



Proposal for a regulation to manage deep-sea fisheries in the North-East Atlantic

SUMMARY OF PRIORITY RECOMMENDATIONS

October 2014

The European Commission released a proposal in July 2012 (COM(2012)0371) for a new regulation establishing specific conditions for fishing deep-sea stocks in EU and international waters of the Northeast Atlantic in order to replace the current EU deep-sea access regime.

The current regulation for the management of EU deep-sea fisheries adopted in 2002 has failed to maintain most deep-sea stocks inside safe biological limits, not to mention levels above maximum sustainable yield, and has not restored some of the most depleted fish populations in the northeast Atlantic such as deep-sea sharks. It also not succeeded in protecting vulnerable deep-sea marine ecosystems (VMEs) such as coral, sponge, and seamount ecosystems from adverse impacts of highly destructive bottom fishing practices.

The new EU regulation, currently under negotiation, should seek to achieve two related aims: managing the fishing for deep-sea species for sustainability, for both target and non-target stocks and species; and protecting the benthic marine environment - the deep-sea ecosystems associated with the seabed.

The proposal includes provisions for managing more of the species being fished, a new system of authorisation for deep-sea fishing, impact assessments for deep-sea fisheries in new areas, and insistence on a clear scientific basis for setting fishing limits. Crucially, the Commission also proposes to phase-out the use of bottom trawls and bottom gillnets to target deep-sea species, which would serve to eliminate the most highly damaging methods of fishing.

The European Parliament concluded its first reading with a plenary vote on 10 December 2013. The text adopted by the Parliament strengthened the original proposal in many areas and includes provisions requiring impact assessments prior to fishing for all deep-sea bottom fisheries as well as a process for identifying areas where vulnerable marine ecosystems (VMEs) are known or are likely to occur and closing them to bottom fishing unless the bottom fishing in these areas can be managed to prevent significant adverse impacts on VMEs. However, the Parliament narrowly rejected the Commission's proposal to phase-out targeted bottom trawling and bottom gillnetting.

The proposal has been discussed in Council Working Groups since January 2014. Member States, with the Council presidency should seek to agree a Council position without further delay. Below, please find the policy recommendations of the Deep Sea Conservation Coalition to assist the Council Working Group with its deliberations.

SUSTAINABLE DEEP-SEA FISHING

The regulation should:

- End deep-sea overfishing** by ensuring that the catch of all deep-sea species is regulated and that fishing is only permitted if the catch, including of bycatch species, can be limited to sustainable levels based on a clear scientific understanding of the status of deep-sea stocks and associated precautionary science-based management;
- Ensure that deep-sea fisheries are managed to **minimise and, where possible, eliminate the bycatch** of non-target species and **prevent the catch of the most vulnerable species.**

Fishing opportunities

Given their life history characteristics (long-lived, low fecundity, late age at reproduction) most deep-sea species are recognized to be highly vulnerable to overexploitation and depletion. Fishing opportunities should only be permitted if stock assessments demonstrate that stocks can be fished sustainably.

Where sustainable catch rates cannot be determined for a stock or species because of a lack of sufficient scientific information, then no fishing opportunities (i.e. zero quotas) should be established for such stocks/species.

Recommendation: Article 10.1

- Support European Parliament (EP) amendments 63-64;
- Reject EP amendments 65-66 and support the stronger Commission proposed text.

Bycatch

Because of the high vulnerability of many deep-sea species to even limited fishing mortality, and the concern expressed by ICES that deep-sea fisheries are depleting “whole communities” of deep-sea fish species, the bycatch of deep-sea species should be minimized, and mixed species fisheries should be managed to ensure that the catch/bycatch of stocks or species that are highly vulnerable, are heavily depleted or are in danger of extinction, should be prevented.

Recommendation: Article 10

- Support EP amendments 67, 69, and 70.

Annex of deep-sea species

All deep-sea sharks in the Northeast Atlantic are recognized to be particularly vulnerable to even very limited mortality as a result of fishing. In 2013, ICES recommended the inclusion of all gulper shark species (genus *Centrophorus*) on the list of deep water sharks and, as a result, Council adopted in November 2013 Regulation (EU) N° 1182/2013 that amends the list of deep-sea sharks in Regulation (EU) No 1262/2012 and includes all species of *Centrophorus*.

Recommendation: Annex 1

- Include all gulper sharks (*Centrophorus* spp.) on the list of species in the Annex to the regulation;
- Designate all deep-sea shark species as Most Vulnerable (mark with an “X” on Annex 1).

Deferrals

The regulation should be applicable to all deep-sea species with no deferrals. Deferrals proposed by the European Parliament for ten species would mean that, in the five years after the entry into force of the new regulation, fisheries for these species would remain unregulated and be exempt from the key requirements to, among others, protect both vulnerable deep-sea species and marine ecosystems.

