



**Response to the information and consultation document of 22/07/2010 from DG MARE addressed to the Advisory Committee on Fisheries and Aquaculture and to the Regional Advisory Councils for North Sea, North-Western Waters and South-Western Waters In regard to Fishing Opportunities for Deep Sea Species 2011 and 2012**

As stated in the information and consultation document, “the Commission intends to use its Communication on the Consultation on Fishing Opportunities for 2011 (COM(2010)241Final) as the link between scientific advice and proposed fishing opportunities...In accordance with this Communication, deep-sea stocks fall into advice categories established for data-poor situations. In particular, where advice is inconclusive, the Total Allowable Catches (TACs) should be reduced towards recent real catch limits. The resulting new TAC levels will be calculated using the catch figures reported by Member States to the Commission from 2007 to 2009”.

We welcome the advice of STECF and the proposal to reduce TACs for 2011 and 2012 for 9 assessment areas and the proposal to set TACs for deep-sea sharks without by-catch allowance, as ICES has recommended over the past several years. We also would support the proposal for changes in TAC areas for roundnose grenadier and blue ling in accordance with the scientific recommendation to align TAC areas with assessment units, so that management decisions can more easily reflect scientific recommendations. We find this would be a positive move until such time scientific advances allow better-resolved stock structure for deep-sea fish species.

However, we find the system of moving TACs towards recent real catch limits and/or limited reductions in TACS for a number of stocks does not correspond with the scientific advice of ICES or the commitments that the EU has made to implement the deep-sea fisheries provisions of UN General Assembly resolution 64/72 adopted in December 2009.<sup>1</sup> ICES has indicated serious concerns regarding the quality of catch and VMS data and the likelihood of significant mis-reporting or non-reporting of catches of deep-sea species in its advice to NEAFC in 2008.<sup>2</sup> We would also note that catch limits for most of the deep-sea species on Annex II of Council Regulation (EC) No 2347/2002<sup>3</sup> have not been established and yet many of these species are reported caught, some in substantial quantities, meaning that the catch of these species is essentially unregulated.

In light of serious concerns regarding the status of deep-sea fish stocks - all deep-sea species are outside safe biological limits according to ICES scientific advice<sup>4</sup> – and the poor quality of catch data for deep-sea

<sup>1</sup> UN General Assembly Resolution 64/72: 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. UNGA A/RES/64/72, 26pp. Paragraphs 112-130

<sup>2</sup> NEAFC request to evaluate the use and quality of VMS data and records of catch and effort for providing information on the spatial and temporal extent of current deepwater fisheries in the NE Atlantic. ICES Advice 2009. Book 9. 9.3.2.2

<sup>3</sup> Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks. OJ L 351/6, 28.12.2002

<sup>4</sup> Indicator: status of fish stocks managed by the Community in the North-East Atlantic. ICES Advice 2008, Book 1; 1.5.1.1.

species, we urge the Commission take a precautionary approach to setting TACs and quotas to ensure the long-term sustainability of deep-sea fish stocks and implement UNGA resolutions 61/105 and 64/72. The requirements under the United Nations General Assembly Resolution 64/72 and the commitment that the EU has made to implement these requirements are of critical importance in proposing TACs and quotas for deep-sea fisheries in the North-East Atlantic. In particular, the provisions of paragraph 119(d) of the resolution which call on States and RFMOs to establish catch and effort levels based on stock assessments, for both target and by-catch species, commensurate with the long-term sustainability of the stocks, consistent with the UN FAO Guidelines for the Management of Deep-Sea Fisheries in the High Seas.<sup>5</sup>

Of particular relevance are the provisions of paragraph 119(d) and 120 of UNGA resolution 64/72 and a number of the paragraphs of the UN FAO Guidelines. Specifically we would highlight the following:

