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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**establishing specific conditions to fishing for deep-sea stocks in the North-East Atlantic
and provisions for fishing in international waters of the North-East Atlantic and
repealing Regulation (EC) No 2347/2002**

{SWD(2012) 202 final}

{SWD(2012) 203 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The deep-sea fisheries in the North-East Atlantic are partly dominated by traditional coastal fleets (Portugal) and large nomadic trawlers (France, Spain). Altogether they account for approximately 1% of landings from the North-East Atlantic, although the economic viability of a number of fishing communities depends to a certain extent on deep-sea fisheries. The fisheries are pursued in Union waters and in international waters governed by agreements within the North East Atlantic Fisheries Commission (NEAFC).

Deep-sea stocks are fish stocks caught in waters beyond the main fishing grounds of continental shelves. They are distributed on the continental slopes or associated with seamounts. Deep-sea fisheries have only since 2003 been subject to detailed management on fishing opportunities (total allowable catch, maximum fishing effort). Before this, the fishery developed largely unregulated and partly showed typical symptoms of the "race to fish" problem, resulting in the depletion of stocks.

Since the inception of management by fishing opportunities, a number of technical measures were put in place that restrict the use of certain gears in deeper waters or prohibit fishing in certain areas of high biodiversity on the sea bottom. These area closures represent follow-up by the Common Fisheries Policy (CFP) to Member States' designation of NATURA 2000 sites under the Habitats Directive¹, or are general precautionary measures

NEAFC measures in the area of deep-sea fishing which were adopted and transposed into Union law comprise the ban of gillnets, closed areas to protect benthic habitats which represent main sources of biodiversity (vulnerable marine ecosystems), the capping of total annually expended fishing effort, and the mapping of the existing fishing activity with the purpose of making new fisheries conditional on a prior environmental impact assessment.

These and other technical measures recommended by NEAFC used to be implemented by an annual Council Regulation on fishing opportunities before the entry into force of the Treaty of Lisbon; since then a transitional regime² for the whole North-East Atlantic is in force, including measures adopted in NEAFC.

For international waters not regulated by Regional Fisheries Management Organisations the Union adopted a specific Regulation that prohibits the use of bottom gears in the High Seas without prior impact assessment (Regulation (EC) No 734/2008), responding to the UNGA resolution 61/105³ on sustainable management of deep-sea fisheries.

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992, p. 7.

² Regulation (EC) No 1288/2009, OJ L 347, 24.12.2009, p 6.

³ A/RES/61/105 of 8 December 2006 - Sustainable fisheries, including through the 1995 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, and related instruments.

Since 2002 the Union has in place a specific access regime (Regulation (EC) No 2347/2002) for fishing vessels engaged in deep-sea fisheries of the North-East Atlantic, made of four components: capacity restriction, data collection, effort monitoring, and control.

The measures so far taken have not effectively solved the main problems of the fishery, namely:

- (1) the high vulnerability of these stocks to fishing; many of them can only sustain a low fishing pressure over a longer period that is economically not viable;
- (2) fishing with bottom trawls represents the highest risk of destroying irreplaceable and vulnerable marine ecosystems by fishing gear. The extent of destruction that has already occurred is unknown;
- (3) fishing with trawls for deep-sea species involves high levels of undesired catch of deep-sea species (on average 20 to 40% in weight with individual peaks at much higher level);
- (4) determining the sustainable level of fishing pressure via scientific advice is particularly difficult.

Due to deep-sea stocks' high vulnerability to fishing, stock depletion can occur within a short period of time, and recovery might take very long or fail. The stocks' biological state is largely unknown. Some are considered depleted, others have started to stabilise at low levels of exploitation. In general the fisheries are not sustainable. Fishing opportunities have consistently decreased since their regulation began.

Biological data from scientific surveys will probably remain insufficient to allow for full analytical stock assessments in the coming years. The Commission is exploring ways to improve the system of scientific surveys and data collection with regard to deep-sea species for the next programming period. For the time being, the management concept aiming at maximum sustainable yield (MSY) can not be applied to deep-sea stocks due to shortage of information. An important scientific project ("deepfishman") is ongoing until 2012. This project attempts to develop harvest rules based on secondary indicators, given that the primary indicators (fishing mortality and stock size) are unknown (DEEPFISHMAN⁴ Ref 227390)

Member States' obligation in accordance with the Marine Framework Strategy Directive to achieve or maintain a good environmental status of marine ecosystems by 2020⁵ fosters a critical assessment of the conditions for pursuing deep-sea fisheries, including environmental and biodiversity aspects.

The general objective of the proposal is to ensure as much as possible the sustainable exploitation of deep-sea stocks while reducing the environmental impact of these fisheries, and to improve the information base for scientific assessment. As long as data and method have not achieved the required level allowing MSY-based management, the fisheries have to be managed according to the precautionary approach to fisheries management.

