

Procedure file

Basic information	
CNS - Consultation procedure Regulation	2007/0224(CNS) Procedure completed
Fishing practices: protection of marine ecosystems in the high seas from the adverse impacts of bottom fishing gears	
Subject 3.15.01 Fish stocks, conservation of fishery resources 3.15.04 Management of fisheries, fisheries, fishing grounds 3.15.07 Fisheries inspectorate, surveillance of fishing vessels and areas 3.70.01 Protection of natural resources: fauna, flora, nature, wildlife, countryside; biodiversity	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	PECH Fisheries	PPE-DE FREITAS Duarte	13/12/2007
European Parliament	Committee for opinion	Rapporteur for opinion	Appointed
	ENVI Environment, Public Health and Food Safety	ALDE MATSAKIS Marios	19/12/2007
Council of the European Union	Council configuration Agriculture and Fisheries	Meeting 2884	Date 15/07/2008
European Commission	Commission DG Maritime Affairs and Fisheries	Commissioner BORG Joe	

Key events			
16/10/2007	Legislative proposal published	COM(2007)0605	Summary
11/12/2007	Committee referral announced in Parliament		
06/05/2008	Vote in committee		Summary
14/05/2008	Committee report tabled for plenary, 1st reading/single reading	A6-0183/2008	
04/06/2008	Debate in Parliament		
05/06/2008	Results of vote in Parliament		
05/06/2008	Decision by Parliament	T6-0246/2008	Summary
15/07/2008	Act adopted by Council after consultation of Parliament		

15/07/2008	End of procedure in Parliament		
30/07/2008	Final act published in Official Journal		

Technical information

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Stage reached in procedure	Procedure completed
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Documentation gateway

Legislative proposal		COM(2007)0605	17/10/2007	EC	Summary
Document attached to the procedure		COM(2007)0604	17/10/2007	EC	Summary
Document attached to the procedure		SEC(2007)1314	17/10/2007	EC	
Document attached to the procedure		SEC(2007)1315	17/10/2007	EC	
Document attached to the procedure		SEC(2007)1317	17/10/2007	EC	
Committee draft report		PE402.600	10/03/2008	EP	
Committee opinion	ENVI	PE400.613	07/04/2008	EP	
Amendments tabled in committee		PE404.737	10/04/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0183/2008	14/05/2008	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0246/2008	05/06/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)4439	16/07/2008	EC	
Follow-up document		COM(2010)0651	10/11/2010	EC	Summary

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2008/734](#)
[OJ L 201 30.07.2008, p. 0008](#) Summary

Fishing practices: protection of marine ecosystems in the high seas from the adverse impacts of bottom fishing gears

The purpose of this Communication is to review and analyse international principles on destructive fishing practises in the deep seas. It also

sets out the deficiencies of the current system and outlines an ambitious course of action in order to deliver on the Community's international commitments. In 2006, the UN General Assembly adopted Resolution 61/105 on 'Sustainable Fisheries'. In this Resolution, the UN called for action to regulate the fishing of vulnerable marine ecosystems in order to protect them from damage. The European Commission played a leading role in the adoption of this Resolution and announced that it would propose a strategy to translate this call into action.

The destruction by human activity in vulnerable marine habitats in the high seas is one of the 'hidden' environmental catastrophes of our time. The biodiversity of the deep seas is not evenly distributed. Rather it is concentrated in and around discrete features of the seabed such as seamounts, coral reefs and hydrothermal vents. These constitute real biodiversity hot spots in the midst of vast expanses of relatively desert seabed. Since these hotspots gather a diverse, and large, number of fish they also receive the lion's share of attention from commercial fishermen as well as from bio-prospectors and deep-sea tourists.

Regional Marine Conventions have general responsibility for the protection of the marine environment within international waters, while Regional Fisheries Management Organisations (RFMOs) adopt the necessary measures to implement the conservation and management of living marine resources and to regulate the impact of fishing on vulnerable ecosystems. The EU is a strong supporter of RFMOs (though not an uncritical one) and an activist for their empowerment. Many of the area-based measures to protect deep sea ecosystems adopted by RFMOs have been based on proposals tabled by the EU.

