

EU Report on the implementation of measures pertaining to the protection of vulnerable marine ecosystems from the impact of bottom fishing on the high seas in UNGA Resolution 61/105 of 2006 and UNGA Resolution 64/72 of 2010

The European Union welcomes the opportunity to inform the Secretary-General about the actions undertaken in the European Union to implement paragraphs 80 and 83 to 87 of UNGA Resolution 61/105 and paragraphs 113 to 117 and 119 to 127 of UNGA Resolution 64/72 in order to facilitate a further review of such actions.

The European Union would like to declare its full support for this exercise which should establish what still needs to be done to ensure the long term protection of vulnerable marine ecosystems and deep-sea species from the impacts of bottom fishing on the high seas.

1: General regulatory context

The Basic Regulation on the Common Fisheries Policy¹ establishes the legal framework for the conservation, management and exploitation of 'living aquatic resources' where such activities are practised on the territory of Member States or in EU waters or by EU fishing vessels. It is part of the objectives of the Common Fisheries Policy that the precautionary approach shall be applied in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing on the marine eco-system including through a progressive implementation of an ecosystem approach to fisheries management. These basic obligations are highly relevant for managing deep-sea fisheries and their impacts on the ecosystem, particularly on vulnerable marine ecosystems (VMEs). The reform of the Common Fisheries Policy is currently ongoing and it is foreseen that it will be adopted by the Council and the European Parliament by the end of 2012 for the purpose of entering into force on 1 January 2013.

The Data Collection Framework is based on Council Regulation (EC) No 199/2008.² It establishes a Union framework for the collection, management and use of data in the fisheries sector and to obtain the necessary scientific advice for the implementation of the Common Fisheries Policy and establishes the principles and standards for programmes of data collection for the CFP, including for deep-sea fisheries.

The collected biological, technical, environmental and socio-economic data relates to fleets and their activities as well as catches and the impact of fishing activities on the marine ecosystem.

In addition, with respect to bottom fisheries on the high seas where no RFMO has been established, Council Regulation (EC) No 734/2008 (below) obliges Member States to collect specific data from vessels that are engaged in these fisheries.

Through Regulation (EC) No 2347/2002³, since 2002 the European Union has established a specific access regime for fishing vessels engaged in deep-sea fisheries of the North-East

¹ Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

² Regulation concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy; OJ L 60, 5.3.2008, p. 1

³ OJ L 351, 28.12.2002 p 6 - 11

Atlantic. This is made up of four main components: capacity restriction, data collection, effort monitoring, and control. Following consultations with all interested parties including Member States, the fishing sector and NGOs, the European Commission will be proposing a revision of these rules which will also take into account the need to protect VMEs from the impacts of bottom fishing as well as the need to improve the scientific knowledge on deep-sea species and their habitats as requested in the UNGA Resolutions.

Council Regulation (EC) No 734/2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears⁴ was adopted by the European Union in June 2008 following the adoption of UNGA Resolution 61/105. This transposed the measures contained in this UNGA Resolution into Union law for ships flying flags of its Member States, for those areas of the high seas where no RFMO had been established or where no interim measures were put in place during negotiations for the establishment of an RFMO.

The Regulation establishes that the competent authorities of an EU Member State can only issue special fishing permits for the use of bottom fishing gears on the high seas if specific conditions are met. Member States are obliged to carry out an assessment of the potential impacts of the vessels intended fishing activities and can only issue a special fishing permit after concluding that such activities were not likely to have significant adverse impacts on vulnerable marine ecosystems. The use of bottom gears is prohibited in areas where no proper scientific assessment has been carried out and made available. The Regulation also contains provisions on unforeseen encounters with VMEs, area closures and an observer scheme for all vessels which have been issued with a special fishing permit.

The main areas of the high seas where this Regulation could apply to EU vessels are:

- South West Atlantic, where there is no RFMO/A with a competence for bottom fishing; and
- Southern Indian Ocean, as the Southern Indian Ocean Fisheries Agreement (SIOFA) which is not yet in force and which has not yet adopted any interim measures to protect VMEs.

The foreseen review of the implementation of this Regulation was carried out in early 2010 on the basis of the 6 monthly reports provided by the Member States in accordance with Article 12 of the Regulation. The results were published in a report to the European Parliament and Council⁵

The Commission intends to amend this Regulation in 2012, to bring it in line with recent developments, including at UN level and particularly following the outcome of this year's review. Consequently, the report to the European Parliament and Council also contained a number of proposals to amend this Regulation and to bring it in line with recent developments, which could include:

- Limitation of capacity or effort to ensure that this is not transferred to deep-sea fisheries covered by the scope of the Regulation, from other fisheries.
- Improving the standard of prior impact assessments through reference to the criteria provided on their use in the FAO Guidelines.
- Improving the effectiveness of measures to deal with unforeseen encounters with VMEs: Once the thresholds for VME indicator species are met and reported to the authorities, this

⁴ OJ L 201, 30.7.2008 p 8 - 13

⁵ COM (2010) 651 final

should trigger immediate closure of a site to prevent destruction of the VME by subsequent passes by trawler nets.

