announced in Parliament, 1st reading		
23/04/2013	Vote in committee, 1st reading		
26/04/2013	Committee report tabled for plenary, 1st reading	<a href="#">A7-0146/2013</a>	Summary
11/06/2013	Results of vote in Parliament		
11/06/2013	Decision by Parliament, 1st reading	<a href="#">T7-0244/2013</a>	Summary
19/04/2016	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
12/07/2016	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations	<a href="#">PE585.783</a>	
30/09/2016	Council position published	<a href="#">11309/1/2016</a>	Summary
06/10/2016	Committee referral announced in Parliament, 2nd reading		
09/11/2016	Approval in committee of the text agreed at 2nd reading interinstitutional negotiations	<a href="#">PE585.783</a>	
09/11/2016	Vote in committee, 2nd reading		
14/11/2016	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A8-0325/2016</a>	Summary
22/11/2016	Decision by Parliament, 2nd reading	<a href="#">T8-0431/2016</a>	Summary
23/11/2016	Final act signed		
23/11/2016	End of procedure in Parliament		
03/12/2016	Final act published in Official Journal		

## Technical information

Procedure reference	2012/0236(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 1342/2008 <a href="#">2008/0063(CNS)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 043-p2
Mandatory consultation of other institutions	<a href="#">European Economic and Social Committee</a>
Stage reached in procedure	Procedure completed
Committee dossier	PECH/8/02736

## Documentation gateway

Legislative proposal	<a href="#">COM(2012)0498</a>	12/09/2012	EC	Summary
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Economic and Social Committee: opinion, report	<a href="#">CES2102/2012</a>	12/12/2012	ESC	
Amendments tabled in committee	<a href="#">PE506.056</a>	27/02/2013	EP	
Committee draft report	<a href="#">PE502.051</a>	04/04/2013	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A7-0146/2013</a>	26/04/2013	EP	Summary
Text adopted by Parliament, 1st reading/single reading	<a href="#">T7-0244/2013</a>	11/06/2013	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2013)520</a>	16/07/2013	EC	
Text agreed during interinstitutional negotiations	<a href="#">PE585.783</a>	12/07/2016	EP	
Council statement on its position	<a href="#">12387/2016</a>	23/09/2016	CSL	
Council position	<a href="#">11309/1/2016</a>	30/09/2016	CSL	Summary
Commission communication on Council's position	<a href="#">COM(2016)0647</a>	30/09/2016	EC	Summary
Committee draft report	<a href="#">PE592.439</a>	28/10/2016	EP	
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A8-0325/2016</a>	14/11/2016	EP	Summary
Text adopted by Parliament, 2nd reading	<a href="#">T8-0431/2016</a>	22/11/2016	EP	Summary
Draft final act	<a href="#">00044/2016/LEX</a>	23/11/2016	CSL	

#### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

#### Final act

[Regulation 2016/2094](#)  
[OJ L 330 03.12.2016, p. 0001](#) Summary

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

PURPOSE: to amend Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks in the light of the evaluation of the plan carried out by the Scientific, Technical and Economic Committee for Fisheries (STECF).

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

CONTEXT: the scientific evaluation of the effectiveness of Council Regulation (EC) No 1342/2008, carried out in 2011, stated that the cod plan has not achieved its objectives and that they are unlikely to be achieved by 2015. Furthermore, the report revealed that there are flaws in the design of the Regulation and problems with its implementation.

The Commission is proposing an amendment to the Regulation in the light of this advice and of the opinions received from Regional Advisory Councils (RACs) and the Member States. The proposal for the amendment of the Regulation does not cover all the problems identified since this amendment is intended as an interim solution pending the development and implementation of a mixed-fishery plan for North Sea fisheries as anticipated in the reform.

IMPACT ASSESSMENT: the proposal was drawn up on the basis of consultations with the Member States and stakeholders.

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

CONTENTS: the main legal action is as far as possible to improve and clarify the provisions of the Regulation (EC) No 1342/2008 that were identified in the evaluation as problematic, in particular:

- the changes to Article 4 (Calculation of fishing effort) aim at closing the unintended possibility for Member States to deploy higher levels of effort than the plan was meant to allow simply by changing the methods used for the calculation of effort when establishing the baselines and when calculating usage;

