

**Working Document of the Commission services**  
**Destructive Fishing Practices in the high seas: tackling their impact on fish stocks**  
**and marine biodiversity through strengthened international cooperation**

**1. A concept of sustainable fisheries not limited to the status of target stocks**

- 1.1. For a number of years, regulatory authorities all around the world have accepted the need to reassess their approaches to fisheries management, in light of declining fishery resources and environmental degradation. The reasons which plead in favour of a change in approach are well known and shared by regulators and by the civil society at large. They informed the reform of the Common Fisheries Policy that the European Community undertook in 2002. The general public is increasingly aware of the stakes at play, in particular of the losses for present and future generations we all risk unless a more careful, responsible and holistic management of activities that exploit our oceans is urgently implemented.
- 1.2. In parallel, the concept of sustainable fisheries has substantially evolved. Scientists have established a strong case for the inclusion of ecosystem considerations in fisheries management. Stocks cannot be exploited in a responsible way unless considered as an integral component of an ecosystem, where changes in both biological and abiotic factors affecting the various species that coexist and interrelate, as well as their habitats, may be just as important as exploitation rates in determining whether a fishery can be sustainable in the long term.

**2. Destructive fishing practices**

- 2.1. Virtually all fishing activities have an impact on the marine environment. However, some techniques and practices clearly impact on ecosystems and habitats more than others. Although there is no agreed definition of "destructive fishing practices" some practices are inherently destructive, such as the use of poisons or explosives, and these are already banned in Community law. But others, particularly bottom trawling and dredging and, in some cases, gillnetting, may qualify as destructive in fragile environments or in specific circumstances, for instance when large by-catch of non-marketable species is expected. In any event, the destruction of bottom habitats figures prominently among the most detrimental impacts that fisheries managers must address. It is important also to include in this category that of the depletion of species which, because of their biological characteristics, such as late sexual maturity or low reproductive rates, are particularly sensitive to exploitation and thus rapidly fished out. Many, if not most deep sea fish species belong to this category.
- 2.2. It is therefore with good reason that the need to tackle the effects of destructive fishing practices has gathered increased attention in the last four years. At the World Summit on Sustainable Development in 2002, the international community expressly recognised the need to "*develop and facilitate the use of diverse approaches and tools, including (...) the elimination of destructive fishing practices ...*"<sup>1</sup>
- 2.3. The progressive elimination of destructive fishing practices is an objective shared internationally and subscribed by the European Community. The Community gave its support to the Johannesburg Plan of Action and should therefore aim at implementing the necessary regulatory action to attain the objectives defined in the

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<sup>1</sup> Johannesburg WSSD Plan of Implementation, paragraph 31.c.

Plan. This work must necessarily be progressive and carried out in close cooperation with the fishing sector. If difficult choices are to be made, in particular those of gradually replacing traditional gears or techniques for others with less impact, or stringently regulating them to minimise their adverse impact on the environment, then it is necessary, to secure the commitment of fishermen, that solid scientific advice underlies the measures proposed.

### **3. The terms of the global debate on destructive fishing practices**

- 3.1. The European Community has been an active participant in the international debate regarding destructive fishing practices. It should be recalled that it was the Community which proposed that FAO initiates work on deep sea fisheries back in 2003. In 2005, the FAO Committee on Fisheries agreed to request the development of technical guidelines in the framework of the Code of Conduct for Responsible Fisheries to address the challenging nature of the sustainable management of these species and the impacts of fishing on their habitats.
- 3.2. Currently, this debate is intense in the framework of the United Nations General Assembly. The General Assembly reviews every year the state of play of the international maritime legal order and issues two yearly Resolutions, respectively on the Law of the Sea and on Sustainable Fisheries. These texts highlight the areas where States should strengthen their efforts to ensure adequate governance of the use and conservation of our oceans. Destructive fishing practices are an issue that has found echo in the General Assembly for many years. Already in 1989, the General Assembly discussed large-scale pelagic driftnets and their impact on marine living resources of the world oceans and seas<sup>2</sup>. More recently, a similar focus has developed in respect of another particular fishing practice, namely bottom trawling. Several non-governmental organisations as well as several UN Members are pleading in favour of the adoption of a general moratorium for this technique in the high seas.
- 3.3. This international debate raises important questions of marine governance, to which the European Community attaches high importance. It is well within the remit of the General Assembly to discuss these questions and seek agreed avenues for progress. Essentially, what needs to be elucidated is how to use efficient mechanisms to act collectively in order to prevent severe degradation of vulnerable high seas ecosystems. The Community must therefore be ready to continue contributing to this debate actively and constructively, based on its strong commitment to sustainable fisheries and to the conservation of marine biodiversity. As a prerequisite, the Community must implement a coherent strategy to deal with these problems, both in the internal and external dimensions of its Common Fisheries Policy.