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http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_ES&ACTION=D&DOC=19&CAT=PROJ&QUERY=01308a670983:f6dc:57618e7e&RCN=90982

5 See Marine Strategy Framework Directive, Directive 2008/56/EC, OJ L 164, 25.6.2008, p. 19.

In order to reduce the destructive impact on the marine ecosystem, the use of bottom trawls should be phased out in this fishery, as they are most harmful to vulnerable marine ecosystems and have shown high levels of undesired catch of deep-sea species. The transitional restrictions on bottom-set gillnets in fisheries below 600m depth and in the depth-range 200-600m should be accompanied by a prohibition to target deep-sea species.

The proposal also considers the opportunity to simplify the management system for these stocks, currently subject to a double instrument: catch limitations and capacity/effort limitation. Where this duplication is not necessary to achieve the objectives of this Regulation, proposals are made to regulate the concerned fisheries with only one management instrument.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Following the Communication on the review of the 2002 access regime to the European Parliament and the Council⁶, the Commission conducted an impact assessment of future policy options by involving Member States and Regional Advisory Councils (RACs). It also consulted the Scientific, Technical and Economic Committee for Fisheries (STECF) on certain technical aspects of the management of deep-sea fisheries.

The responses to the consultation showed a broad agreement on the need to improve the 2002 access regime. However, stakeholder's views diverged significantly on the measures to be implemented:

Member States highlighted the limited value of effort reporting, effort management and capacity management in the current set-up, in particular in view of the fact that the registered capacity (based on the authorisations issued) does not really match the reality of the fishery. Too many vessels seem to have an authorisation to fish deep-sea species which make up only a small proportion of their total catches. Such vessels do not really belong in a deep-sea fishing métier. Member States were also critical about the discarding, which they claimed was partly induced by fisheries regulation. They also stressed the importance of adapting the access regime to the new control framework. They were cautious in relation to pre-defining the management approach, at least before the conclusions of the ongoing scientific project "DEEPFISHMAN" were established.

Concerning the list of species covered, Member States acknowledged the need for coherent criteria but stressed that any changes would have consequences for the fishing patterns and management. Furthermore, they underlined the importance of respecting established rights under the principle of relative stability. Finally, concerning the special obligations on data collection, they opposed higher scientific coverage through on-board observers and supported the integration of the deep-sea specific data collection into the broader data collection framework, according to which some métiers focussing on deep-sea species are already sampled. Some doubt was expressed as to whether the costs involved in moving towards analytical stock assessments could be justified in view of the small activity, favouring therefore a precautionary management approach based on stock trends observed.

⁶ COM(2007)30 final.

The Union's North-Western and South-Western Waters RACs were consulted and underlined the need for a consistent definition of deep-sea fisheries, and supported targeting management measures to those vessels that are specialised in the métier. However, they suggested not to prohibit those vessels from returning to the fishery which had a previous track record and then contributed to stock recovery by turning to other fisheries in more recent times. Effort management by métier was proposed, which might look different for the groups of a few multi-métier large vessels compared to groups of many small vessels. They called for more action aiming at the protection of vulnerable marine ecosystems and a system of allocation, renewal and withdrawal of fishing authorisations.

An alliance of non-governmental organisations (the Deep-sea Conservation Coalition) pointed to the need for introducing conditions to the use of bottom trawls similar to those applied in the High Sea, and stressed the unresolved problem of undesired catch of deep-sea species in the trawl fishery.

The assessment of impacts resulting from different policy choices focussed on five options. Three of them were not further considered because they were considered not representing meaningful management approaches, with disadvantages largely outweighing advantages, namely: (a) to continue the current regime amending it only by needed updates; (b) to ban fishing for deep-sea species altogether, and (c) to scale the regime down to being a tool for transposing measures adopted in NEAFC and applying those measures also in Union waters.

The two options with relative advantage were: (d) to phase out the most harmful fishing gears targeting deep-sea species, or (e) to introduce in Union waters management standards that were developed for bottom fishing on the High Sea. Option (d) was retained as being a more effective and simpler instrument, while option (e) would result in adding extensive regulatory requirements and their inherent constraints to investment to a fishery already in decline. In view of fisheries administrations being scaled down due to budgetary austerity measures, there is no sufficient assurance of implementation on the ground of additional and extensive measures.

Concerning simplification, the current reporting system on species-related fishing effort should be discontinued. Monitoring of fishing effort can better be ensured as a regular exercise by annual data calls under the Data Collection Framework⁷, accompanied by *ad hoc* administrative reporting requests from the Commission, the latter to be used for instance where there are doubts on the compliance with effort limits or when the data quality is insufficient. The scope of the Regulation has been refined in order to ensure that this Regulation fully concerns vessels which are targeting deep-sea species, while ensuring that vessels which have these species in their by-catch do not expand the fishery. Furthermore, the specific data collection rules will be aligned with the Data Collection Framework, ensuring that Member States use the same statistical standards and feed the collected data into one unique storage and processing system. Non-compliance with scientific data collection standards would result in the subsequent loss of fishing opportunities as a precautionary management measure.