Recommendation: Annex 1

- Remove the column entitled “Deferred Application of Article 4 (2) (c)” proposed by the EP (amendment 131).

PROTECTING VULNERABLE MARINE ECOSYSTEMS

The regulation should:

- Ensure that **significant adverse impacts on vulnerable deep-sea ecosystems** (VMEs) such as coral, sponge, and seamount ecosystems are prevented through appropriate management of all deep-sea fisheries, including closing areas to deep-sea bottom fishing where vulnerable marine ecosystems are known or likely to, occur;
- Require **impact assessments** for all deep-sea fisheries (not only 'new' fishing areas).

Deep-sea fishing activities should not be authorised unless it has first been scientifically shown that these activities will not have significant adverse impacts on deep-sea ecosystems. A requirement to assess the impact of bottom fishing gears on the seabed in all deep-sea areas where bottom fishing is permitted and a requirement to identify and close areas where VMEs are known or likely to occur, unless bottom fisheries can be managed in these areas to prevent damage to these ecosystems, are essential elements of the legislation. The measures adopted by the UNGA are intended to apply equally to bottom fisheries within historically fished areas as well as previously unfished areas as also reflected in the FAO guidelines. These two key requirements reflect the international consensus on the regulation of deep-sea fisheries as set out in several UN General Assembly (UNGA) resolutions, 61/105 (2006), 64/72 (2009), 66/68 (2011)¹, the UN FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (FAO Guidelines)² and the relevant provisions of Articles 5 and 6 of the 1995 UN Fish Stocks Agreement³. The EU was extensively involved in the negotiation of the UNGA resolutions, the FAO guidelines and has ratified the UN Fish Stocks Agreement and strongly supports these resolutions and instruments.

Identify and close areas where VMEs are known or likely to occur unless bottom fishing in such areas can be managed to prevent significant adverse impacts on VMEs.

Recommendation: Article 6 a new

- Support EP amendment 42.

Recommendation: Article 7

- Support EP amendments 43-58, in particular amendments 53-57 on impact assessments in existing deep-sea fishing areas.

PHASING OUT DESTRUCTIVE DEEP-SEA FISHING PRACTICES

The regulation should:

- End destructive deep-sea bottom fishing practices through a phase-out of deep-sea **bottom trawling and bottom gillnet fishing**.

Deep-sea bottom trawls and bottom-set gillnets are well known to be responsible for significant damage to the deep seabed and associated ecosystems and are associated with high levels of by-

¹ See, in particular, paragraph 83 of UNGA resolution 61/105 (2006) and paragraphs 119-120 of UNGA resolution 64/72 (2009). http://www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm

² International Guidelines for the Management of Deep-sea Fisheries in the High Seas. Rome. FAO. 2009 <http://www.fao.org/docrep/011/i0816t/i0816t00.HTM>

³ See, for example, UN Fish Stocks Agreement Articles 5(d), 5(g), 6.1, 6.2 and 6.3(d)

catch. More than 300 international scientists, in September 2013, called on EU policymakers to support the phase-out of deep-sea bottom trawling.

Where to draw the line?

The Commission proposal includes the phase-out of the use of bottom trawls and bottom gillnets to 'target' deep-sea species. Targeted deep-sea fisheries are defined (in Commission's text for Article 4) as fisheries where the catch of deep-sea species is greater than a certain percentage of the total catch per day.

This was narrowly rejected (by 342 to 326) during the vote in the European Parliament in favour of a weak 'compromise' negotiated in the Parliament's Fisheries Committee. As a consequence, amendments backed by the rapporteur and several parliamentary groups that would have required a phase-out of the use of bottom trawls and bottom gillnets below 600 metres depth were not voted on. In the days immediately following the Parliament vote, 20 MEPs registered a correction to their votes. Although such corrections do not alter the text adopted by the Parliament, it is clear that a majority of the MEPs who voted were in fact in favour of a phase-out of the most destructive deep-sea fishing practices.

A depth-based approach has several advantages to one based on the percentage of deep-sea species in the catch. For example, depth-based gear restrictions are already a common feature of deep-sea fisheries management, while a phase-out based on depth is far easier to monitor and enforce (through the use of VMS tracking coupled with bathymetric information) than one based on percentage of catch. It would be much more difficult to monitor, in real time, when a vessel catches more than, say, 10% of deep-sea species in a fishing day. Moreover, a depth-based phase-out at 600m would avoid impacting vessels fishing in shallower waters (including vessels under 10m) that may inadvertently catch more than a proscribed percentage of deep-sea species per day or fishing trip. Recent information provided by the governments of France and the UK indicate that very few vessels fish with bottom trawl gear below 600 metres.⁴

The use of bottom gillnets below 200m is already prohibited by the North-East Atlantic Fisheries Commission (NEAFC). A prohibition of bottom-trawling and bottom-gillnet fishing by all EU vessels is already in effect within Portuguese waters (seamount areas) surrounding the Azores and Madeira Islands. Portugal, in May 2014, adopted a ban on the use of bottom trawls and bottom gillnets by Portuguese vessels fishing on any seamounts and the Mid Atlantic Ridge on Portugal's legal continental shelf beyond the EEZ.

