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policy paper

Urgent action needed: a global moratorium on deep-sea bottom trawling on the high seas

At present, deep-sea[1] bottom trawling on the high seas (the 64 percent of the oceans beyond national jurisdiction) is virtually unregulated. The vast majority of the high seas are not covered by regional fishery management organizations (RFMOs) with legal competence to regulate discrete high seas fish stocks. In those few areas where RFMOs have such competence – the Northwest Atlantic Fisheries Organization (NAFO), the North East Atlantic Fisheries Commission (NEAFC), the South East Atlantic Fisheries Organization (SEAFO) and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) – only one, CCAMLR, has taken steps to regulate bottom trawling impacts on deep-sea biodiversity. Most other RFMOs focus on straddling or highly migratory fish stocks such as tuna or tuna-like species. Despite requirements of the UN Fish Stocks Agreement (FSA) that apply to highly migratory and straddling fish stocks, the RFMOs remain mostly focused on the conservation and sustainable use of fisheries resources – and not on the protection of ecosystems and biodiversity.[2]

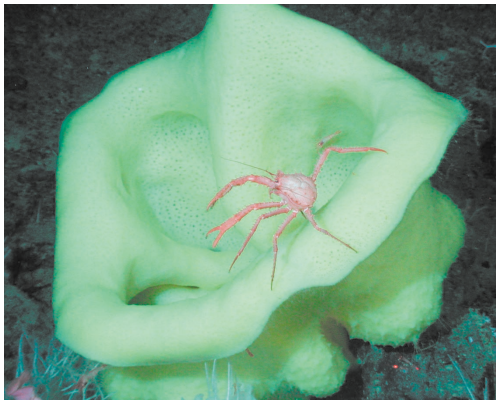

Image courtesy of NOAA and MBARI

Crab on sponge at the Davidson Seamount off the coast of California, USA.

The results to date have been devastating to the extraordinary ecosystems and biodiversity of the deep sea and wholly inconsistent with the FSA and the UN FAO Code of Conduct for Responsible Fisheries. Studies are consistently showing that ancient coral and sponge ecosystems and untold numbers of extraordinary undiscovered and endemic species (species found in a certain area and nowhere else) are being obliterated by high seas bottom trawls used to catch a very few target commercial species. Clearly, this is the antithesis of sustainable management and global stewardship of the world's oceans.

To protect deep-sea biodiversity on the high seas from continued indiscriminate destruction the Deep Sea Conservation Coalition is calling on the United Nations General Assembly (UNGA) to adopt an immediate moratorium on deep-sea bottom trawl fishing on the high seas until legally binding regimes for the effective conservation and management of fisheries and the protection of biodiversity on the high seas can be developed, implemented and enforced by the global community.

FOOTNOTES

[1] The deep sea starts beyond the shallower continental shelf and includes the slope and rise of the continental margin, deep-ocean basins and plains, trenches, mid-ocean ridge systems, smaller ridge systems, seamounts, plateaus and other underwater features rising from the deep ocean floor. This area constitutes over 90 percent of the ocean bottom and mostly lies beyond 200 nautical miles from shore.

[2] The mandate of SEAFO, which has only recently come into existence, does encompass both goals.

The following are the key aspects of the proposed UNGA moratorium:

Moratorium terms:

Moratoria, by definition, temporarily suspend activities. As such, a moratorium on high seas bottom trawling would establish a temporary halt to this practice until such time as:

- the extent of deep-sea biodiversity and ecosystems, including populations of fish species, and their vulnerability to deep-sea fishing on the high seas has been assessed;
- legally binding regime(s) to conserve and manage high seas biodiversity, including bottom fisheries, consistent with the UN Convention on the Law of the Sea (UNCLOS), the 1995 UN Fish Stocks Agreement (FSA), the 1993 UN FAO Compliance Agreement, the Convention on Biological Diversity (CBD), and the UN FAO Code of Conduct for Responsible Fisheries, and any other necessary governance reforms, have been adopted and implemented; and
- adequate measures are in place to deal effectively with Illegal, Unreported and Unregulated (IUU) fishing in non-compliance with international agreements.

Scope of coverage:

The moratorium should cover fishing on the high seas using any bottom trawl or similar towed net designed to operate in contact with the bottom of the sea. Governments would be expected to impose an immediate halt on any bottom trawling on the high seas involving either their nationals or vessels flying their flag or licensed by them, until the conditions for lifting the moratorium, as agreed by the international community, were met.