Destructive fishing in the high seas: The UN recognises that fisheries should no longer be dealt with in isolation, but must be fully integrated with a broader understanding of the world's oceans. There is still much to be learned about deep sea ecosystems and dedicated research is underway, including significant efforts under EU auspices. Research shows that certain deep sea ecosystems may constitute true hot spots of marine biodiversity and that these ecosystems are extremely vulnerable because of the low growth rates that characterise life at such great depths. This is particularly the case for cold water corals, structure-forming sponges and invertebrate communities that thrive around hydrothermal vents.

Fishing with bottom gears can be extremely detrimental to the integrity of these ecosystems. Observed and potential sources of damage include bottom trawls, dredges, bottom-set gillnets, bottom-set longlines, pots and traps. Their effects can easily be aggravated when combined with the impact of non-fishing activities, such as hydrocarbon prospecting, the laying of submarine cables, or waste dumping. Actual damage to deep coral reefs has been documented in the Northeast Atlantic, the West Atlantic, the Tasman Sea and other areas. Studies such as these provide compelling evidence of the gravity of the problem and the urgent need to take decisive protective action.

The General Assembly Recommendations: The UN General Assembly, therefore, calls on RFMOs and States to adopt a rigorous management regime for high seas bottom fisheries and for the implementation of measures by 31 December 2008 at the latest. The requirement of an environmental impact assessment as a condition for the authorisation of individual fishing activities is the first, indeed the lynchpin, of the set of recommendations issued by the General Assembly. The Commission considers this a radically innovative principle in fisheries managements. In contrast with other resource exploitation activities carried out in the oceans and seas, where it is established practice to require prior impact assessments (for example, installing offshore oil or gas platforms), the effects of fishing on marine habitats are generally assessed only after the fact, if at all. The General Assembly's recommendations, therefore, will help bring the management of sensitive bottom fisheries up to the environmental standards of other maritime activities. In other measures, the Recommendation is to improve research and data collections as well as adopting geographically-based closures or special management areas. Such closures can be adopted and enforced by the collective decision of States within the context of an RFMO. RFMOs have significantly increased their efforts to implement areas closures in recent years. They will need to rigorously review the effectiveness of these measures and consider whether those agreed so far are indeed sufficient in number and extent to achieve their desired objectives. On a final point with regard to those areas beyond national jurisdiction and which are not presently regulated by an RFMO the Recommendation calls for a comprehensive database of the location of vulnerable marine ecosystems.

How to implement the General Assembly Recommendations : A number of actions are proposed by the Commission to implement the General Assembly's Recommendations and include, inter alia :

- Stimulating the international debate : For example, assisting the FAO and CBD to collect and disseminate information and to submit, in early 2009 a report to the UN Secretary General on EU progress in addressing destructive fishing practices.
- Implementation at RFMO level : For example, implementing a consistent agenda and ensuring the implementation of an ecosystem approach to fisheries and management.
- Interim arrangements : For example, the transposition of the interim measures adopted for the South Pacific into Community Law by the end of 2007 and the renewal of exploratory demarches with potentially interested third States towards the establishment of regional arrangements in areas where no RFMO is yet in place.
- European vessels conducting bottom fishing in areas of the high seas not regulated by an RFMO : The adoption, as soon as possible of a Council Regulation implementing the recommendations of the General Assembly (see summary above for the proposal).

Conclusions: In 2009, the General Assembly will carry out a review of progress made in addressing the problem of destructive fishing practices. The EU should fix itself a similar task by reviewing, at around the same period, the effectiveness of the policy and specific actions envisaged in this Communication. The proposed Council Regulation will contain a review clause for this same purpose. Grand declarations of intentions will not stop the destruction of fragile and precious deep-sea marine ecosystems. The considerations laid out in this communication are intended to set the scene for a determined policy push from the European Union. The EU must demonstrate that it can be a true leader in bringing about the end of destructive fishing. The only way to do so is through concrete action, both in EU waters and on the high seas.

