Statement of the Council's reasons: Position (EU) No 17/2016 of the Council 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

(2016/C 395/02)

I. INTRODUCTION

1. The European Commission submitted the proposal on 14 September 2012 ([1]).

2. The European Economic and Social Committee adopted its opinion on 12 December 2012 ([2]).

3. On 19 December 2012, the Council decided to split the proposal in two parts ([3]) and amended one part of the existing cod plan by Council Regulation (EU) No 1243/2012 ([4]).

4. The European Parliament adopted a position at first reading on 11 June 2013 ([5]).

5. On 1 December 2015 the Court of Justice annulled Council Regulation (EU) No 1243/2012 by considering that the proposal should have been adopted on the basis of Article 43(2) and not 43(3) ([6]). However, the Court maintained the effects of that Regulation until the entry into force of a new Regulation based on Article 43(2) TFUE, at the latest by 31 December 2016.

6. On 27 April 2016, Coreper provided the Presidency with an initial mandate to conduct informal negotiations for an amending Regulation based on Article 43(2) TFEU ([7]). Following a revision by the European Parliament of its negotiating position which Council received on 7 June 2016 ([8]), the Presidency's mandate was revised on 22 June 2016 ([9]).

7. During a trilogue meeting on 29 June 2016, the institutions' negotiators reached a political compromise. With a letter dated 13 July 2016, the Chair of the European Parliament's Committee on Fisheries informed the Chair of Coreper 1 that, should the Council transmit formally to the European Parliament its position as agreed, subject to legal-linguistic verification, he will recommend to the Plenary that the Council's position be accepted without amendments at Parliament's second reading. The compromise reached on 29 June 2016 was endorsed by Coreper on 20 July 2016 ([10]), and received Council's political agreement on 27 July 2016 ([11]).

II. OBJECTIVE

8. The aim of the proposal was to amend the existing Regulation of 2008 for a long-term plan for cod stocks ([12]) ("cod plan"). The proposal suggests *inter alia* to insert a certain flexibility into the rules on Total Allowable Catches, to better harmonise the calculation of fishing effort, and to insert new and amended incentives into the system of fishing effort restrictions which aim at avoiding cod and reducing discards.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

A. General

9. The Parliament's position at first reading supported a number of amendments to the proposal which Council also supported through its - later annulled - Regulation (EU) No 1243/2012. However, the co-legislators, in

([1]) Cf. doc. 13745/12 PECHE 343 CODEC 2130.
([2]) OJ C 44, 15.2.2013, p. 125.
([3]) Cf. doc. 17340/12 PECHE 528 CODEC 2934.
([4]) OJ L 352, 21.12.2012, p. 10.
([5]) Cf. doc. 10685/13 CODEC 1375 PECHE 251 PE 272.
([6]) Joined Cases C-124/13 and C-125/13.
([7]) Cf. doc. 8030/16 PECHE 142 CODEC 481 + ADD1.
([8]) Cf. doc 9742/16 PECHE 198 CODEC 805.
([9]) Cf. doc. 10391/16 PECHE 230 CODEC 908 + ADD1.
([10]) Cf. doc 11122/16 PECHE 271 CODEC 1047.
([11]) Cf. doc. CM 3652/16 PECHE PROCED.
([12]) OJ L 348, 24.12.2008, p. 20.

agreement with the Commission, opted for a substantial revision of their positions in light of the fact that the reform of the Common Fisheries Policy (CFP) has, since 2014, changed the management framework for multi-annual plans.