Implementation:

A moratorium should enter into force within six to twelve months following adoption of the UNGA resolution. This would permit states enough time to pass legislation or regulations to implement the moratorium, and would provide nationals with the time to reconfigure their vessels and fishing operations.

Enforceability:

That laws are always broken should never prevent their being enacted. If the moratorium is to work effectively, states and RFMOs will need to be prepared to enforce against instances of non-compliance. Enforcement measures for the moratorium could draw examples from measures already agreed in various multilateral forums – for example, the UN FAO's International Plan of Action on IUU fishing.

Among the many possible measures that states might take to promote compliance with a UNGA moratorium are:

- denying fishing vessels (and their owner/operators) that breach the moratorium authorization to fish (by any method and for any species) on the high seas, in Exclusive Economic Zones (EEZs) or in waters covered by RFMOs (for example, blacklist the vessels and companies);
- denying EEZ fishing permits to vessels that have engaged in high seas bottom trawl fishing and/or establishing as an EEZ permit-condition that vessels not engage in high seas bottom trawl fishing;
- requiring Vessel Monitoring Systems for all vessels licensed to fish on the high seas to enable states to distinguish vessels fishing on the high seas from those fishing in EEZs;
- adopting legislation making it illegal for nationals to reflag vessels to avoid compliance with the moratorium;
- closing ports to non-complying fishing vessels and to vessels flying the flag of non-complying states, and/or conducting intensive in-port inspections of fishing vessels suspected of non-compliance, including negotiation of intergovernmental port-state enforcement agreements, where desirable;
- outlawing the trans-shipment at sea of any species that could be caught by bottom trawling on the high seas;
- closing markets to fish and fish products of the main deep-sea species caught by bottom trawling (especially orange roughy, alfonsino, roundnose grenadier and blue ling) that do not carry credible certification establishing that the fish/fish products were derived from licenced fishing operations in EEZ waters;
- passing, as necessary, new laws and regulations to ensure effective control over nationals engaged in fishing, especially beyond national jurisdiction;
- exchanging, pooling and publicising information on vessels and companies involved in high seas bottom trawling (including the operators, captains and beneficial owners of such vessels, and those providing banking, insurance and other services to them) to allow appropriate action to be taken; and

- cooperating with coastal states and participating in relevant regional management arrangements to ensure that all states have sufficient capacity to manage and control their coastal and EEZ fisheries and ensure compliance with national regulations and international obligations.

Duration:
The high seas bottom trawl moratorium should remain in effect until states have taken significant steps, acting individually, regionally and globally under the guidance of the UNGA and international community, to establish and effectively implement the legally binding mechanisms necessary to regulate high seas bottom fisheries on a sustainable, equitable and precautionary basis.

In particular, two essential preconditions for lifting the moratorium are:

1. Information adequate to permit informed, science-based management decisions regarding the circumstances under which bottom fishing could occur consistent with obligations to protect biodiversity, apply the precautionary principle and achieve sustainable fisheries management within an ecosystem-based management framework.

In specific terms, information is required regarding: a) the extent of the biodiversity associated with seamounts, deep-sea corals and other deep-sea structures and ecosystems; b) the vulnerability of these structures and ecosystems to fishing; c) the type and extent of damage caused to date by high seas bottom trawling; d) the relationship between deep-sea structures/ecosystems and pelagic and migratory species; and e) the overall ecosystem functioning of continental margin and open ocean ecosystems.

Additional scientific research is required to assess the extent to which deep-sea species can be exploited on the high seas and under what conditions. Hydrographic mapping and biological sampling is also necessary to enable predictive characterization of areas likely to contain deep-water corals, sponge beds or other deep-sea structures and species vulnerable to bottom trawl fishing and to provide a solid basis for informed management.

2. Global oceans governance structures and functional fisheries management regimes with adequate competence to adopt and enforce effective measures to sustainably manage deep-sea fisheries on the high seas, including high seas bottom trawl fisheries, and to protect biodiversity from the adverse impacts of fishing.

Legally binding agreements should be entered, implemented and enforced consistent with the precautionary principle and the biodiversity conservation and fisheries management provisions of existing multilateral agreements, such as UNCLOS, the FSA, the CBD and the UN FAO Code of Conduct for Responsible Fisheries.

Attention is required by all the international agencies and agreements with either competence over or an interest in managing high seas biodiversity. Having been established primarily to manage the exploitation of natural resources, the FAO's role, though important, would extend only to fisheries management issues. Proper fisheries management alone, however, is only one of several elements that will need to be considered in order to conserve the biodiversity-rich ecosystems of the high seas. The UN Division for Oceans Affairs and the Law of the Sea (DOALOS), or a task force under its auspices, would be the most logical administrative body to develop a comprehensive high seas management regime.