### **4. International fisheries governance**

- 4.1. Marine ecosystems recognise no boundaries. However, the allotment of maritime space under international law is essential to ensure a pacific use of the oceans. It implies, in particular, the establishment of a set of rules to govern the use by individual States of the global ocean commons: the high seas and the international

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<sup>2</sup> UN General Assembly Resolution 44/225. Subsequently, the General Assembly adopted a number of further specific Resolutions on the same issue. See in particular Rs. 46/215, 49/116, 49/118, 50/25, 52/29, 53/33 and 55/8.

seabed. In accordance with the basic rules of the international law of the sea, States are bound to manage these areas beyond national jurisdiction as a collective. All States enjoy the freedoms of the high seas, including the freedom to fish. However, these freedoms are counterbalanced by a duty to cooperate with others in order to ensure the conservation and management of the marine resources and the marine environment. Such are the fundamental principles embodied in the United Nations Convention on the Law of the Sea 1982 (UNCLOS).

- 4.2. Regarding fisheries, the UN Fish Stocks Agreement 1995 (UNFSA)<sup>3</sup> implements the UNCLOS by establishing the rules that States must follow in order to co-operate towards fisheries management in the high seas. UNFSA identifies regional fisheries management organisations or arrangements (RFMOs) as the collective bodies mandated to adopt fisheries conservation and management measures which are binding for their members. States must join them or agree to comply with the measures they have adopted in order to have access to the high seas fishery resources placed under their responsibility. RFMOs are therefore the crucial vehicle for fisheries governance in the high seas.
- 4.3. The first RFMOs were established back in the 40s and 50s. Since then, the manner in which these organisations operate to discharge their duties has not ceased to evolve. However, the adoption of the UNFSA in 1995 marked a turning point in this evolution. The Agreement has established the basic principles of responsible fisheries management with a special emphasis on ecosystem considerations, the precautionary principle, and the stringent duties of States to control the fishing activities of vessels and nationals. RFMOs created after the adoption of the Agreement have expressly incorporated these principles into their founding conventions. Older ones have largely implemented them in practice and a number of them are undergoing – or about to embark in – a review process to update their statutes to the UNFSA standards. This state of play has been confirmed by the conclusions of the Review Conference of the UNFSA, held from 22 to 26 May 2006 in New York.
- 4.4. However, there are still large portions of the world oceans for which an RFMO has not yet been established. Whereas RFMOs in charge of managing highly migratory species (tuna and tuna-like species) have achieved global coverage, RFMOs with competence over fishery resources other than highly migratory only exist in the Antarctic, the North-east, North-west and South-east Atlantic, and in the Mediterranean<sup>4</sup>. Even if flag States remain responsible for making sure that their vessels and nationals fish responsibly in international waters, there is still an urgent need for States to address the "spatial gaps" existing in the Indian, Pacific and South West Atlantic Oceans.