⁷ Based on Regulation (EC) No 199/2008.

3. LEGAL ELEMENTS OF THE PROPOSAL

This proposal establishes a framework Regulation for exercising fishing activity targeting deep-sea species in the North-East Atlantic, comprising Union waters including outermost regions of Spain and Portugal, and international waters.

Article 43(2) of the Treaty on the Functioning of the European Union serves as the legal basis. This proposal falls under exclusive competence of the Union as referred to in Article 3(1)(d) of the Treaty on the Functioning of the European Union. The subsidiarity principle therefore does not apply.

Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy establishes the general framework for the CFP. According to Article 4 thereof, Union measures governing access to waters and resources and the sustainable pursuit of fishing activities shall be established.

The proposal complies with the proportionality principle. Member States are able to develop measures for their own fleets that lead to a more sustainable management of deep-sea resources. However, many deep-sea stocks are shared between Member States (in some cases the fleet of one Member State is mostly present in the waters of another Member State). This makes Member States reluctant to submit their own fleets to restrictive measures unless the same or equivalent rules apply to neighbouring fleets.

A regulation at Union level is the chosen instrument of action. Self-regulation is not considered an option. According to the experience with the development of unregulated deep-sea fisheries, it cannot be expected with sufficient assurance that the sector would develop and enforce its own code of conduct to ensure that it harvests these resources sustainably.

4. BUDGETARY IMPLICATION

The proposal has no implications for the Union budget.

Proposal for a

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establishing specific conditions to fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic and repealing Regulation (EC) No 2347/2002

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission⁸,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee⁹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy¹⁰ requires the establishment of Community measures governing access to waters and resources and the sustainable pursuit of fishing activities and necessary to ensure the rational and responsible exploitation of resources on a sustainable basis. Article 2 of that Regulation requires applying the ecosystem and precautionary approaches in taking measures to minimise the impact of fishing activities on marine ecosystems.
- (2) The Union is committed to implement the Resolutions adopted by the General Assembly of the United Nations, in particular Resolutions 61/105 and 64/72, which call on States and Regional Fisheries Management Organisations to ensure the protection of vulnerable deep-sea marine ecosystems from the destructive impact of bottom fishing gears, as well as the sustainable exploitation of deep-sea fish stocks.
- (3) The Commission evaluated Regulation (EC) No 2347/2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks¹¹. The Commission found¹² in particular, that the scope of the fleet concerned

⁸ , , P. .

⁹ , , P. .

¹⁰ OJ L 358, 31.12.2002, p. 59.

¹¹ OJ L 351, 28.12.2002, p. 6.

was too large, that there was guidance lacking on control in designated ports and on sampling programmes, and that the quality of Member States' reporting of effort levels was too variable.

- (4) In order to maintain necessary reductions in fishing capacity achieved so far in deep-sea fisheries, it is appropriate to provide that fishing for deep-sea species is subject to a fishing authorisation which limits the capacity of vessels eligible to land deep-sea species. With a view to focus management measures on the part of the fleet most relevant for deep-sea fisheries, the fishing authorisations should be issued according to target or by-catch fishery.
- (5) Holders of a fishing authorisation allowing the catch of deep-sea species should cooperate in scientific research activities leading to an improvement in the assessment of deep-sea stocks and deep-sea ecosystems.
- (6) When targeting other species in areas on the continental slope also authorised to deep-sea fisheries, vessel owners should keep a fishing authorisation allowing deep-sea by-catches.
- (7) Deep-sea fishing with bottom trawls carry the highest risk for vulnerable marine ecosystems among the different gears used and reports the highest rates of undesired catch of deep-sea species. Bottom trawls should therefore be permanently prohibited from the targeting of deep-sea species.
- (8) Bottom-set gillnets are currently restricted in entering deep-sea fisheries by Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011¹³. In view of the high rates of undesired catch when they were deployed unsustainably in deep waters, and in view of the ecological impact of lost and abandoned gear, this gear should also be permanently prohibited from the targeting of deep-sea species.
- (9) However, in order to provide fishermen with sufficient time to adjust to the new requirements current fishing authorisations for fishing with bottom trawls and bottom-set gillnets should continue to be valid for a specified period of time.
- (10) Moreover, vessels which have to change gear in order to be able to stay in the fishery should be eligible for receiving financial assistance from the European Fisheries Fund provided that the new gear reduces the impact of fishing on non-commercial species and provided also that the national operational programme allows contributing to such measures.
- (11) Vessels targeting deep-sea species with other bottom gear should not extend their range of operation according to their authorisation within Union waters, unless expansion can be assessed as not carrying a significant risk of negative impact on vulnerable marine ecosystems.