Momentum in favor of a moratorium on high seas bottom trawling has been building steadily in recent years. Over the past two years, the UNGA has issued Oceans and Law of the Sea resolutions calling on the international community to take urgent measures to manage the risks to vulnerable deep-sea ecosystems. Its 2003 resolution urged relevant global and regional organizations "to investigate urgently how to better address, on a scientific basis, including the application of precaution, the threats and risks to vulnerable and threatened marine ecosystems and biodiversity in areas beyond national jurisdiction.…"

In February 2004, the Conference of the Parties of the CBD urged the UNGA to stop destructive practices harming deep-sea ecosystems. Referring to marine areas beyond the limits of national jurisdiction that have seamounts, hydrothermal vents, cold-water corals and other vulnerable ecosystems and features, the Parties called on the UNGA to:

"urgently take the necessary short-term, medium-term and long-term measures to eliminate/avoid destructive practices, consistent with international law, on a scientific basis, including the application of precaution", through, for example, on a case by case basis, the "interim prohibition of destructive practices adversely impacting the marine biological diversity associated with [these] areas…"[3]

That same month, 1,136 marine scientists from 69 countries signed a letter supporting swift action to protect imperiled deep-sea coral and sponge ecosystems. The scientists identified bottom trawling as a particular threat and called upon the UNGA to halt high seas bottom trawling.

The severe and worsening conflict between deep-sea biodiversity conservation and bottom trawling warrants urgent action by the UNGA this year. A high seas bottom trawl fishing moratorium would provide immediate protection to the extraordinarily rich, vulnerable and mostly undiscovered biodiversity of the deep seas.

FOOTNOTE
[3] Decision VII/5 of the Seventh Conference of Parties to the Convention on Biological Diversity on Marine and coastal biological diversity, para. 61. See also paras. 57-62. February 2004. http://www.biodiv.org/decisions/default.aspx.

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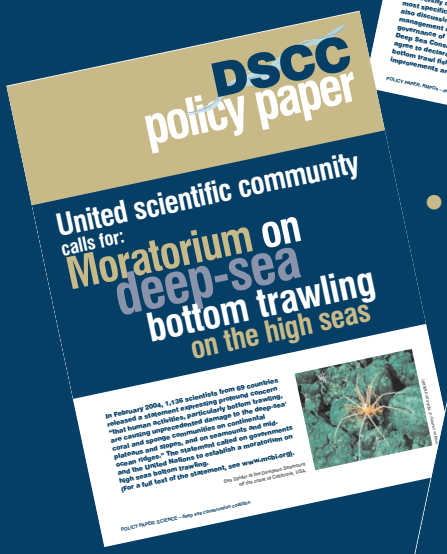
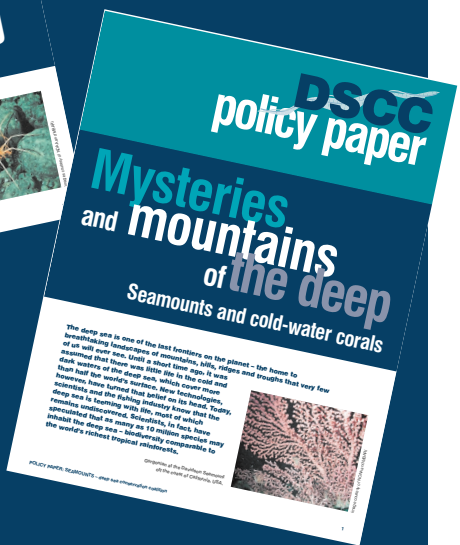


- Seamounts



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In adopting an immediate moratorium

on high seas bottom trawling, the UNGA would be acting within the tradition of stewardship it has historically provided for the world's oceans. It would also move the international community significantly closer to meeting the major commitments made by the States at the Johannesburg World Summit on Sustainable Development. At the same time, it would provide the international community with the opportunity to develop effective mechanisms for the protection of vulnerable deep-sea ecosystems, improve international oceans governance, advance the implementation of international agreements to combat IUU fishing, and establish the precautionary principle and ecosystem approach as fundamental elements of effective fisheries management, thereby contributing to international agreements to halt and reverse the decline of marine biodiversity on a global scale.

The Deep Sea Conservation Coalition, an alliance of over 30 international organisations, representing millions of people in countries around the world, is calling for a moratorium on high seas bottom trawling.

For further information about the Coalition visit www.savethehighseas.org