- Article 9 (Special procedure for setting TACs) defines a procedure for TAC setting in the absence of the necessary information to apply Article 7 or 8. Instead of automatic reductions of 25% it is proposed to take a case-by-case, and therefore a more flexible, approach though remaining firmly based on available scientific advice;
- instead of exempting groups of vessels specified by each Member State, exemptions are now based on criteria that would be generally applicable for any vessels that meet them, regardless of the Member State to which they belong. The amended Article also avoids the need for constant adjustments of the baseline by Council;
- transitional measures will ensure that vessels groups already excluded will be subject to the criteria in force at the time of exclusion;
- vessels involved in the fully documented fishery trials, where all catches are counted against quota, are exempted from fishing effort regime;
- a new proposal foresees the possibility for the Council to decide not to apply further fishing effort reductions, once the fishing-effort ceiling has been reduced for four consecutive years;
- it is now made clear that the condition that cod catch are less than 5 % of the total refers to the catch composition over the management period, not per trip;
- in Article 14, the Member State obligation to address the discard issue is strengthened since it is not the case under the current ruling, and level of control and monitoring is specified according to risk-based management;
- the Committee procedure is brought into line with the rules of the Treaty on the Functioning of the European Union and Regulation (EU) No 182/2011.

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

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

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The Committee on Fisheries adopted the report by Diane DODDS (NI, UK) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

The parliamentary committee recommends that the European Parliaments position adopted at first reading according to the ordinary legislative procedure should amend the Commissions proposal as follows:

**Incentive measures:** Members consider that other measures than automatic reduction of TAC and fishing effort are useful in order to obtain the targets set in this plan. Thus, Member States should give priority to the development and promotion of measures and incentives that aim to avoid unwanted catches. Financial support should be provided for the use of selective gear measures.

**Time at sea:** an amendment seeks to allow the development of alternative methods of accounting for time at sea (i.e. soak time for gill netters, etc.) that may better incentivise cod avoidance behaviour. Member States should calculate days present within an area in accordance with Regulation (EC) No 1224/2009 establishing a Community fisheries control system.

**Procedure for setting TACs:** Members want to enable the Council to set a different TAC in instances where the stringent following of the Management Plan would move recovery away from the objectives of the plan.

Another proposed change should help to avoid automatic reductions in the absence of reliable scientific information.

In order to obtain sustainable fishing mortality rates, based on scientific advice, a gradual elimination of discards should be implemented. Selective gears and other measures for this purpose should be introduced by Member States with financial support from the European Maritime and Fisheries Fund. Member States should consult the relevant Regional Advisory Council as well as ICES and/or STEFC and relevant stakeholders on the measures to be adopted.

**Exclusion from the fishing effort regime in certain areas, certain depths or using certain gear:** Members consider partial exemption from effort would be appropriate in a mixed fisheries context where vessels often have quota to catch cod.

Furthermore, once STEFC approve a gear or area, submitted by a Member State, it should become available for use by all Member States.

**Adjustment of the baseline used to calculate the maximum allowable fishing effort:** in order to ensure the continued innovation of gear selectivity the baseline should be altered annually.

**Exclusion of vessels participating in trials:** the Commission proposal stipulates that the transfers of quotas of cod to vessels outside the fishing effort management system or from these vessels are forbidden. According to the report, the risk related to discarding of cod by vessels not participating in trials of fully documented fisheries is only a theoretical one. There is no evidence that discards by the non-FDF fleet have increased. As a result, members consider that it is not appropriate to present proposal in the absence of scientific data.

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

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The European Parliament adopted by 592 votes to 71, with 15 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

The European Parliaments position adopted at first reading according to the ordinary legislative procedure amends the Commissions proposal as follows:

**Incentive measures:** Members consider that other measures than automatic reduction of TAC and fishing effort are useful in order to obtain the targets set in this plan. Thus, Member States should give priority to the development and promotion of measures and incentives that aim to avoid unwanted catches. Financial support should be provided for the use of selective gear measures.

Time at sea: an amendment seeks to allow the development of alternative methods of accounting for time at sea (i.e. soak time for gill netters, etc.) that may better incentivise cod avoidance behaviour. Member States should calculate days present within an area in accordance with Regulation (EC) No 1224/2009 establishing a Community fisheries control system.

Procedure for setting TACs: the Council may decide on an alternative TAC level when scientific advice indicates that that level would be more appropriate to meet the objectives of the plan.

Another proposed amendment should help to avoid automatic reductions in the absence of reliable scientific information.

Implementation of a gradual elimination of discards: a new article stipulates that in order to obtain sustainable fishing mortality rates, based on scientific advice, a gradual elimination of discards should be implemented. Selective gears and other measures for this purpose should be introduced by Member States with financial support from the European Maritime and Fisheries Fund. Member States should consult the relevant Regional Advisory Council as well as ICES and/or STEFC and relevant stakeholders on the measures to be adopted.

Exclusion from the fishing effort regime in certain areas, certain depths or using certain gear: Members consider partial exemption from effort would be appropriate in a mixed fisheries context where vessels often have quota to catch cod.

Furthermore, once STEFC approve a gear or area, submitted by a Member State, it should become available for use by all Member States.

Adjustment of the baseline used to calculate the maximum allowable fishing effort: in order to ensure the continued innovation of gear selectivity the baseline should be altered annually.