¹² COM(2007) 30 final.

¹³ OJ L 347, 24.12.2009, p. 6.

- (12) Scientific advice concerning certain fish stocks found in the deep-sea indicates that these stocks are particularly vulnerable to exploitation, and that fishing for these stocks should be limited or reduced as a precautionary measure. Fishing opportunities for deep-sea stocks should not go beyond those levels which are scientifically advised as precautionary. In the case of advice being absent for lack of sufficient information about stocks or species, no fishing opportunities should be allocated.
- (13) Scientific advice further indicates that fishing effort limits are an appropriate instrument for fixing fishing opportunities for deep-sea fisheries. In view of the large variety of gears and fishing patterns present in deep-sea fisheries, and the need to develop accompanying measures tackling the environmentally weak points of the fisheries individually, fishing effort limits should only replace catch limits when it can be ensured that they are adapted to specific fisheries.
- (14) In order to ensure an adapted management of the specific fisheries, Member States concerned should be empowered to take accompanying conservation measures and to annually assess the effort levels' consistency with scientific advice on sustainable exploitation. The regionally adapted effort limits should also replace the existing global limit on fishing effort agreed in the North-East Atlantic Fisheries Commission (NEAFC).
- (15) Given that biological information can best be collected by way of harmonised data collection standards, it is appropriate to integrate data collection on deep-sea métiers into the general framework of scientific data collection, while ensuring the provision of additional information necessary to understand the dynamics of the fisheries. For simplification purposes, the effort reporting by species should be discontinued and replaced by the analysis of recurrent scientific data calls to Member States which contain a specific chapter on deep-sea métiers.
- (16) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy¹⁴ lays down control and enforcement requirements concerning multiannual plans. Deep-sea species, by nature vulnerable to fishing, should receive the same attention in terms of control as other conservation species for which a multiannual management plan has been agreed.
- (17) Holders of a fishing authorisation allowing for the catch of deep-sea species should lose their authorisation as far as the catching of deep-sea species is concerned if they do not comply with relevant conservation measures.
- (18) The Convention on future multilateral cooperation in the North-East Atlantic fisheries was approved by Decision 81/608/EEC and entered into force on 17 March 1982. That convention provides for an appropriate framework for multilateral cooperation on the rational conservation and management of fishery resources in international waters of the North-East Atlantic. Management measures adopted in NEAFC comprise technical measures for the conservation and management of species regulated within NEAFC and for the protection of marine vulnerable habitats, including precautionary measures.

¹⁴ OJ L 343, 22.12.2009, p. 1.

- (19) The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU to specify measures accompanying annual effort limits if Member States fail to take them or if the measures they adopt are deemed not to be compatible with the objectives of this regulation or insufficient in respect of the aims indicated in this regulation.
- (20) The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU, which may be necessary to amend or supplement non-essential elements of this Regulation in cases of absence or insufficiency of the accompanying measures adopted by the Member States and linked to annual effort limits, when these replace catch limits.
- (21) It is therefore necessary to put in place new rules to regulate fishing for deep-sea stocks in the North-East Atlantic and to repeal Regulation (EC) No 2347/2002.
- (22) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1 **Objectives**

The objectives of this Regulation are the following:

- (a) to ensure the sustainable exploitation of deep-sea species while minimising the impact of deep-sea fishing activities on the marine environment;
- (b) to improve the scientific knowledge on deep-sea species and their habitats for the purposes referred to in point (a);
- (c) to implement technical measures on fisheries management recommended by the North East Atlantic Fisheries Commission (NEAFC).

Article 2 **Scope**

This Regulation applies to fishing activities or intended fishing activities in the following waters:

- (a) Union waters of International Council for the Exploration of the Sea (ICES) sub-areas II to XI and of Fishery Committee for the Eastern Central Atlantic (CECAF) areas 34.1.1, 34.1.2 and 34.2,
- (b) international waters of CECAF areas 34.1.1, 34.1.2 and 34.2 and