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<sup>3</sup> The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (in force as from 11 December 2001). Text available at <http://daccess-ods.un.org/TMP/7951589.html>

<sup>4</sup> Respectively: the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR); the North East Atlantic Fisheries Commission (NEAFC); the Northwest Atlantic Fisheries Organisation (NAFO); the South East Atlantic Fisheries Organisation (SEAFO); the General Fisheries Commission of the Mediterranean (GFCM). Note that other regional fisheries bodies have been established by the UN Food and Agriculture Organisation as regional advisory committees or commissions, without the competence to adopt binding conservation and management measures. See <http://www.fao.org/fi/body/rfb/index.htm>

- 4.5. Against this background, UN General Assembly Resolution 59/25 of 2004 issued a call "*... upon States, either by themselves or through regional fisheries management organizations or arrangements, where these are competent to do so, to take action urgently, and consider on a case-by-case basis and on a scientific basis, including the application of the precautionary approach, the interim prohibition of destructive fishing practices, including bottom trawling that has adverse impacts on vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals located beyond national jurisdiction, until such time as appropriate conservation and management measures have been adopted in accordance with international law;*" The General Assembly then called on RFMOs to expand their competence in case this is needed to adopt the necessary conservation and management measures to address the adverse impact of these activities, and to those which have such competence, to adopt urgently such measures. Finally, States were requested to establish urgently new RFMOs with the adequate competence in areas where no such relevant organization or arrangement exists.
- 4.6. The General Assembly agreed to review progress made in responding to these calls two years later, at its 61st Session, taking place this year. On 28 April 2006, the European Community submitted a Report to the UN Secretary General describing the measures it has taken to respond to this call. This document has been made available to the general public<sup>5</sup>. The following section recalls the measures reported in this document, which comprise action taken in respect of EU waters as well as in respect of fisheries taking place in the high seas, through initiatives and proposals made by the European Community in various international organisations.

## **5. Measures taken in respect of Community waters**

- 5.1. As already stated, the Community should demonstrate the same level of commitment to eliminate destructive fishing practices in both Community waters and international waters. What follows is a brief account of the action taken in recent years regarding waters under the jurisdiction of EU Member States to which the rules of the Common Fisheries Policy apply.
- 5.2. Scientific Research: The European Community invests in developing science and knowledge of the deep water environment and in the development of management tools for its conservation. Its 5<sup>th</sup> and 6<sup>th</sup> Framework Programmes for Research focused on three different aspects of vulnerable marine ecosystems: a) knowledge improvement, with 13 R&D actions funded on deep corals and 12 R&D actions funded regarding other sensitive marine ecosystems. Examples of funded projects in these domains include OASIS<sup>6</sup> (oceanic seamounts) and HERMES (Hotspot Ecosystems Research on the Margins of European Seas)<sup>7</sup>; b) understanding the impacts of human activities on these ecosystems and promote mitigation measures; examples include PROTECT (support fisheries policy in protecting deep sea corals from the impact of fishing activities in the North Sea)<sup>8</sup> and POORFISH<sup>9</sup> (scientific

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<sup>5</sup> [http://ec.europa.eu/comm/fisheries/doc\\_et\\_publ/factsheets/legal\\_texts/docscm/en/ec\\_report59-25paras66to69final.pdf](http://ec.europa.eu/comm/fisheries/doc_et_publ/factsheets/legal_texts/docscm/en/ec_report59-25paras66to69final.pdf)

<sup>6</sup> <http://www1.uni-hamburg.de/OASIS/Pages/page1.html>

<sup>7</sup> <http://www.eu-hermes.net>

<sup>8</sup> <http://www.mpa-eu.net>

advice for fishery management in new fisheries, such as the deep-water fisheries in western Europe which are data poor); finally, c) technological development in extreme ecosystems, including EXOCET/D<sup>10</sup> (development of cost-effective, reliable and efficient technologies enabling progress in biodiversity and ecosystem science).