Exclusion of vessels participating in trials: the Commission proposal stipulates that the transfers of quotas of cod to vessels outside the fishing effort management system or from these vessels are forbidden. According to Parliament, the risk related to discarding of cod by vessels not participating in trials of fully documented fisheries is has not been proven. As a result, Parliament considers that it is not appropriate to present proposal in the absence of scientific data.

Member States obligations: the Commissions proposal provided that where the scientific data indicate that more than 10% of the total cod catches for a particular effort group consist of discards, the Member State concerned shall take immediate measures to minimise cod discards. Parliament, for its part, considers that such measures should be taken where the scientific data indicate that, for a particular gear, large volumes of cod are discarded throughout the management period.

Transfer of the fishing effort: the objective of the existing measure is to ensure that the constant effort of the different types of gear is maintained. Now, by changing gear group, a vessel could see the volume of its effort reduced. This is why Members propose introducing the possibility for such vessels to transfer their fishing effort without being discouraged from doing so and penalised.

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

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The Council adopted its position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

The aim of the proposal was to amend the existing Regulation of 2008 for a long-term plan for cod stocks. It suggested inter alia to:

- insert a certain flexibility into the rules on Total Allowable Catches,
- better harmonise the calculation of fishing effort,
- insert new and amended incentives into the system of fishing effort restrictions which aim at avoiding cod and reducing discards.

The main amendments made to [Council Regulation \(EC\) No 1342/2008](#) are as follows:

Objective of the plan: the plan shall aim to ensure exploitation that restores and maintains the cod stocks above levels which can produce maximum sustainable yield.

Any management measure taken pursuant to this Regulation shall be consistent with the requirements laid down in [Regulation \(EU\) No 1380/2013](#) and with the principles and aims of that Regulation;

Minimum and precautionary biomass levels: when adopting management measures, minimum and precautionary biomass levels for each of the cod stocks shall be consistent with the objectives of Regulation (EU) No 1380/2013.

Rules for setting the total allowable catch (TAC): the Council position deleted from the 2008 Regulation Articles 7 (the TACs for cod stocks in the Kattegat, the west of Scotland and the Irish Sea) and Article 8 (the TACs for the cod stock in the North Sea, the Skagerrak and the eastern Channel).

Setting of TACs in poor data conditions: where, due to a lack of sufficiently accurate and representative information, fishing opportunities cannot be determined, the fixing of fishing opportunities shall be based on the precautionary approach, taking into account trends in the cod stock and in the fishing activity, and ensuring at least a comparable degree of conservation of the relevant stocks.

Fishing authorisations and capacity ceilings: in addition to the fishing effort regime, Regulation (EC) No 1342/2008 introduced a system of special fishing permits linked to a limitation of the total capacity of fishing vessels' engine power in a relevant area.

In order to avoid the disruptive dislocation of fishing activity which could have a negative impact on the stocks' recovery, the Council position provides to maintain that for each of the areas set out in the Plan, the total fishing capacity shall not be greater than the maximum capacity of the vessels that have been active in 2006 or 2007.

Chapter III of Council Regulation (EC) No 1342/2008 on fishing effort limitation has been deleted.

Annexes: [Council Regulation \(EC\) No 1224/2009](#) establishing a Union control system repealed a number of provisions of Regulation (EC) No 1342/2008 that referred to Annexes II and III thereto. Since there are no other references in Regulation (EC) No 1342/2008 to those Annexes, they became obsolete and should be deleted.

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

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The Commission adopted a communication on the position of the Council on the adoption of a Regulation of the European Parliament and of the Council amending Regulation (EC) 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

The position of the Council reflects the political agreement reached by the European Parliament and the Council on 29 June 2016. The Commission supports this agreement.

However, since the publication of the 2012 Commission proposal, circumstances have dramatically changed. The new Basic Regulation of the CFP ([Regulation \(EU\) No 1380/2013](#)) has introduced an obligation to land by 2019 all catches of species which are subject to catch limits ("landing obligation") which obliges fishermen to stop discarding and to count all catches against their quota shares (the progressive dates of entry into force of this obligation depend on the fishery and species defining fishery).

Where the landing obligation applies, the effort regime, which also aims at reducing discards, has now become an unnecessary additional layer of regulation. For this reason, the Commission decided to abandon the effort regime in its [proposal](#) for a Baltic Sea Management Plan.

The new Basic Regulation also introduced a provision which obliges the Council to set TACs based on the MSY (maximum sustainable yield) approach. This makes the TAC setting rules in the cod recovery plan obsolete.

