

Reaction to the Commission consultation document on the review of the access regime for deep-sea stocks

The consultation document on the review of the access regime for deep-sea stocks (Council regulation (EC) No 2347/2002) follows the Commission publication of a highly critical review of the management of deep-sea fish stocks (COM(2007)30). Amongst others, the review states that *"full compliance with the precautionary approach would have required the setting of much lower TACs and effort limits, or even the closure of the fisheries"*. It also states that *"many deep-sea stocks have such low productivity that sustainable levels of exploitation are probably too low to support an economically viable fishery"*. This review was preceded by almost a decade of ICES reports warning that many of the deep-sea fish stocks are too heavily exploited and outside safe biological limits, culminating in a call for the *"complete overhaul of deep-sea fisheries"* with the publication of its ACFM report in 2005.

The consultation document notes that the scientific advice has been similar for many years, namely an immediate reduction in these fisheries unless they can be shown to be sustainable; no permission of new deep-sea fisheries or the expansion of existing fisheries into new fishing areas unless the expansion is accompanied by programmes to collect sufficient data to determine sustainable exploitation levels; and management by effort restrictions rather than catch restrictions. However, the consultation document also notes that despite the decrease of the maximum allowable effort in recent years, landings have increased. This indicates that current effort limits are not effective and that the fisheries have expanded, against the scientific advice.

Against this background, and bearing in mind that the EU committed itself at the 2002 Johannesburg Summit to maintaining or restoring stocks to the maximum sustainable yield level, if possible by 2015, it is clear that a continuation of the current access regime without addressing the problems highlighted in the Commission review is not a viable option.

Therefore proposed options 1 and 2 in the consultation document are not viable. They basically foresee in the continuation of the current access regime, adjusting it to take account of the obligations posed by the new framework regulation on control and the obligations resulting from agreements within NEAFC.

Option 3 is the only viable option, putting the access regime into the context of the overall policy development and improve its contribution to conservation objectives and the gathering of scientific information.

Before addressing the specific issues mentioned in the consultation document under option 3, we would like to make some general observations on the current regime and the possibilities to improve the current deep-sea fisheries regime.

FAO Guidelines

In general, the UN FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas provide a good basis for the establishment of an EU deep sea fisheries management regime. They elaborate on the need for systematic data collection, effective monitoring and control and the establishment of biological limit and target reference points.

UNGA resolution on bottom fisheries

In addition, and to ensure coherence in the EU management regime and enhanced protection of vulnerable marine ecosystems, the 2009 UN General Assembly resolution on bottom fisheries on the high seas should apply also to EU waters as these fisheries target many of the same stocks. This resolution 64/72 calls on flag States and RFMOs to "ensure that vessels do not engage in bottom fishing" on the high seas until impact assessments of individual bottom fishing activities have been carried out consistent with the FAO Guidelines and the fisheries can be managed to prevent significant adverse impacts on vulnerable marine ecosystems.

The UN GA resolution also calls for fishing nations to conduct stocks assessments and establish catch and effort limitations "to ensure the long-term sustainability of deep sea fish stocks and non-target species, and the rebuilding of depleted stocks" before allowing deep-sea fishing to take place. This was based on a proposal from the European Union.

Alignment of effort restrictions with TACs

Currently deep-sea fisheries are regulated through two different regulations: the TACs and quota regulation and the access regulation. By treating access to the fisheries separately from catch limitations a lack of coherence was introduced which needs to be addressed to ensure effective management. Many deep-sea fisheries are mixed fisheries and with the current lack of information on catch composition, discards and geographical distribution of the stocks, TACs are not an adequate management tool for these fisheries. These fisheries should rather be managed through real and effective effort restrictions. The bi-annual TACs and quotas setting should therefore not be separated from the review of the access regime, but be integrated in the review process to ensure that effort restrictions and TACs are aligned.

Issues mentioned in the consultation document:

Discards:

Seas At Risk agrees that there is a need for more information and a more complete sampling coverage, and thorough data collection protocols incorporated in national data collection programmes would be an effective tool. The current management system of TACs and quotas for mixed fisheries causes discards. Effort management will address this problem, and in addition a discard ban will contribute to an increase in information.

By-catches:

Significant reduction of by-catch is needed and the options mentioned in the consultation document are all valuable possibilities that should be pursued. Inclusion of additional species in Annex I should not facilitate the expansion of new fisheries without the necessary monitoring programmes. By-catch reduction can also be achieved through the promotion of a shift from gears with high by-catches to gears with less by-catches or a directed and specific effort reduction of vessels using unselective techniques. Establishment of trawler free zones should be complemented by a trawler effort reduction to avoid displacement of trawlers into new zones. Temporary closures to avoid catches of juveniles or spawning aggregations can be very effective measures, but it requires sufficient biological information and a reduced effort level to ensure that the subsequent effort displacement will not cause problems.

Ghost fishing:

Some reduction of ghost fishing can possibly be achieved by reporting obligations and net retrieval programmes, but a more effective measure is the prohibition of gear like deepwater gillnets, as currently already in place in the NEAFC regulatory area.

Fleet definition:

The existence of an access regime assumes a limitation of the number of vessels dedicated to deep-sea fisheries. This is currently hardly the case, even though it is the most adequate way to adjust fishing effort to the status of the stocks. Licences should be allocated with preference to those vessels that have proven to fish in a sustainable way. Reassessment of the landing's threshold could be useful to ensure the right vessels are targeted, but the thresholds should not be set too high given the large impact relatively small amounts of by-catch of deep-sea species will have on the stocks due to the vulnerability of deep-sea species.

The list of deep sea species included in Annex 2 of Regulation 2347/2002 should be reviewed, and species that have the biological characteristics of deep sea species as defined in the FAO International guidelines for the management of fisheries in the high seas (paragraph 3.1) , including those listed by NEAFC, should be added to the list. Species of which the biological characteristics resemble more those of shallow water species should be removed.

Control and monitoring:

The control and monitoring of deep-sea fisheries certainly need improvement and aligning the access regime with the new framework regulation on control and effective implementation of it would be a good first step.

In summary:

- Use the UN FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas as a basis for the EU deep sea management regime.
- Apply the 2009 UNGA resolution 64/72 on bottom fisheries on the high seas to deep sea fisheries within European EEZs as both fisheries are to a large extent targeting the same stocks: enhance the protection of vulnerable marine ecosystems through the requirement of environmental impact assessments prior to licencing the fishery; and enhance sustainability of the fishery through stocks assessments and the establishment of catch and effort limitations prior to licencing the fishery.
- Review the list of deepsea species using FAO guidelines; remove species with biological characteristic resembling shallow water species and add species with biological characteristics of deep sea species.
- Increase coherence of the management measures by integrating the access regulation and the TACs and quota regulation, ensuring the alignment of effort restrictions with catch limits.
- To address by-catch and discards, use effort restrictions for mixed fisheries, a discard ban, and temporal and spatial closures.
- Prohibition of deep sea gill nets
- Align the access regime with the new framework regulation on control and ensure effective implementation.