- (c) the Regulatory Area of the NEAFC,

Article 3
Definitions

1. For the purposes of this Regulation, the definitions laid down in Article 3 of Regulation (EC) No 2371/2002 and Article 2 of Council Regulation (EC) No 734/2008¹⁵ shall apply.
2. In addition, the following definitions shall apply:
 - (a) "ICES zones" are as defined in Regulation (EC) No 218/2009 of the European Parliament and of the Council¹⁶;
 - (b) "CECAF areas" are as defined in Regulation (EC) No 216/2009 of the European Parliament and of the Council¹⁷;
 - (c) "Regulatory Area of the NEAFC" means the waters subject to the Convention on future multilateral cooperation in North-East Atlantic fisheries which lie beyond the waters under the fisheries jurisdiction of the contracting parties to that Convention;
 - (d) "deep-sea species" means the species listed in Annex I;
 - (e) "most vulnerable species" means the deep-sea species indicated in the third column 'Most vulnerable (x)' of the table in Annex I;
 - (f) "métier" means fishing activities targeting certain species by a certain gear in a certain area;
 - (g) "deep-sea métier" means a métier that targets deep-sea species according to the indications laid down in Article 4(1) of this regulation.
 - (h) "fisheries monitoring centre" means an operational centre established by a flag Member State and equipped with computer hardware and software enabling automatic data reception, processing and electronic data transmission;
 - (i) "scientific advisory body" means an international fisheries scientific body that meets international standards for research-based scientific advice.
 - (j) "maximum sustainable yield" means the maximum catch that may be taken from a fish stock indefinitely.

¹⁵ OJ L 201, 30.7.2008, p. 8.

¹⁶ OJ L 87, 31.3.2009, p. 70.

¹⁷ OJ L 87, 31.3.2009, p. 1.

CHAPTER II

FISHING AUTHORISATIONS

Article 4

Types of fishing authorisations

1. Fishing activities targeting deep-sea species carried out by a Union fishing vessel, shall be subject to a fishing authorisation, which shall indicate deep-sea species as the target species.
2. For the purposes of paragraph 1, fishing activities are deemed to target deep-sea species, if:
 - (a) deep-sea species are noted as target in the vessel's fishing calendar, or
 - (b) a gear that is only used to catch deep-sea species is carried on board of the vessel or deployed in the area of operation, or
 - (c) the vessel's master records in the logbook a percentage of deep-sea species equal or superior to 10% of the overall catch weight in the fishing day concerned.
3. Fishing activities not targeting deep-sea species but catching deep-sea species as a by-catch, carried out by a Union fishing vessel, shall be subject to a fishing authorisation, which shall indicate deep-sea species as by-catch.
4. The two types of fishing authorisations referred to in paragraphs 1 and 3 respectively shall be clearly distinguishable in the electronic database referred to in Article 116 of Regulation (EC) No 1224/2009.
5. Notwithstanding paragraphs 1 and 3, fishing vessels may catch, retain on board, tranship or land any quantity of deep-sea species without a fishing authorisation, if that quantity is below a threshold set at 100 kg of any mixture of deep-sea species per fishing trip.

Article 5

Capacity management

The aggregate fishing capacity measured in gross tonnage and in kilowatt of all fishing vessels holding a fishing authorisation issued by a Member State, allowing the catch of deep-sea species, whether as target or by-catch species, shall at no time exceed the aggregate fishing capacity of vessels of that Member State which have landed 10 tonnes or more of deep-sea species during any of the two calendar years preceding the entry into force of this Regulation, whichever year provides the higher figure.

Article 6
General requirements for applications for fishing authorisations

Each application for a fishing authorisation allowing for the catch of deep-sea species whether as target or by-catch species, and for its renewal shall be accompanied by a description of the area where it is intended to conduct fishing activities, the type of gears, the depth range at which the activities will be deployed, and of the individual species targeted.

Article 7
Specific requirements for applications for and issuance of fishing authorisations allowing the use of bottom gears in fishing activities targeting deep-sea species

1. In addition to the requirements set out in Article 6, each application for a fishing authorisation for targeted deep sea fisheries, as referred to in Article 4(1), that allows the use of bottom gears in Union waters as referred to in Article 2(a), shall be accompanied by a detailed fishing plan specifying:
 - (a) the locations of the intended activities targeting deep-sea species in the deep-sea métier. The location(s) shall be defined by coordinates in accordance with the World Geodetic System of 1984;
 - (b) the locations, if any, of activities in the deep-sea métier during the last three full calendar years. Those location(s) shall be defined by coordinates in accordance with the World Geodetic System of 1984 and they shall circumscribe the fishing activities as closely as possible.
2. Any fishing authorisation issued on the basis of an application made in accordance with paragraph 1 shall specify the bottom gear to be used and limit the fishing activities authorised to the area in which the intended fishing activity, as set out in paragraph 1(a), and the existing fishing activity, as set out in paragraph 1(b), overlap. However, the area of the intended fishing activity can be extended beyond the area of the existing fishing activity if the Member State has assessed and documented, based on scientific advice, that such extension would not have significant adverse impacts on vulnerable marine ecosystems.

Article 8
Participation by vessels in deep-sea fishery data collection activities

Member States shall include the necessary conditions in all fishing authorisations issued in accordance with Article 4 to ensure that the vessel concerned participates, in cooperation with the relevant scientific institute, in any data collection scheme whose scope would comprise the fishing activities for which authorisations are delivered.