- 5.3. Measures for the protection of sensitive habitats against the impact of fishing: Since 1994<sup>11</sup> fishing with bottom trawl nets above the Posidonia meadows or other marine phanerogams is prohibited in the Mediterranean, with the exception of some small localised fleets; moreover bottom trawling is prohibited within three nautical miles from the coast or at depths less than 50 m where that depth is reached at a shorter distance. Stricter measures regarding the operation of towed nets in coastal areas have been proposed in a revision of the Mediterranean technical measures that is currently before the Council of the European Union and therein, moreover, fishing with trawl nets is prohibited over the Maërl beds and Coralligenous habitats.
- 5.4. In 2004, the Community adopted a Regulation<sup>12</sup> prohibiting vessels from using any bottom trawl or similar towed nets operating in contact with the bottom of the sea in the area known as “Darwin Mounds” north-west of Scotland. In 2005, similar prohibitions were adopted<sup>13</sup> in respect of areas surrounding the Azores, Madeira and Canary islands. As in the previous case, these measures were based on information provided by the International Council for the Exploration of the Sea (ICES) regarding the identification and mapping of highly sensitive deep-water habitats.
- 5.5. In 2004 the Community adopted a Regulation<sup>14</sup> regarding fishing activities within the 25 nautical miles zone of Malta, where trawling activities is restricted to only 14 geographically identified trawlable areas.
- 5.6. In 2005, the Community adopted transitional technical measures in a Regulation<sup>15</sup> that prohibits the deployment of bottom set-nets at depths beyond 200 metres in ICES Divisions VIab, VIIbcjk and Subarea XII. Within the same Regulation bottom trawling and fishing with static gears have been prohibited for the protection of vulnerable deep-sea habitats in the following 5 areas identified with geographic

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<sup>9</sup> [http://europa.eu.int/comm/research/fp6/ssp/poorfish\\_en.htm](http://europa.eu.int/comm/research/fp6/ssp/poorfish_en.htm)

<sup>10</sup> <http://www.ifremer.fr/exocetd>

<sup>11</sup> Council Regulation (EC) No 1626 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean

<sup>12</sup> Council Regulation (EC) No 602/2004 of 22 March 2004 amending Regulation (EC) No 850/98 as regards the protection of deepwater corals from the effects of trawling in an area north west of Scotland.

<sup>13</sup> Council Regulation (EC) No 1568/2005 of 20 September 2005 amending Regulation (EC) No 850/98 as regards the protection of deepwater coral reefs from the effects of fishing in certain areas of the Atlantic Ocean.

<sup>14</sup> Council regulation (EC) No 813/2004 of 26.04.2004 amending Regulation (EC) No 1626/94 as regards certain conservation measures relating to waters around Malta

<sup>15</sup> Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.

coordinates: the Hecate Seamounts, the Faraday Seamounts, Reykjanes Ridge (partem), the Altair Seamounts and the Antialtair Seamounts.

## 6. Action taken at international level

- 6.1. In order to provide a response to the call made by the General Assembly in 2004 for international measures, the Community has sought to promote measures in RFMOs that address not only bottom trawling but other fishing practices, such as bottom gillnets and towed dredges, that may also have adverse impact on vulnerable ecosystems. As a starting point, it is essential to identify the areas where vulnerable habitats are located, such as cold water corals and hydrothermal vents. The Community has therefore sought to activate the bodies that provide scientific advice to RFMOs, in particular their scientific Committees and ICES, in order to obtain a sound basis for measures such as marine protected areas, and has proposed specific area closures to the use of specific gears, in particular bottom trawling, when such advice has been provided.
- 6.2. It is important to underline that in more general terms, the Community is deeply committed to ensuring that bilateral or multilateral fisheries cooperation regimes evolve to the fullest integration of ecosystem considerations into the conservation and management regime implemented in such fora. This involves in some cases a reform of existing RFMOs, either in respect of their establishing Conventions or in respect of their operational structures and working methods. The Community has furthermore led in the effort to establish new RFMOs or arrangements in areas or the world oceans where they do not yet exist, such as the Indian and Pacific Oceans.
- 6.3. Through its bilateral fisheries relations, the European Community is introducing actions and programmes aiming at balancing sustainable fisheries and marine conservation, including in particular the establishment of marine protected Areas: Within the framework of the negotiations of new Fisheries Partnership Agreements with countries such as Senegal, Mauritania and Guinea Bissau, the Community will seek to include financial support for the implementation of this instrument and improved fisheries controls in such areas.
- 6.4. The Community has furthermore promoted the adoption by a number of RFMOs of conservation measures that respond directly to the call made by the General Assembly Resolution of 2004:
  - General Fisheries Commission of the Mediterranean (GFCM), 29<sup>th</sup> Session (Rome, 21-25 February 2005): Recommendation 2005/1, based on an EC proposal, on the management of certain fisheries exploiting demersal and deepwater species. This Recommendation requires members of the Fisheries Commission to *'prohibit the use of towed dredges and trawlnets fisheries at depths beyond 1 000 m of depth'*. The Recommendation, which is binding for GFCM members, entered into force in September 2005.
  - General Fisheries Commission of the Mediterranean (GFCM), 30<sup>th</sup> Session (Istanbul, 24–27 January 2006): Recommendation GFCM/2006/3, based on an EC proposal, on the establishment of fisheries restrictive areas in order to protect the deep sea sensitive habitats. This binding recommendation prohibits fishing with towed dredges and bottom trawl nets in three areas of the Mediterranean high seas, namely the “Lophelia reef off Capo Santa Maria di Leuca”, the “Nile Delta area cold hydrocarbon seeps” and “The Eratosthemes Seamount” south of Cyprus. The Recommendation further requires GFCM members to *“call the attention of the appropriate authorities in order to protect*