Finally, and equally importantly, a depth-based phase-out of bottom trawling would be consistent with the ban already in place for the use of bottom gillnets below 600m in EU waters adjacent to the NEAFC Regulatory Area (which is, for all practical purposes, an area closure to bottom gillnet fishing, with the depth [600m] serving as the boundary), providing a clear line for fishers, managers and enforcement officials.

What could the EU gain by a phase-out of deep-sea bottom trawling and bottom gillnet fishing in EU waters?

Supporting the EU phase-out of deep-sea bottom trawling would bring multiple benefits, including:

⁴ According to a recent report published by France's Direction des Pêches Maritimes et de l'Aquaculture, only 12 French vessels fished with bottom trawl gear below 600m more than 10% of their fishing time in 2012. *Analyse de l'activité de chalutage de fond au-delà de l'isobathe 200 mètres de 2010 à 2012*. Patrick Berthou, Eric Bégot, Alain Biseau. Avril 2014. Saisine de la DPMA n° 14-6464. A recent letter from George Eustice MP, UK Parliamentary Under Secretary of State for Farming, Food and Marine Environment to Zac Goldsmith MP, 1 October 2014, states that only 12 UK vessels fished with bottom trawl gear below 600m in UK waters in 2011.

- Protecting deep-sea biodiversity from unnecessary destruction;
- Protecting species such as deepwater sharks from extinction;
- Helping the EU steer clear of costly fishing techniques with a high carbon footprint;
- Maintaining the capacity of deep-sea species and deep-sea sediments in EU waters to act as CO₂ sinks;
- Preserving opportunities to find unique genetic material in deep-sea species that could be used to develop new medicines or industrial products;
- Ensuring long-term benefits for future generations by making marine ecosystems productive and resilient in the face of global climate change;
- Maintaining the EU's international reputation as forward-thinking with regards to responding to marine challenges of the 21st Century;
- Joining the scientific mobilisation in favour of the phase-out of deep-sea bottom trawling; and
- Simply doing the right thing... for its fishing communities and EU economies, for the health and productivity of its waters, and for natural ecosystems.

What does the EU stand to lose by allowing continued bottom trawling on the continental slope and other deep-sea areas?

- Loss of deep-sea habitats important to the productivity of deep-sea fish stocks;
- Loss of deep-sea biodiversity;
- Potential loss of species before they have been discovered;
- Potential loss of opportunities to find unique genetic material in deep-sea species that could be used to develop new medicines or industrial products;
- Loss of the ecosystem services that deep-sea fish species and ecosystems provide, such as carbon sequestration; and
- Loss of future, but as yet unknown, benefits to the people of the European Union.

Recommendation: Article 9

- Reject EP amendment 62;
- Support a phase-out of the use of bottom trawl and bottom gillnet gear below 600m.

DEFINITION OF DEEP-SEA FISHERIES

In support of the above objectives, the regulation should also:

- Strengthen the definition of deep-sea fisheries to **ensure all bottom fisheries below 200m are effectively regulated** for their impact on the seabed and on deep-sea species.

The depth dividing the continental shelf from the deep-sea is generally identified as starting at 200m. ICES states that the dominant reef-forming species of cold water corals occur in EU waters between 200m and 1000m. Deep-sea fish stocks are generally those where the majority of the biomass is found below 200m (DeepFishman).

It is important that the provisions of the regulation designed to assess the impact of bottom fishing on benthic ecosystems, and to prevent adverse impacts on VMEs, apply to bottom contact fishing in deep-sea areas where VMEs are known or likely to occur. Ideally, therefore, these provisions would apply to all bottom contact fisheries below 200m. If the regulation clearly establishes that the VME protection measures and the impact assessment requirements in the EP amendments referred to above apply to all areas and bottom contact fisheries below 200m, then the definition of targeted deep-sea fisheries in Article 4 could be greatly simplified. This definition does not need to be linked

to any proposed depth-based phase out of bottom trawling and gillnetting; the depth at which a phase-out would occur could be separately established in Article 9.

Recommendation: Article 4

- Establish a depth of 200m for the application of the provisions of Articles 6 and 7;
- If this is not possible, then Amendment 30 adopted by the EP should not be rejected - this serves to ensure that all bottom gear fishing at or below 600m would be defined as 'targeted' deep sea fishing, thus ensuring the provisions of Article 7 and others apply to bottom fisheries below this depth, regardless of the percentage catch of deep-sea species per day or per trip.