Article 9
Expiry of fishing authorisations targeting deep-sea species for vessels using bottom trawls or bottom-set gillnets

Fishing authorisations referred to in Article 4(1) for vessels using bottom trawls or bottom-set gillnets shall expire at the latest two years after the entry into force of this Regulation. After

that date, fishing authorisations targeting deep-sea species with those gears shall neither be issued nor renewed.

CHAPTER III

FISHING OPPORTUNITIES AND ACCOMPANYING MEASURES

SECTION 1

GENERAL PROVISIONS

Article 10

Principles

1. Fishing opportunities shall be fixed at a rate of exploitation of the deep-sea species concerned that is consistent with maximum sustainable yield.
2. Where, based on best scientific information available, it is not possible to identify exploitation rates consistent with maximum sustainable yield, the fishing opportunities shall be fixed as follows:
 - a) where the best scientific information available identifies exploitation rates corresponding to the precautionary approach to fisheries management, the fishing opportunities for the relevant fishing management period may not be fixed higher than those rates;
 - b) where the best scientific information available does not identify exploitation rates corresponding to the precautionary approach to fisheries management due to lack of sufficient data concerning a certain stock or species, no fishing opportunities may be allocated for the fisheries concerned.

SECTION 2

MANAGEMENT BY FISHING EFFORT LIMITS

Article 11

Fishing opportunities by means of fishing effort limits only

1. The Council, acting in accordance with the Treaty, may decide to switch from the fixing of annual fishing opportunities for deep-sea species in terms of both fishing effort limits and catch limits to the fixing of only fishing effort limits for specific fisheries.
2. For the purposes of paragraph 1, the fishing effort levels for each deep-sea métier that shall be used as a baseline for any adjustments required in order to follow the principles set out in Article 10 shall be the fishing effort levels assessed, based on scientific information, as consistent with the catches made by the relevant deep-sea métiers during the previous two calendar years.

3. Fishing effort limits fixed in accordance with paragraphs 1 and 2 shall indicate:
 - (a) the specific deep-sea métier to which the fishing effort limit applies by reference to the regulated gear, the species targeted and the ICES zones or CECAF areas within which the allowed effort may be deployed; and
 - (b) the fishing effort unit to be used for management.

Article 12

Accompanying measures

1. Where annual fishing effort limits have replaced catch limits in accordance with Article 11(1), Member States shall maintain or put in place, in respect of their flagged vessels the following accompanying measures:
 - (a) measures to avoid an increase of the overall catching capacity of the vessels concerned by the effort limits.
 - (b) measures to avoid an increase in by-catches of most vulnerable species; and
 - (c) conditions for effective discard prevention. Those conditions shall aim at landing all fish taken on board, unless this would be contrary to the rules in force under the Common Fisheries Policy.
2. The measures shall remain in force for as long as the need remains to prevent or mitigate the risks identified in paragraphs 1(a), (b) and (c).
3. The Commission shall assess the effectiveness of the accompanying measures adopted by Member States upon their adoption.

Article 13

Commission measures in case of absence or insufficiency of the accompanying measures adopted by the Member States

1. The Commission shall be empowered to adopt delegated acts to specify measures accompanying annual effort limits as referred to in Article 12(1)(a), (b) or (c), and in accordance with Article 20:
 - (a) if the Member State concerned does not notify to the Commission any measures adopted pursuant to Article 12 within three months after the date of entry into force of the fishing effort limits.
 - (b) if the measures adopted pursuant to Article 12 cease to be in force although the need remains to prevent or mitigate the risks identified in Article 12(1) (a), (b) and (c).]
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 to specify measures accompanying annual effort limits, as referred to in Article 12(a), (b) or (c), if, on the basis of an assessment carried out pursuant to Article 12(3),

- (a) Member State measures are deemed not to be compatible with the objectives of this regulation; or
 - (b) Member State measures are deemed insufficient in respect of the aims stated in Article 12 (1) (a), (b) or (c).
3. The accompanying measures adopted by the Commission shall aim at ensuring that the objectives and aims set out in this regulation are met. Upon the adoption of the delegated act by the Commission, any Member State measures adopted shall cease to apply.

CHAPTER IV CONTROL

Article 14

Application of the control provisions for multiannual plans

1. This Regulation shall be construed as a 'multiannual plan' for the purposes of Regulation (EC) No 1224/2009.
2. Deep-sea species shall be regarded as the 'species subject to a multiannual plan' and the 'stocks subject to a multiannual plan' for the purposes of Regulation (EC) No 1224/2009.

Article 15

Designated ports

No quantity of any mixture of deep-sea species in excess of 100 kg may be landed at any place other than the ports which have been designated for landing deep-sea species.

