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SEAS AT RISK



Mr George Eustice, MP  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs  
Nobel House, 17 Smith Square  
London  
SW1P 3JR

March 4<sup>th</sup> 2014

## Re: EU Council discussion on regulation to manage deep-sea fisheries in the North-East Atlantic

Dear Minister

Client Earth, Marine Conservation Society, Bloom, Greenpeace, Oceana, Seas At Risk, The Pew Charitable Trusts and the Deep Sea Conservation Coalition — a coalition of more than 70 nongovernmental organisations, fishers' organisations and law and policy institutes committed to protecting the deep sea — ask you to support a new regulation on the management of deep-sea fisheries that protects deep-sea ecosystems from the impacts of bottom fishing, in particular bottom trawling, and ensures the conservation of deep-sea species.

The European Commission released a proposal<sup>1</sup> in July 2012 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 deep-sea access regime<sup>2</sup>. Following the first reading in the European Parliament, concluded in December 2013, the proposal is currently being discussed in Council working groups.

As set out in our letter of May 2013, legislation for the management of deep-sea fisheries 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 by-catch, 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 by-catch of non-target species** and **prevent the catch of the most vulnerable species**;
- Ensure that **adverse impacts on vulnerable deep-sea ecosystems** such as coral, sponge, and seamount ecosystems are prevented through appropriate management of all deep-sea fisheries, including through area closures to deep-sea bottom fishing;
- Require **impact assessments** for all deep-sea fisheries; and
- **End the most destructive deep-sea fishing practices.**

There are a number of valuable elements in the proposal from the Commission, such as: the inclusion of more species under management; a new system of authorisation for deep-sea fishing; impact

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<sup>1</sup> COM(2012)0371

<sup>2</sup> Council regulation (EC) No. 2347/2002

assessments for deep-sea fisheries in new areas; and a clear scientific basis for setting fishing opportunities. The text adopted by the European Parliament<sup>3</sup> further strengthens many of these areas, including provisions that would also require impact assessments for areas that are currently fished, and a process for identifying and closing areas to bottom fishing where vulnerable marine ecosystems are known or likely to occur (Articles 6 and 7). These provisions are consistent with international agreements for the management of deep-sea fisheries negotiated under the auspices of the UN General Assembly, the FAO and the UN Convention on Biological Diversity.

In addition, the Commission proposes to phase-out the use of bottom trawls and bottom gillnets to ‘target’ deep-sea species (Article 9); gears that are responsible for significant damage to the deep seabed and associated ecosystems. This element of the proposal was narrowly rejected during the vote in the European Parliament plenary.<sup>4</sup> However, twenty MEPs subsequently indicated a correction to their vote<sup>5</sup> and, 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. In this regard, we would note that one of the largest deep-sea fishing companies in Europe, Scapêche – owned by the French supermarket chain *Intermarché* – announced last month its commitment to stop deep-sea bottom trawling below 800 meters by early 2015.<sup>6</sup>

The overhaul of the EU deep-sea access regime is long overdue. Now that the Parliament has concluded its first reading of the proposal, the legislative process depends on timely action by the Council. We welcome progress on this critical issue and urge you to support provisions for the sustainable management of deep-sea fisheries and the protection of vulnerable deep-sea species and ecosystems. Recommendations on such key aspects of the text are appended to this letter.

Please do not hesitate to contact us if you require any additional information.

Yours sincerely,

Matthew Gianni  
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Deep Sea Conservation Coalition - [www.savethehighseas.org](http://www.savethehighseas.org)

With the support of Marine Conservation Society, Client Earth, Bloom, Greenpeace, Oceana, Seas At Risk, and The Pew Charitable Trusts

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<sup>3</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0539&language=EN>

<sup>4</sup> As a consequence, amendments that would have required a phase-out of the use of bottom trawls and bottom gillnets below 600 metres depth fell automatically and were not voted on by the European Parliament. These amendments differ from the original Commission proposal to phase-out the use of bottom trawls and bottom gillnets to ‘target’ deep-sea species – some of which may occur in relatively shallow waters depending on how ‘target’ deep-sea fisheries are defined.