The Commission has significantly amended the Council text and reduced it to very few remaining provisions (except definitions, closing Articles, etc.):

- on objectives, referring to the MSY objective in line with the Basic Regulation and the agreed Baltic MAP;
- on minimum and precautionary measures, referring to the need to take into account "appropriate minimum and precautionary biomass levels" in line with the Basic Regulation, without specifying these levels;
- on setting TACs in data poor conditions, referring to the precautionary approach set out in the Basic Regulation, without setting out any detailed rules;
- to maintain the obligation for Member States to make sure that in each of the areas covered by the plan, the fishing capacity does not exceed the fishing capacity that could be observed in 2006 or 2007;
- obligation to land cod in designated ports;
- assistance under the EFF/[EMFF](#) enabling payments from the EMFF.

The compromise text departs significantly from the Commission's 2012 initial proposal but it is in line with the new rules set in the new Basic Regulation and Commission's new approach for the multiannual plans. The Commission can accept all changes.

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

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The Committee on Fisheries adopted the recommendation for second reading by Diane DODDS (NI, UK) on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

The Committee recommended that the European Parliament approve the Council position at first reading without amendments.

As a reminder, on 12 September 2012, the Commission submitted a proposal for a Regulation of the Parliament and of the Council amending Regulation No 1342/2008 with the aim of improving and clarifying the provisions.

On 19 December 2012, the Council, without incorporating all the provisions of the proposal for a regulation, adopted a regulation, stating the legal basis to be Article 43(3) TFEU and including only the amendments relating to Articles 9 and 12 of Regulation No 1342/2008.

Actions for annulment under Article 263 TFEU, were brought on 14 March 2013, by both the European Parliament and the Commission. The Court gave its judgement 1 December 2015 and annulled the Council Regulation, which means that the Court agreed with Parliament and the Commission.

Meanwhile, Parliament adopted its position in first reading on 11 June 2013 on the Commission proposal. After the ECJ judgement, the Committee on Fisheries adopted a mandate for the negotiations with the Council on 19 April 2016 and the file was concluded in a single trilogue on 29 June 2016.

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

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The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

In line with the recommendation for second reading by the Committee on Fisheries, Parliament approved the Council position at first reading without amendments.

The aim of the proposal is to amend the existing Regulation of 2008 for a long-term plan for cod stocks. It suggested inter alia to:

- insert a certain flexibility into the rules on Total Allowable Catches,
- better harmonise the calculation of fishing effort,
- insert new and amended incentives into the system of fishing effort restrictions which aim at avoiding cod and reducing discards.

## Long-term plan for cod stocks and the fisheries exploiting those stocks: management

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PURPOSE: to amend Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

LEGISLATIVE ACT: Regulation (EU) 2016/2094 of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks.

CONTENT: [Council Regulation \(EC\) No 1342/2008](#) establishes a long-term plan for cod stocks in the Kattegat, the North Sea, the Skagerrak and the eastern Channel, the west of Scotland and the Irish Sea, and for the fisheries exploiting those stocks.

The scientific evaluation of the performance of Regulation (EC) No 1342/2008 carried out by the Scientific, Technical and Economic Committee for Fisheries (STECF) has shown a number of problems with the application of that Regulation.

With the application of [Regulation \(EU\) No 1380/2013](#) of the European Parliament and of the Council as from 1 January 2014, the management framework for cod has changed fundamentally, in particular through the introduction of a landing obligation.

It also introduced a measure which obliges the Council to set the total allowable catches (TACs).

The fishing effort regime set out in Regulation (EC) No 1342/2008 resulted in a number of achievements concerning selectivity and other measures to avoid catching cod, but it has become an obstacle to the implementation of the landing obligation. Therefore, it is necessary to put an end to the fishing effort management regime.

Therefore, this Regulation amends the 2008 Regulation establishing a long-term plan for cod stocks as follows:

Objective of the plan: the Regulation stipulated that the plan aims to ensure exploitation that restores and maintains the cod stocks above levels which can produce maximum sustainable yield (MSY).

Any management measure taken pursuant to this Regulation shall be consistent with the requirements laid down in the common fisheries policy and with the principles and aims of that Regulation.

Minimum and precautionary biomass levels: when adopting management measures, minimum and precautionary biomass levels for each of the cod stocks shall be consistent with the objectives of the common fisheries policy.

Setting of TACs in poor data conditions: where, due to a lack of sufficiently accurate and representative information, fishing opportunities cannot be determined, the fixing of fishing opportunities shall be based on the precautionary approach, taking into account trends in the cod stock and in the fishing activity, and ensuring at least a comparable degree of conservation of the relevant stocks.

Fishing authorisations and capacity ceilings: the amended Regulation lays down the obligation for the Member States to ensure that, in each of the geographical areas covered by the plan, the fishing capacity shall not be greater than that observed in 2006 or 2007.

ENTRY INTO FORCE: 7.12.2016.

APPLICATION: from 1.1.2017.