10. The change to the management framework principally affected the discussion on the cod plan amendment in three ways:

— The landing obligation introduced by the CFP's Basic Regulation (Regulation (EU) No 1380/2013) put into question the added value of the cod plan's fishing effort regime, as the latter had been introduced in order to reduce the same shortcoming (discards). In addition, as the landing obligation applies gradually in the various fisheries, the new policy requires a lot of adaptation and flexibility from fishermen, which is a need that cannot be fulfilled if the regulation restricts, through the effort regime, gear use and time at sea;

— Both the landing obligation and the need to move away from a single species management concept in mixed fisheries require a new type of multiannual management plan. The Commission has worked on successor plans for the cod plan in terms of area-based multi-species management plans. The first one, concerning the North Sea, has in the meantime been submitted to the co-legislators ([1]). It is therefore not appropriate to add new elements to the cod plan that would pre-empt the discussion on the reform-based multiannual management plans;

— The Basic Regulation also introduces the concept of regionalisation, understood as a mechanism at the level of secondary EU legislation that is initiated through Member State cooperation at the regional sea basin level. As regionalisation evolves under the Basic Regulation, for instance through area-based discard plans, it is appropriate to reduce the level of detail for managing cod fisheries provided in the cod plan.

B. **Objective of the cod plan**

11. The Council's position contains an amendment to the cod plan's objective (Article 1 (3) of the Council's position). This is justified by the fact that the Basic Regulation stipulates the overall conservation objective for managing stocks, and by the intention to avoid an in-depth review of biological reference points for cod stocks which should be undertaken through the successor multiannual plans. The solution found together with the European Parliament is similar to the one agreed for the recently adopted multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea ([2]).

C. **Effort Regulation**

12. The Council deleted all provisions relating to effort regulation (see Article 1 (1), (2), (9) to (11) of the Council's position). This position corresponds to the revised Parliament's position which supported this move with a view to eliminating an obstacle to the implementation of the landing obligation which, since 2016, is being introduced in the North East Atlantic fisheries. This more radical move replaced amendments 4 and 5, 9 to 17 and 19 to 21 of the Parliament's first reading position of 2013, which were motivated by similar concerns (simplification, flexibility), but still within the system of regulating fishing effort.

13. The Council maintained in the cod plan the Member States' obligation to limit the overall fishing capacity (in kW) for the regulated gears in an area (Article 1 (8) of the Council's position). This obligation, which previously formed part of the chapter on effort regulation, is now fully separate.

14. In line with the Parliament's initial amendments 8 and 18, Council agreed to insert a recital (recital 5) that stresses the importance of Member State measures on discard reduction and cod avoidance, as these were considered valuable achievements under the cod plan which could facilitate the implementation of the landing obligation.

([1]) Cf. doc. 11636/16 PECHE 293 CODEC 1142 IA 62.
([2]) OJ L 191, 15.7.2016, p. 1.

D. **Rules on Total Allowable Catches**

15. The Council's position shortens the rules on total allowable catches (Articles 6 to 10 of the cod plan) and makes them more flexible. In particular, Article 6 no longer contains precautionary spawning biomass levels, as these levels should be revisited by the co-legislators upon Commission proposals on new multiannual management plans, together with the related management obligations (Articles 7 and 8 of the cod plan).

16. The simplification of Article 6 and deletion of Articles 7 and 8 of the cod plan (see Article 1 (4) and (5) of the Council's position) clearly show the transitional nature of the amended cod plan, as expressed in the new recital 6. The European Parliament's revised negotiating position confirmed this approach. The co-legislators also considered the need to agree on the amendments to the cod plan still in 2016, and the fact that scientific advice for the cod stock in the North Sea suggests a re-evaluation of the management strategy (see amendment to recital 2).

17. The Commission's proposal concerning the reformulation of Article 9 on a special procedure for setting TACs in data-poor situations had already received an amendment during the Parliament's first reading (amendment 7). The Council's position, reflecting on a revised negotiating position of the European Parliament, goes in the same direction of reducing the rigidity, but favours a much lower level of detail.

18. Finally, Article 10 of the cod plan is deleted in the Council's position following the Parliament's request stating that it was no longer in line with the understanding of the co-legislators with respect to deciding on policy choices.

IV. **CONCLUSION**

19. In establishing its position, the Council has taken full account of the Commission's proposal and of the European Parliament's position at first reading and revised negotiating position.