

## **Europêche comments on the Luxembourg Presidency draft proposal**

### **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 (2012/0179(COD))**

#### **Background**

Europêche agrees with the European Commission that the general objective of the proposal must be to ensure the sustainable exploitation of deep-sea stocks while reducing the environmental impact of these fisheries and to improve the information which is the basis for scientific assessments.

Whilst Europêche fully supports the simplification of the proposal from the Luxembourg Presidency, the European Parliament's compromise represents a democratic, reasonable and sustainable solution which was adopted in a transparent way with the involvement of all key stakeholders affected by the proposal. The compromise eliminates the unworkable and counterproductive depth ban and incorporates the footprint approach regarding the zonation of permissible operations, a measure for the protection of vulnerable marine ecosystems (VMEs) which we fully endorse.

#### **General Remarks**

##### Article 1b) - Objectives

Europêche agrees with including provisions for Union measures to be consistent with UNGA Resolutions as long as they are also allied with the FAO guidelines, specifically regarding VMEs.

##### Article 2 - Geographical and personal scope of application

2a) The scope of the application has been extended to include ICES sub-areas XII, XIII and XIV. Since the scope does not apply to non-EU waters under Regional Fisheries Management Organisations (RFMOs) or third-country waters, Europêche calls for a level-playing field, given that EU vessels would be operating at an economic disadvantage and the EU market would be heavily affected. Norway-regulated waters, Greenland-regulated waters, Faroes-regulated and the Svalbard should therefore always be excluded from the scope of this Regulation.

2b) CECAF is not an RFMO and therefore only Regulation 734/2008 should be applicable (this Regulation concerns the protection of VMEs in the high seas).

2c) should be deleted in order to have a level-playing field since this Regulation would severely affect the EU markets.

### Article 2a - Material Scope

1. Regarding the definition of deep-sea species, it is unclear as to what has determined the chosen factors (slow growth, low natural mortality, high longevity or no annual continuous recruitment and spawning seasons). A clear definition and scientific basis is needed.

3. The Commission could be delegated to amend the list of deep-sea species in Annex II. It must however be made clear that the Commission also have the power to remove species in Annex II, provided that this is based on accurate and up-to-date scientific evidence.

### Article 3 - Definitions

f) Under 'métier'; the words '*using similar gear*' should be removed since it groups together vessels would allow the division of the EU fleet by quota and/or effort restrictions.

### Article 4 - Fishing Authorisations

2b) Europêche does not agree with the replacing of the percentage figure with '**10 tonnes in the calendar year concerned**'. The Parliament proposal was '15% per day' or '8% per trip'. The condition of using tonnes is highly discriminatory. A real example of how this would not work in practice can be found in 2014, vessel A caught:

<i>7,868 tonnes of cod</i>
<i>126 tonnes of haddock</i>
<i>9.5 tonnes of saithe</i>
<i>30 tonnes of catfish</i>
<i>26 tonnes of American plaice</i>
<i>21.5 tonnes of redfish</i>
<i>25 tonnes of Greenland halibut</i>

By these figures, the by-catch of Greenland Halibut represents just 0.48% of the total catch yet, using the 10tonne threshold, this would make this fishery subject to a targeting fishing authorisation. It is also unclear as to why fishing authorisations registered in the outermost regions are based on the percentage rate (of 10%).

5) The threshold of 100kg does not make sense. This threshold must be represented instead by a percentage of at least 10% per trip and not a fixed amount. By catch should always be exempt from the capacity cap since this would cause severe problems in terms of choke species under the landing obligation.

### Article 5 - Capacity Management

The cap on capacity should remain as it is under the current regulation of 2002 and should also exclude by-catch fisheries. This will ensure that horizontal expansion does not occur. It is unnecessary to further regulate this area.

## Article 6 - General requirements for applications for fishing authorisations

2) A depth based phased prohibition may enable VME protection but it stops fishing activity in the many areas that do not have VMEs. Such methodology also has the potential to increase fishing pressure in other areas through the displacement of vessels, potentially causing environmental impacts elsewhere since vessels are forced into less fished areas. Alternative fishing methods are not possible for many EU vessels and in many cases the target species, such as anglerfish, cannot be caught in commercial quantities by methods such as long lining.

Europêche fully supports the protection of VMEs but considers a prohibition on trawling and bottom-set gillnetting below a certain depth a blunt tool, working on an assumption that all areas below a certain depth have features. It is also unclear as to what the scientific basis for the figure of the 800m depth ban is and would have severe consequences for many stocks. For example, Greenland halibut is fished at 900m in EU waters and at 1400m in NAFO waters. Conversely the footprint approach, whereby vessels are restricted to fishing in areas that are already fished, enables a more straight forward approach to both management and, more importantly, monitoring and enforcement.

### Article 6a) Specific requirements for the protection of vulnerable marine ecosystems

These measures on VMEs would be applicable to all vessels, not just those fishing for deep-sea species. Europêche believes that this Regulation should only be concerned with those vessels fishing for deep-sea species.

5.) There must be a clarification regarding '*where vulnerable marine ecosystems are known to occur or likely to occur*'. On what basis would the Commission deem a VME is 'likely to occur'? This must be quantified.

6.) This point should be replaced with "*Appropriate measures could be taken in accordance with paragraph 5*". It is also unclear whether the 800m depth ban here would refer to a general ban on trawling below 800m i.e. not just deep sea trawling.

### Article 7 - Evaluation of the impact of fishing gear

Europêche believe this provision to be very damaging. It is a continuation of the original phase-out and presupposes that there will indeed be a requirement for an amendment in the future. All types of gear used when targeting deep-sea species will be evaluated, not just bottom-trawls or bottom-set gillnets. There is no need for this Article when Article 15 (formerly 21) sets out the same provisions in more detail.

### Article 9 - Designated ports

In line with Article 4, paragraph 5, the threshold of 100kg is arbitrary and unrealistic.

### Article 11 - Withdrawal of fishing authorisations

a) It is unclear as to what is really meant by "*with regard to limits on the use of gears*". What are the limits and what are the gears?

### Article 12 - data collection

2. Europêche is in favour of enhanced reporting rules and is willing to collaborate in order to gather data. There are certain conditions set out in this Article that are unworkable in practice since in the logbook, there is nowhere to record the species composition or species sizes.

### Article 15 - Evaluation

This Article should be combined with Article 7.

2ea) Europêche have long called for a serious impact assessment of the socio-economical impact that this Regulation would have. Once a fishing port has been forced to close, it is extremely unlikely that it will reopen. The EU must identify all potential economic, social and environmental risks before tabling a legislative proposal in line with the Better Regulation Package. It should never be the case that the EU is able to identify the potential impact of its policies 4 years after the adoption of new legislation. More importantly, it goes against the spirit of Articles 7 and 9 of the Treaty on the Functioning of the European Union which states that:

*The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers. In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.*

2eb) Clarity is needed on what determines 'the effectiveness of measures'

2a) This paragraph is unclear and vague. It must be specified what amendments this would be.

### Annex I

Europêche believes that Greenland halibut must be taken out of this Annex since it is not considered a deep sea species and should therefore not fall under this Regulation.