- Paragraph 119(d) of resolution 64/72 states that conservation and management measures should be adopted “on the basis of stock assessments and the best available scientific information, to ensure the long-term sustainability of deep sea fish stocks and non-target species, and the rebuilding of depleted stocks, consistent with the Guidelines; and, **where scientific information is uncertain, unreliable, or inadequate, ensure that conservation and management measures be established consistent with the precautionary approach**, including measures to ensure that fishing effort, fishing capacity and catch limits, as appropriate, are at levels commensurate with the long-term sustainability of such stocks”
- Paragraph 119(a) of resolution 64/72 calls for impact assessments of deep -sea fisheries **to be conducted consistent with the UN FAO Guidelines**.
- The UN FAO Guidelines in paragraph 47 establish criteria for conducting assessments of the impact of deep-sea fishing on the long-term sustainability of deep-sea fish stocks, including both target and bycatch species. Paragraph 76 of the Guidelines calls for biological reference points for stock assessment and management to be set in a precautionary manner to ensure, at a minimum, that fish stocks are harvested at levels that are sustainable in the long term. Paragraph 63 calls for reducing the effort in specific fisheries, as necessary, to the nominal levels needed to provide information for assessing the fishery and obtaining relevant habitat and ecosystem information until a functioning regulatory framework is developed to ensure the long-term sustainability of deep-sea fish stocks.
- Paragraph 120 of UNGA resolution 64/72 commits States **to ‘not authorize’ deep-sea fisheries on the high seas unless/until the measures outlined in Paragraph 119 of the resolution have been adopted and implemented, consistent with the UN FAO Guidelines**.

While the UNGA resolutions focus on fisheries on the high seas (“in areas beyond national jurisdiction”) a number of States, including the EU, have consistently argued that measures agreed for deep-sea fisheries on the high seas should also apply to the fisheries on the same stocks within the EEZs – as required for straddling fish stocks under Article 7 of the 1995 UN Fish Stocks Agreement. In a similar vein, the UN FAO Guidelines state, in paragraph 10, that “Coastal States may apply these Guidelines within their national jurisdiction, as appropriate.” The International Council for the Exploration of the Sea (ICES) has advised that most deep-water species in the Northeast Atlantic are straddling stocks occurring in both EU waters and on the high seas (the NEAFC Regulatory Area) and need to be managed accordingly.<sup>6</sup>

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<sup>5</sup> International Guidelines for the Management of Deep-Sea Fisheries in the High Seas. Food and Agricultural Organisation of the United Nations, Rome, Italy, 73pp. 2009

<sup>6</sup> Report of the ICES Advisory Committee, 2008. ICES Advice, 2008. Book 9 Widely Distributed and Migratory Stocks. ICES, 345 pp.

In light of the above, we consider the approach outlined in the information and consultation document inadequate and urge the Commission to propose TACs and Quotas consistent with UN GA resolution 64/72 and the EU's international obligations to manage deep-sea fisheries sustainably and prevent, deter and eliminate unregulated fishing. In order to ensure the long-term sustainability of deep-sea fish stocks, we recommend that the DG MARE take the following approach to proposing TACs and Quotas for deep-sea species in the Northeast Atlantic for 2011 and 2012:

1. Quotas for the deep-sea species listed on Annex I of EC Council Regulation (EC) No 2347/2002 for which neither the status nor the structure of the stock is known should be phased out – i.e. quotas set at zero until reliable stock assessments have been conducted to determine the long-term sustainability of the stocks and the catch of these species can be regulated consistent with UNGA resolution 64/72.
2. For deep-sea species listed on Annex I and II of Council Regulation (EC) No 2347/2002 for which catch limits have not been established, including all deep-sea sharks, quotas should be set at zero until reliable stock assessments have been conducted to determine the long-term sustainability of the stocks and the catch of these species can be regulated consistent with UNGA resolution 64/72.
3. The list of deep-sea shark species subject to zero catch limitations should also include the following species, which are listed on Annex I of Council Regulation No. 2347/2002: knifetooth dogfish (*Scymnodon ringens*), six-gilled shark (*Hexanchus griseus*), frilled shark (*Chlamydoselachus anguineus*) and sailfin roughshark (*Oxynotus paradoxus*). Moreover, lowfin gulper shark (*Centrophorus lusitanicus*) should also be subject to a zero quota to close the loophole which allows misreporting of other gulper shark species (*Centrophorus spp.*) under the name of lowfin gulper shark. Quotas and by-catch limits should be set at zero for all species of deep-sea sharks given their high vulnerability to depletion.
4. To the extent that subsidies have been provided to this sector of the EU fleet engaged in deep-sea fishing, the subsidies should be redirected to a reduction of capacity and phase-out of unsustainable deep-sea fishing.

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