*these areas from the impact of any other activity jeopardizing the conservation of the features that characterize these particular habitats.”*

- North East Atlantic Fisheries Commission (NEAFC), 24<sup>th</sup> Annual Meeting of the (London, 14 to 18 November 2005), the European Community tabled a proposal “for a recommendation to close certain areas in the Regulatory Area in order to protect deep-water corals.” (Ref. AM/2005/53), based on the scientific advice provided by the ICES. The proposal sought to prohibit all fishing activities in areas of Hatton Bank, North West Rockall, Logachev Mounds, South Rockall, West Rockall Mounds and South West Rockall located within the NEAFC regulatory area. When discussed in 2005, there was no consensus of NEAFC members on this proposal. The issue will have to be addressed again in 2006, and the EC should continue to seek its objective.
  - Northwest Atlantic Fisheries Organisation (NAFO), 27<sup>th</sup> Annual Meeting (Tallin, 19-23 September 2005): the Organisation’s Scientific Council has undertaken to identify areas of marine biological and ecological significance in order to set the basis for measures granting special protection to such vulnerable ecosystems. In addition, pursuant to NAFO recommendations incorporated in Community law, Member States shall implement, where possible, special requirements for collecting data on seamounts in the NAFO area. It is to be expected that, at its 2006 Annual Meeting, NAFO will move to close certain sensitive areas following the scientific advice. The EC should take a proactive approach in that respect.
  - South East Atlantic Fisheries Organisations (SEAFO): SEAFO, which is a relatively young RFMO responsible for demersal resources in international waters in the South East Atlantic and which is currently chaired by the EC, has already decided in 2005 to impose the requirement for all vessels fishing in the area to have observers on board, in order to collect biological and other data on the fisheries and the marine environment. It is foreseen that SEAFO at its 2006 Annual Meeting will study scientific advice to determine the possibility of the closure of certain sensitive ecological areas to fishing. The EC should take a proactive approach also in this forum to seek this objective.
- 6.5. The European Community is actively engaged in the reform of NAFO<sup>16</sup> and NEAFC<sup>17</sup>, two RFMOs competent to regulate bottom fisheries, with a view to updating their mandates and functioning in order, among other aspects, to incorporate more integrated oceans management approaches.
- 6.6. Finally, the global coverage of the world oceans by regional fisheries management regimes is a high priority for the Community's international fisheries policy. As noted in section 4, large areas remain devoid of such a regime as far as fisheries resources other than highly migratory (tunas and tuna-like species) are concerned. These include the Indian and Pacific Oceans. In the first case, the Community has consistently led efforts to establish a fisheries arrangement since 1999. These efforts culminate on 7 July 2006, with the adoption and opening for signature of the

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<sup>16</sup> Launch of the NAFO Reform Process at its 27<sup>th</sup> Annual Meeting (Tallinn, 19-23 September 2005). The NAFO Reform Working Group is currently examining amendments to the NAFO establishing Convention.

<sup>17</sup> Working Group on the future of NEAFC: first meeting held in London on 7-9 February 2006.