Fishing practices: protection of marine ecosystems in the high seas from the adverse impacts of bottom fishing gears

PURPOSE: to protect vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears.

PROPOSED ACT: Council Regulation.

BACKGROUND: certain marine ecosystems such as seamounts, deep water corals and hydrothermal vents are threatened by fishing practices that can have destructive effects on the physical integrity of the habitat. Particularly pernicious are bottom fishing gears that can destroy deep water corals and sponges and with them the complex ecosystem they host and support. Although not all of these habitats have been fully explored and described yet, there is abundant scientific evidence proving their high value as biodiversity hotspots.

The destruction of vulnerable marine ecosystems has become a sensitive issue and of particular concern in relation to areas of the high seas for which a regional fisheries management organisation has not been established to regulate fishing and its environmental impacts. The Community has already adopted measures to protect deep sea ecosystem in EU waters and has tabled proposals to the same effect in relevant Regional Fisheries Management Organisations ? NEAFC and NAFO for the North Atlantic; SEAFO for the Southeast Atlantic; CCAML for the Antarctic ; and GFCM for the Mediterranean. All these measure have been transposed into Community law. A gap exists, however for the Southwest Atlantic for which no regional organisation exists ? in spite of the fact that the Community has a sizeable fleet conducting bottom fishing in unregulated areas.

CONTENT: the purpose of this proposal, therefore, is to help protect vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears by regulating the use of bottom fishing gears. The Regulation applies to Community fishing vessels carrying out fishing activities with bottom gears in the high seas and only to those vessels fishing in geographical areas not under the responsibility of a regional fisheries management organisation (RFMO) or for which a process for the establishment of such an organisation is currently underway. ?Bottom gears? refers specifically to bottom trawls, dredgers, bottom-set gillnets, bottom-set longlines, pots and traps.

In order to conduct fishing activities in areas not covered by an RFMO, fishing vessels must have a special fishing permit issued in accordance with the Regulation. Applications for a special fishing permit must be accompanied by a detailed fishing plan that sets out: the intended location of activities; the targeted species; the depth at which the gears will be deployed; and the configuration of the bathymetric profile of the seabed in the intended fishing grounds.

The proposed Regulation states specifically that the use of bottom gears at depths beyond 1 000 m will be prohibited. In cases where, in the course of a fishing operation, a vessel encounters a vulnerable marine ecosystem, the fishing activity must cease immediately. The proposed Regulation also sets condition on ?area closures?. Thus, Member States must identify those areas that will be closed to fishing with bottom gears. Should a technical failure occur to the satellite tracking device fitted on board a fishing vessel, then the master of the vessel will be required to report its geographical situation to the flag Member State every two hours.

Failure to conform to the fishing plan will result in the loss of the special fishing permit issued to the fishing vessel concerned and any repeat instance of non-compliance will be deemed to be seriously infringing the Common Fisheries Policy. By 2010, the Commission will submit a report to the European Parliament and to the Council on the implementation of the Regulation, accompanied, if necessary by proposals for amendments.

Fishing practices: protection of marine ecosystems in the high seas from the adverse impacts of bottom fishing gears

The Committee on Fisheries adopted a report drafted by Duarte FREITAS (EPP-ED, PT) and amended, in the framework of the consultation procedure, the proposal for a Council regulation on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears.

The main amendments are as follows:

Depth limit: the Committee deleted from the recitals the sentences regarding a depth limit for the deployment of bottom gears of 1 000 m. Article 6 prohibiting the use of bottom gears at depths beyond 1 000 m of depth is also deleted. Members stated that, given that a set of specific conditions for the validation of fishing permits in particular areas is contained in the operative clauses, such depth restrictions are totally unnecessary. Moreover, there are no scientific studies which prove that vulnerable marine ecosystems exist or cease to exist above or below this particular limit.

FAO guidelines: a new recital states that the Regulation takes account of international guidelines on the management of deep-sea fisheries in the high seas adopted by the Food and Agriculture Organisation of the United Nations (FAO). Should doubt arise over the interpretation of this Regulation, it should be interpreted in the light of the FAO guidelines.