Article 16

Prior notification

By way of derogation of Article 17 of Regulation (EC) No 1224/2009, the masters of all Union fishing vessels intending to land 100 kg or more of deep-sea species, whichever their length, shall be required to notify their flag Member State's competent authority of that intention.

Article 17

Logbook entries in deep waters

Without prejudice to Articles 14 and 15 of Regulation (EC) No 1224/2009, masters of fishing vessels holding an authorisation in accordance with Article 4(1) or (3) shall, when engaged in a deep-sea métier or when fishing below 400 m:

- (a) draw a new line in the paper logbook after each haul; or,

- (b) when they are subject to the electronic recording and reporting system, record separately after each haul.

Article 18

Withdrawal of fishing authorisations

1. Without prejudice to Article 7(4) of Regulation (EC) 1224/2009, the fishing authorisations referred to in Article 4(1) and (3) of this Regulation shall be withdrawn for a duration of at least one year in the following cases:
 - a) failure to conform to the conditions set in the fishing authorisation with regard to limits on the use of gears, allowed areas of operation or, as appropriate, catch or effort limits on the species whose targeting is allowed; or
 - b) failure to take on board a scientific observer or to allow sampling of catches for scientific purposes as specified in Article 19 of this Regulation.
2. Paragraph 1 shall not apply if the failures referred to therein have been caused by force majeure.

CHAPTER V DATA COLLECTION

Article 19

Rules on data collection and reporting

1. Member States shall collect data on each deep-sea métier in accordance with the rules on data collection and the precision levels laid down in the multiannual Community programme for collection, management and use of biological, technical, environmental, and socio-economic data adopted in accordance with Council Regulation (EC) No 199/2008¹⁸ and in other measures adopted under that Regulation.
2. The master of a vessel, or any other person responsible for the vessel's operation, shall be required to take on board the scientific observer whom the Member State has assigned for his vessel, unless this is not possible for security reasons. The master shall facilitate the discharging of the scientific observer's tasks.
3. The scientific observers shall:
 - (a) carry out their recurrent data collection tasks, as set out in paragraph 1.
 - (b) identify and document the weight of any stony coral, soft coral, sponges or other organisms belonging to the same ecosystem taken on board by the vessel's gear.

¹⁸ OJ L 60, 5.3.2008, p. 1.

4. In addition to their obligations referred to in paragraph 1, Member States shall be subject to the specific data collection and reporting requirements set out in Annex II for the deep sea métier.
5. Data collected in relation to the deep-sea métier, including all data collected in accordance with Annex II, shall be treated in accordance with the data management process as laid down in chapter III of Regulation (EC) No 199/2008.
6. Upon a request from the Commission, Member States shall submit monthly reports on of effort deployed and/or catches broken down by métier.

CHAPTER V DELEGATED ACTS

Article 20

Exercise of delegated powers

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts as referred to in Article 13 shall be conferred on the Commission for an indeterminate period of time.
3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

CHAPTER VI

EVALUATION AND FINAL PROVISIONS

Article 21

Evaluation

1. Within six years from the entry into force of this Regulation, the Commission shall, on the basis of Member States' reports and scientific advice that it shall request to this effect, evaluate the impact of the measures laid down in this Regulation and determine to what extent the objectives referred to in Article 1(a) and (b) have been achieved.
2. The evaluation shall focus on trends in the following subjects:
 - (a) the vessels that have changed to using gears with a reduced impact on the sea bottom, and the development of their discard levels;
 - (b) the range of operation of vessels engaging in each deep-sea métier;
 - (c) the completeness and reliability of data that Member States provide to scientific bodies for the purpose of stock assessment, or to the Commission in case of specific data calls;
 - (d) the deep-sea stocks for which the scientific advice has improved;
 - (e) the fisheries that are managed according to fishing effort limits only, and the effectiveness of accompanying measures to eliminate discards and reduce catches of most vulnerable species.

Article 22

Transitional measures

Special fishing authorisations issued in accordance with Regulation (EC) No 2347/2002 shall remain valid until their replacement by fishing authorisations allowing the catch of deep-sea species issued in accordance with this Regulation, but shall in any case no longer be valid after 30 September 2012.

Article 23

Repeal

1. Regulation (EC) No 2347/2002 is repealed.
2. References to the repealed Regulation shall be construed as references to this Regulation in accordance with the correlation table set out in Annex III to this Regulation]

Article 24
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President
[...]

For the Council
The President
[...]