Southern Indian Ocean Fisheries Agreement (SIOFA). This arrangement will cover most waters beyond national jurisdiction enclosed in FAO statistical areas 51 and 57. With regard to the Pacific Ocean, the Community has been an active participant in the negotiation process of the South Pacific RFMO, sponsored by New Zealand Australia and Chile in 2005, which held its first round in February this year.

6.7. The process of establishing new RFMOs takes time. However, nothing prevents participants in these processes from agreeing interim arrangements on a voluntary basis, whilst they await the entry into force of the new convention. This was the case for SEAFO in 2004. Accordingly, the European Community has proposed such interim arrangements in the framework of the SIOFA and South Pacific negotiations.

## **7. A Community's proposed short and medium-term strategy to address destructive fishing practices in the high seas.**

7.1. As a general policy line, the overall objective is that all the necessary measures must be taken to ensure that vulnerable marine habitats, such as seamounts, coldwater corals and hydrothermal vents, are protected from the adverse impacts of certain destructive fishing practices, including bottom-trawling.

7.2. As a first step, it is necessary to ensure the immediate protection, either through RFMOs or directly in respect of Community vessels, of sites where such vulnerable habitats are in good status (many of which are already catalogued) by declaring them off limits to fishing with any bottom gear and by prohibiting the expansion to areas not currently fished with bottom gear.

7.3. It is also important to take urgently appropriate steps, either directly or through RFMOs, to ensure the collection of information with a view to the identification and mapping of areas containing vulnerable habitats, whether or not currently fished, in close cooperation with relevant scientific bodies. RFMOs remain the priority forum to undertake the necessary protective measures. The Community shall support RFMOs in their efforts to reform their mandates. It will also take a proactive approach to ensure that they adopt and implement effective measures to preserve vulnerable habitats from destructive fishing practices, including but not limited to bottom trawling. Therefore, the Community will continue to seek the adoption of legally-binding measures for the closure of areas containing such habitats, especially further to the above-mentioned identification process. It should support the freeze of effort in the remaining areas currently fished with bottom gears, subject to regular review on the basis of updated scientific advice. It will also support the development of standards for the pursuit of new and exploratory fisheries, in order to prevent depletion of species, such as deep sea fish stocks, particularly vulnerable to exploitation.. The Community's policy shall remain firm in this regard, ensuring a coherent and comprehensive action in NEAFC, NAFO, SEAFO and GFCM. In areas where no RFMO with the necessary powers yet exists, the Community shall take action in respect of the following strategic areas:

7.3.1 Promoting the establishment of new RFMOs or Arrangements to fill the remaining spatial gaps in RFMO coverage of the world's oceans and ensuring effective interim arrangements pending the conclusions of these negotiations:

7.3.2 Continuing its active involvement in the establishment of SIOFA and the South Pacific RFMO. In the case of SIOFA, this entails the signature and ratification of the agreement adopted on 7 July in Rome. Interim arrangements should include the implementation of the Data Collection Resolution adopted by participants in this process in 2005, basic rules to collect information on

vessels present in the area, their catches, as well as minimum Monitoring, Control and Surveillance requirements, including vessel monitoring systems and observers. Similar interim arrangements have already been proposed by the Community during the first meeting of the negotiations for the establishment of the South Pacific RFMO held in Wellington in February 2006.