Scope: the Regulation shall apply to Community fishing vessels carrying out fishing activities with bottom gears in the high seas where these gears are in contact with the seabed in the normal course of fishing operations.

Definitions: the Committee amended the definitions of 'vulnerable marine ecosystem' and 'bottom gears'.

Applications for a special fishing permit: these must be accompanied by a detailed fishing plan specifying, inter alia: the targeted species and species likely to be taken as by-catch, and both the gears used and depths at which they will be deployed. It must also include the duration of activities. The duration of the special fishing permit shall not be longer than the fishing plan;

Adverse impacts and vulnerable marine ecosystems: with regard to the application by competent authorities of precautionary criteria in the conduct of the assessment, the Committee deleted the following words: "in case of doubt on whether the adverse impacts are significant or not, they shall consider that the likely adverse impacts resulting from the scientific advice provided are significant." A new clause states that if there is substantial uncertainty about the presence of a vulnerable marine ecosystem, the area shall be designated as a vulnerable marine ecosystem until there is sufficient evidence to the contrary.

The fishing vessel shall report any such encounter with a VME without delay to the competent authorities, which shall, in turn, report to the Commission and the Member States as soon as possible. The unforeseen encounters shall be registered on an electronic online mapping scheme in order to build up a permanent database of vulnerable marine ecosystems.

Scientific observers: the provision on "observers" is renamed "scientific observers. The Commission's proposal had provided that each Member State shall assign scientific observers to the vessels to which a special fishing permit is issued. The Committee's amendment states that a representative sample of the vessels to which the Member States have issued a special fishing permit shall take a scientific observer on board. The total number of scientific observers shall be set by the Commission on a proposal from the Scientific, Technical and Economic Committee for Fisheries, in line with the zone and type of fishery. The scientific observers shall be taken on board in proportion to the number of vessels from each Member State which hold a special fishing permit. The Commission shall ensure a suitable rotation of scientific observers among the various vessels after each fishing trip.

Furthermore, the scientific observers shall be independent of the vessels or companies which they are observing. They shall have no financial

or beneficial interests in those vessels or companies. They shall have no record of serious criminal offences, and shall have a sufficient level of knowledge on deep sea fishing methods and on the target species and ecosystems.

Reports: Member States reports must contain information on the impacts of fishing activities, in accordance with the clause on the conditions of issuance. The Commission shall transmit the information contained in the report to the relevant scientific bodies without delay, and to those Member States which request the information. The Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation before 30 June 2009 (rather than 30 June 2010).

Fishing practices: protection of marine ecosystems in the high seas from the adverse impacts of bottom fishing gears

The European Parliament adopted, by 579 votes to 35 with 13 abstentions, a legislative resolution amending the proposal for a Council regulation on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears. The report had been tabled for consideration in plenary by Duarte FREITAS (EPP-ED, PT) on behalf of the Committee on Fisheries.

The main amendments - in the framework of the consultation procedure - are as follows:

Depth limit: Parliament deleted from the recitals the sentences regarding a depth limit for the deployment of bottom gears of 1 000 m. Article 6 prohibiting the use of bottom gears at depths beyond 1 000 m of depth is also deleted.

FAO guidelines: a new recital states that the Regulation takes account of international guidelines on the management of deep-sea fisheries in the high seas adopted by the Food and Agriculture Organisation of the United Nations (FAO). Should doubt arise over the interpretation of this Regulation, it should be interpreted in the light of the FAO guidelines.

Scope: the Regulation shall apply to Community fishing vessels carrying out fishing activities with bottom gears in the high seas where these gears are in contact with the seabed in the normal course of fishing operations.

Definitions: Parliament amended the definitions of 'vulnerable marine ecosystem' and 'bottom gears'.

Applications for a special fishing permit: these must be accompanied by a detailed fishing plan specifying, inter alia: the targeted species and species likely to be taken as by-catch, and both the gears used and depths at which they will be deployed. It must also include the duration of activities. The duration of the special fishing permit shall not be longer than the fishing plan.