Annex I

Section 1: Deep-sea species

<u>Scientific name</u>	<u>Common name</u>	<u>Most vulnerable (x)</u>
<i>Centrophorus granulosus</i>	Gulper shark	x
<i>Centrophorus squamosus</i>	Leafscale gulper shark	x
<i>Centroscyllium fabricii</i>	Black dogfish	x
<i>Centroscymnus coelolepis</i>	Portuguese dogfish	x
<i>Centroscymnus crepidater</i>	Longnose velvet dogfish	x
<i>Dalatias licha</i>	Kitefin shark	x
<i>Etmopterus princeps</i>	Greater lanternshark	x
<i>Apristuris spp</i>	Iceland catchark	
<i>Chlamydoselachus anguineus</i>	Frilled shark	
<i>Deania calcea</i>	Birdbeak dogfish	
<i>Galeus melastomus</i>	Blackmouth dogfish	
<i>Galeus murinus</i>	Mouse catshark	
<i>Hexanchus griseus</i>	Bluntnose six-gilled shark	x
<i>Etmopterus spinax</i>	Velvet belly	
<i>Oxynotus paradoxus</i>	Sailfin roughshark (Sharpback shark)	
<i>Scymnodon ringens</i>	Knifetooth dogfish	
<i>Somniosus microcephalus</i>	Greenland shark	
<i>Alepocephalidae</i>	Smoothheads (Slickheads)	
<i>Alepocephalus Bairdii</i>	Baird's smoothhead	
<i>Alepocephalus rostratus</i>	Risso's smoothhead	
<i>Aphanopus carbo</i>	Black scabbardfish	
<i>Argentina silus</i>	Greater silver smelt	
<i>Beryx spp.</i>	Alfonsinos	
<i>Chaceon (Geryon) affinis</i>	Deep-water red crab	
<i>Chimaera monstrosa</i>	Rabbit fish (rattail)	
<i>Hydrolagus mirabilis</i>	Large-eyed rabbitfish (Ratfish)	
<i>Rhinochimaera atlantica</i>	Straightnose rabbitfish	
<i>Coryphaenoides rupestris</i>	Roundnose grenadier	
<i>Epigonus telescopus</i>	Black cardinalfish	x
<i>Helicolenus dactilopterus</i>	Bluemouth (Bluemouth redfish)	
<i>Hoplostethus atlanticus</i>	Orange roughy	x

<i>Macrourus berglax</i>	Roughhead grenadier (Rough rattail)	
<i>Molva dypterygia</i>	Blue ling	
<i>Mora moro</i>	Common mora	
<i>Antimora rostrata</i>	Blue antimora (Blue hake)	
<i>Pagellus bogaraveo</i>	Red (blackspot) seabream	
<i>Phycis blennoides</i>	Greater Forkbeard	
<i>Polyprion americanus</i>	Wreckfish	
<i>Reinhardtius hippoglossoides</i>	Greenland halibut	
<i>Cataetys laticeps</i>		
<i>Hoplosthetus mediterraneus</i>	Silver roughy (Pink)	
<i>Macrouridae</i> other than <i>Coryphaenoides rupestris</i> and <i>Macrourus berglax</i>	Grenadiers (rattails) other than roundnose grenadier and roughhead grenadier	
<i>Nesiarchus nasutus</i>	Black gemfish	
<i>Notocanthus chemnitzii</i>	Snubnosed spiny eel	
<i>Raja fyllae</i>	Round skate	
<i>Raja hyperborea</i>	Arctic skate	
<i>Raja nidarosiensis</i>	Norwegian skate	
<i>Trachyscorpia cristulata</i>	Spiny (deep-sea) scorpionfish	

Section 2: Species regulated in NEAFC in addition

<i>Brosme brosme</i>	Tusk	
<i>Conger conger</i>	Conger eel	
<i>Lepidopus caudatus</i>	Silver scabbard fish (Cutless fish)	
<i>Lycodes esmarkii</i>	Greater Eelpout	
<i>Molva molva</i>	Ling	
<i>Sebastes viviparus</i>	Small redfish (Norway haddock)	

Annex II

Specific data collection and reporting requirements referred to in Article 18(4)

1. Member States shall ensure that data collected for an area that comprises both Union waters and international waters shall be further disaggregated so that they refer either to Union waters or international waters separately.

2. Where the activity in the deep-sea métier overlaps with activity in another métier in the same area, the data collection concerning the former shall be done separately from the data collection concerning the latter.
3. Discards shall be sampled in all deep-sea métiers. The sampling strategy for landings and discards shall cover all the species listed in Annex I as well as species belonging to the seabed ecosystem such as deep-water corals, sponges or other organisms belonging to the same ecosystem .
4. Where the applicable multiannual data collection plan requires the collection of fishing effort data in terms of hours fished by trawls and soak time for passive gear, the Member State shall collect and be ready to present, together with such fishing effort data, the following additional data:
 - (a) geographical location of the fishing activities on a haul-by-haul basis, from vessel monitoring system data transmitted by the vessel to the fisheries monitoring centre;
 - (b) the fishing depths at which the gears are deployed in case the vessel is subject to reporting by electronic logbook. The master of the vessel shall notify fishing depth following the standardised reporting format.