- 7.3.3 Many seamounts, coldwater corals, hydrothermal vents and other vulnerable features may be located in unregulated areas of the southern hemisphere. The Community should propose to the participants in the SIOFA and the South Pacific RFMO that they agree to apply, on an interim basis, immediate restrictions in respect of their vessels that might be fishing in these formations of the Southern Indian Ocean and the South Pacific. Where scientific information should not be conclusive, an interim general closure of the fishery on seamounts should be considered on a precautionary basis.
  - 7.3.4 The Community shall launch an appeal for renewed efforts to establish a regional fisheries management regime in the Southwest Atlantic, an area where talks with the coastal States concerned has not made progress for a number of years. A demarche to this end should be undertaken with coastal and potentially interested fishing States. The Community should state clearly its intention to engage in a negotiating process even if not all coastal or fishing States were to respond to this call.
  - 7.3.5 The Community shall continue to engage its international counterparts in discussions regarding the status of the central Atlantic and north Pacific regions, and also to explore whether agreement could be found on interim conservation measures that would be required for any non-tuna fisheries that might be taking place in these regions.
- 7.4. Developing the EC rules regarding the fleets operating in the high seas outside RFMO areas
- 7.4.1 The Community shall enhance its control instruments regarding the EC fleet operating in the high seas outside RFMO areas. It is envisaged to address this issue in the Regulation on fishing authorisations for fishing activities outside Community waters, currently in preparation.
  - 7.4.2 EU Member States shall be called to identify vessels operated by their nationals under foreign flags so that the Community may gain adequate information of EU interests and establish the necessary cooperation relations with the flag States concerned so that these vessels comply with applicable measures or interim arrangements in the high seas areas where they operate.
- 7.5. Defending the integrity and effectiveness of the international maritime legal order
- 7.5.1 The EU shall intervene at the General Assembly in favour of a review process regarding the protection of vulnerable habitats from the effects of fishing in areas within national jurisdiction, thus re-conducting this debate to the fundamental issue the protection of vulnerable habitats wherever they may be located, and to the accountability of States vis-à-vis their responsibility towards environmental protection in their waters under the Law of the Sea.
  - 7.5.2 The Community shall, as a longer-term objective, continue promoting the adoption of an implementing agreement of UNCLOS to protect biodiversity in areas beyond national jurisdiction (as proposed to the UN marine biodiversity

Working Group last February) as a means to implement an integrated approach to environmental protection, capable of assessing the cumulative impacts of all potential human activities and providing the basis for the establishment of holistic marine protected areas in waters beyond national jurisdiction.

7.5.3 The Community shall be firm in defending the implementation of the UN Fish Stocks Agreement, particularly taking into account the results of the Agreement's Review Conference held in New York 22-26 May 2006.

7.5.4 The Community shall actively demarche the FAO so that it implements the mandate given by COFI in 2005 to develop technical guidelines for deep sea fisheries.

## **8. Conclusion**

8.1. The Commission believes that the Community must continue to develop a proactive policy to fully implement its commitment to the pursuit of the objectives identified in the Johannesburg Plan of Action. It must also reaffirm its commitment to respond to the call made by the General Assembly of the United Nations in 2004 to take urgent action, individually and through RFMOs, to address the impact of destructive fishing practices, including bottom trawling, on vulnerable marine ecosystems.

8.2. The Commission believes that in the two years since the call was issued, RFMOs with competence over bottom fisheries have made progress in adopting measures to protect identified fragile habitats through area closures based on scientific advice. There is however scope for a more systematic and comprehensive action to that end, and the Community should show its continued leadership and its determination to move towards high protection standards. Such RFMOs have furthermore engaged in deep reforms to improve their management regimes so that they provide a more integrated approach taking into account ecosystem considerations. The Commission believes that, where this regulatory option is available, the adoption of measures that are binding on States that fish in the high seas, and are supported by a cooperative control and compliance regime, is the best possible approach to be truly effective in tackling the environmental impact of certain fishing practices. The system of international fisheries law must be firmly put to the service to this objective on the basis of an effective governance of the high seas. In this respect, the lengthiness of the processes to ensure that all the oceans are covered by a binding management regime must be compensated by a real political will of interested parties to implement voluntary interim arrangements for the conservation and management of resources and their ecosystems on a scientific and precautionary basis.

8.3. In addition to collective action, whether in the context of RFMOs or through joint voluntary commitments in other areas, States keep the ultimate responsibility in ensuring that vulnerable habitats are not subject to destructive fishing practices by their own vessels and must make their own regulatory decisions where appropriate to ensure their protection. In the case of the Community, the Commission will integrate this concern when proposing regulatory fishing measures, and it will keep under review whether there is a need for specific unilateral measures applicable to Community fishing vessels for the protection of such habitats wherever they occur.

8.4. The UN General Assembly should continue to provide a forum where the international community as a whole can follow progress made in the pursuit of these objectives. Its contribution to the improvement of marine international governance

must be recognised as a source of political commitment by all States. The Community must therefore fully engage in the international debate that takes place in this high forum as a means of providing political momentum for decisive action by States and RFMOs.