Adverse impacts and vulnerable marine ecosystems: with regard to the application by competent authorities of precautionary criteria in the conduct of the assessment, Parliament deleted the following words: "in case of doubt on whether the adverse impacts are significant or not, they shall consider that the likely adverse impacts resulting from the scientific advice provided are significant." A new clause states that if there is substantial uncertainty about the presence of a vulnerable marine ecosystem, the area shall be designated as a vulnerable marine ecosystem until there is sufficient evidence to the contrary.

The fishing vessel shall report any such encounter with a VME without delay to the competent authorities, which shall, in turn, report to the Commission and the Member States as soon as possible. The unforeseen encounters shall be registered on an electronic online mapping scheme in order to build up a permanent database of vulnerable marine ecosystems.

Scientific observers: the provision on "observers" is renamed "scientific observers. The Commission's proposal had provided that each Member State shall assign scientific observers to the vessels to which a special fishing permit is issued. Parliament's amendment states that a representative sample of the vessels to which the Member States have issued a special fishing permit shall take a scientific observer on board. The total number of scientific observers shall be set by the Commission on a proposal from the Scientific, Technical and Economic Committee for Fisheries, in line with the zone and type of fishery. The scientific observers shall be taken on board in proportion to the number of vessels from each Member State which holds a special fishing permit. The Commission shall ensure a suitable rotation of scientific observers among the various vessels after each fishing trip.

Furthermore, the scientific observers shall be independent of the vessels or companies which they are observing. They shall have no financial or beneficial interests in those vessels or companies. They shall have no record of serious criminal offences, and shall have a sufficient level of knowledge on deep sea fishing methods and on the target species and ecosystems.

Review: the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation before 30 June 2009 (rather than 30 June 2010).

Fishing practices: protection of marine ecosystems in the high seas from the adverse impacts of bottom fishing gears

PURPOSE: to protect vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears.

LEGISLATIVE ACT: Council Regulation (EC) No 734/2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears.

CONTENT: the Council adopted a Regulation on the protection of vulnerable marine ecosystems in the high seas from the adverse effects of bottom fishing gears.

The adoption of the Regulation follows the unanimous political agreement reached by the Council on 24 June 2008. This agreement enabled two outstanding issues to be resolved:

-the prohibition of bottom fishing gear in those areas where no proper scientific assessment has been carried out and made available;

-100 % observer coverage.

The Regulation introduces measures to protect vulnerable marine ecosystems from the destructive effects of bottom fishing activities, in

particular by introducing a special fishing permit, relevant monitoring measures and a precautionary protected boundary within the water column. Applications for a special fishing permit will be accompanied by a detailed fishing plan.

The competent authorities shall issue a special fishing permit after having carried out an assessment on the potential impacts of the vessel's intended fishing activities and concluded that such activities are not likely to have significant adverse impacts on vulnerable marine ecosystems. They must rely on the best scientific and technical information available concerning the location of vulnerable marine ecosystems in the areas in which the fishing vessels concerned intend to operate. That information shall include, where available, scientific data on the basis of which the likelihood of occurrence of such ecosystems can be estimated. The assessment process shall include appropriate elements of independent scientific peer review. The competent authorities shall apply precautionary criteria in the conduct of the assessment. In case of doubt as to whether the adverse impacts are significant or not, they shall consider that the likely adverse impacts resulting from the scientific advice provided are significant.

The Regulation is in line with the recommendations issued by the United Nations on the pressing need to adopt measures to protect vulnerable marine ecosystems from the destructive effects of bottom fishing activities.

Observers shall be on-board all vessels to which a special fishing permit is issued. The observers shall observe the fishing activities of the vessel throughout the execution of its fishing plan. The number of observers covering fishing activities in a fishing area shall be reviewed on 30 July 2009.

The Commission shall submit a report on the implementation of the Regulation before 30 June 2010. That report shall be accompanied where necessary by proposals for amendments to this Regulation.

ENTRY INTO FORCE: 29/08/2008.