<sup>5</sup> Vote on amendment 62 with corrections to the vote, pp-27-28 in the document on roll call votes in European Parliament/Plenary on 10 December 2013 at <http://www.europarl.europa.eu/plenary/en/minutes.html>

<sup>6</sup> <http://www.scapeche.fr/actus-1/2014/peche-profonde-la-scapeche-se-felicite-de-laccord-trouve-avec-les-ong>

## **Recommendations on key points in the proposed text of the regulation proposed by the Commission in July 2012 and amended by the European Parliament (EP) in December 2013**

### Definition of targeted deep-sea fisheries (Article 4)

- Support EP Amendment 30 - Article 4 (2) (c) (new)

The regulation should establish a depth below which bottom contact fisheries are considered target deep-sea fisheries regardless of the percentage of the catch of deep-sea species. This would ensure protection of deep-sea ecosystems and be much easier to monitor and enforce than a species percentage definition.

### Protection of Vulnerable Marine Ecosystems (VMEs) (Article 6)

- Support EP Amendment 42 – Article 6 a (new)

Measures to identify where VMEs are known or likely to occur and to then close these areas to bottom fishing are a critical step for protecting deep-sea habitats. This amendment would serve to incorporate the actions called for in UN General Assembly resolutions 61/105 (2006), 64/72 (2009), 66/68 (2011)<sup>7</sup>; the UN FAO Guidelines for managing deep-sea fisheries<sup>8</sup> and the relevant provisions of Articles 5 and 6 of the 1995 UN Fish Stocks Agreement.<sup>9</sup> The EU was extensively involved in the negotiation of the UNGA resolutions in 2006, 2009 and 2011, the FAO guidelines (2007-2008) and the UN Fish Stocks Agreement and strongly supported these resolutions and instruments.

### Impact Assessments of deep-sea fisheries (Article 7)

- Support EP Amendments 43-58

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. As above, these amendments would serve to incorporate the actions called for in the UN General Assembly resolutions, the UN FAO Guidelines, and the UN Fish Stocks Agreement<sup>10</sup> for managing deep-sea fisheries and be consistent with Council Regulation (EC) 734/2008. The agreement to conduct impact assessments for bottom fisheries on the high seas was a central element of the package of measures adopted by the UNGA in its sustainable fisheries resolutions in 2006, 2009 and 2011. The measures adopted by the UNGA are intended to apply equally to bottom fisheries within historically fished areas as well as previously unfished areas.

### Phase-out of destructive deep-sea fishing practices (Article 9)

- Reject the amendment adopted by Parliament and support a phase-out of the most destructive deep-sea bottom fishing gear.

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<sup>7</sup> 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](http://www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm)

<sup>8</sup> 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>

<sup>9</sup> See, for example, UN Fish Stocks Agreement Articles 5(g); 6.2 and 6.3(d)

<sup>10</sup> See, for example, UN Fish Stocks Agreement Articles 5(d) and 6.3(d)

Deep-sea bottom trawls and bottom-set gillnets are well known to be especially damaging to VMEs and are associated with high levels of by-catch.

#### Sustainability of deep-sea fish stocks (Article 10)

- Support EP Amendments for Article 10.1
- Reject EP Amendments 65-67 and support the Commission proposal for Article 10.2

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.

#### List of deep-sea species (Annex 1)

- Designate all deep-sea shark species as Most Vulnerable (mark with an “X” on Annex 1)
- Include all gulper sharks (*Centrophorus* spp.) on the list of species on Annex 1
- Eliminate the column entitled “Deferred Application of Article 4 (2) (c)”

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 for which the EU sets the TAC at zero. Currently, two *Centrophorus* sharks are included on the list, but at least two others found in the northeast Atlantic are not listed. One of these species, the lowfin gulper (*C. lusitanicus*) is classified as *Vulnerable* on the IUCN Red List and is of concern because of its limited range, extremely low fecundity, and it being subject to deepwater fisheries in the northeast and eastern central Atlantic. It is commonly confused with another shark of the same genus, *Centrophorus granulosus*, which is estimated to have undergone declines of 80-95% where it is fished in the northeast Atlantic, a level of decline which may actually apply to both species. As a result, the European Commission and ICES have raised concerns that catches of gulper sharks for which the TAC is zero may have been misidentified as catches of *C. lusitanicus*.

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.