Fishing practices: protection of marine ecosystems in the high seas from the adverse impacts of bottom fishing gears

The Commission presented a report on the implementation of Council Regulation (EC) No 734/2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears.

Over the past years, the EU has been on the forefront of the fight to ensure the global protection of vulnerable marine ecosystems and associated deep-sea fisheries. The adoption of Regulation (EC) No 734/2008 transposing the measures contained in UN GA Resolution 61/105 of 2006 was meant to ensure that vulnerable marine ecosystems were properly protected from bottom-fishing trawling activities. In view of the new recommendations included in UNGA Resolution 64/72 of 2009 and its forthcoming review scheduled for November 2011, the FAO "International Guidelines for the management of deep-sea fisheries in the high seas" and newly available scientific advice, the Commission is of the opinion that it is necessary to amend the Regulation, and intends to do so possibly by the beginning of 2012, to bring it in line with these developments so that enhanced measures for the protection of such ecosystems, based on the most up-to-date scientific advice, can be put in place in order to ensure their protection.

According to the Commission, the following amendments to the Regulation should be considered:

Scope: the scope of this Regulation could be extended to allow the adoption of unilateral measures applicable to EU fishing vessels fishing within RFMO regulatory areas, and going further than those adopted by the RFMO, in cases where the EU considers that measures adopted by an RFMO do not fully implement the measures in the UN Resolutions.

Limitation of capacity or effort: in order to ensure that capacity or effort is not transferred to deep-sea fisheries, covered by the scope of the Regulation, from other fisheries, a provision should be included limiting fishing capacity and effort in deep-sea bottom fishing activities to the average level established for a determined period for the different areas.

Improve impact assessments: the carrying out of impact assessments prior to the authorisation of bottom fishing activities was one of the main issues during the negotiations on the review of the measures contained in UNGA Resolution 61/105 and was considered a radically innovative principle in fisheries management at the time. However, from the information published prior to the negotiations on the 2009 UNGA Resolution, it emerged that very few such assessments had been carried out; and that the quality of performed assessments was not satisfactory.

Clear criteria have been provided on the use of impact assessments in the FAO Guidelines. Paragraph 119 of the UNGA Resolution 64/72 exhorts flag States and RFMOs that impact assessments conducted prior to the authorisation of bottom fishing activities should be consistent with these Guidelines. Specific reference could be made to the above-mentioned paragraphs of the Guidelines within the Regulation, while full incorporation within the Regulation of the text of paragraph 47 of the Guidelines could be used to ensure improvement of the quality of impact assessments carried out by the Member States.

Unforeseen encounters with vulnerable marine ecosystems: while the inclusion of a definition of what constitutes an encounter with a VME, based on the currently best available scientific advice, would improve the effectiveness of the Regulation to ensure the protection of these ecosystems, it should be ensured that such thresholds can be amended regularly to take into account the latest scientific advice. Furthermore, in order to achieve greater accuracy, more than two sample taxa should be used as the indicators of structural habitat VMEs.

In addition, once the set thresholds for VME indicator species are met and reports are sent to the authorities, this should trigger immediate (and at least temporary) closure of the site to allow any assessment of the area to be made.

Move-on rule: Regulation (EC) No 734/2008 establishes that if a vessel encounters a VME, it has to move to a minimum distance of 5 nautical miles from the site of the encounter. In NEAFC and NAFO, the required distance is only 2 nautical miles, which were considered to be more appropriate in the areas concerned.

The move-on rule would be limited to areas where fishing has already taken place, particularly for more lightly fished areas, though the use of this should be accompanied by lower thresholds for VME encounters and larger move-on distances.

Better implementation of this rule will necessitate the collection of the information, including tow-lengths, required to model suitable distances for the move-on provisions.

Observer coverage: Regulation (EC) No 734/2008 established 100% coverage for all vessels; and a review was foreseen by 30 July 2009.

However, this review was postponed in order to obtain Member States' experiences with the scheme in the context of the information provided in accordance with the Regulation. 100% coverage by observers of deep-sea bottom fisheries covered by the scope of the Regulation should continue for the time being. This requirement could be reviewed every three years.