- Changing the "move-on" rule limiting its use to established fishing areas. Other areas where fishing has not taken place would be considered as still containing VMEs and thus fishing should only be permitted after a thorough impact assessment is carried out which establishes that bottom fishing will not cause significant adverse impact to VMEs.

2: Research activities

In line with the calls for increasing current knowledge on the location of VMEs, including those in the UN GA Resolutions 61/105 of 2006 and 64/72 of 2010, since 2005, Spain (by itself or in collaboration with other States) has undertaken an ambitious and costly program of scientific mapping of the seabed in different parts of the oceans, including some areas where Spanish ships do not operate. The appropriate multidisciplinary methodology to identify vulnerable marine ecosystems and to select areas to close to bottom fishing was put in place by Spanish scientists. The results of these research activities are being published in leading scientific journals. A short description of the different projects is provided below.

- North-East Atlantic: Spanish research project: "Project ECOVUL / ARPA to study vulnerable ecosystems in relation to fishing gear"

Three experimental campaigns were conducted between 2005 and 2008, in the Hatton Bank area in cooperation with the Spanish fishing industry, to study the impacts of bottom fishing gears. Furthermore, three multidisciplinary scientific surveys for mapping ecosystems were also undertaken. Experimental campaigns were carried out by scientific personnel embarked on board merchant vessels. Multidisciplinary campaigns were made on board oceanographic research vessels of the Spanish Secretaria General del Mar (Viscount de Eza and Miguel Oliver) equipped with cutting-edge technologies.

As a result of these investigations, the bathymetric mapping of deep trawl fisheries of the Spanish fleet at depths exceeding 1000 m was obtained. Around 19,000 km² of seabed were mapped using a multibeam probe and more than 1,200 km of high resolution seismic profiles were obtained, in addition to numerous samples of surface sediments, rocks and reefs by dredging. Additionally trawl sets were made in the fishing grounds to study the benthic communities.

Currently, the total area protected in Hatton Bank reaches approximately 16,000 km² in a depth range between 500 and 1500 m. This area is closed to all fishing with bottom gear.

- North-West Atlantic: Spanish/International research project: "Project Nereida"

In 2009 and 2010 the "NAFO Potential Vulnerable Marine Ecosystem-Impacts of Deep-sea Fisheries" (NEREIDA) project was carried out using new multidisciplinary research surveys to map the VMEs in the NAFO regulatory area in waters which were less than 2000 meters deep and to study the impacts of fishing activities, using the Spanish research vessel "Miguel Oliver". Other objectives included to identify organisms that constitute VMEs; to describe the

ecology of deep-sea habitats by studying distinct features in the area and to develop a GIS database.

The survey was funded by EU-Spain, Canada, EU-United Kingdom and the Russian Federation. Participating in this project together with the scientific bodies of the Spanish Oceanographic Institute and the Spanish National Research Council were scientific organizations in Canada, Russia and the United Kingdom.

The work began in June 2009 and lasted until October 2010. During this period, the vessel made a total of 6 campaigns covering a total area of 68,000 km² of seafloor and which involved mapping and sampling with dredges.

Moreover, the Canadian ship "Hudson" complemented the work in two campaigns where a Deep-sea Remotely Operated vehicle (ROV) was used for video transects at selected points, taking video footage of both pristine coral areas and areas where corals had been impacted by bottom contact gears.

The data collected from these campaigns is currently being analysed by a committee created to coordinate this work.

- South-West Atlantic: Spanish research project: Project Atlantis

Since 2008, Spain has been using the same methodology set-up used in the northeast Atlantic in the southwest Atlantic (Division FAO 41), in order to map and identify sensitive habitats and possible interactions with fisheries in the defined area between 42 ° S and 48 ° S latitude, and longitudinally between the western boundary 60 ° 55 ' W and the eastern boundary of 57 ° 20 'W. This is an area where Spanish ships have been undertaking bottom trawl fisheries. 13 campaigns of multidisciplinary research were carried out between 2007 and 2010, by Spanish scientists led by the Spanish Institute of Oceanography, aboard the research vessel "Miguel Oliver". The scientific report with key findings and recommendations has in fact already been provided to Argentina and will also be made available to other parties upon their request.

Major tasks accomplished during the campaign were: seabed mapping, description of types of seabed and benthic fauna, obtaining rates of biomass and abundance of species of commercial interest, and finally, localization and characterization of sensitive habitats.

An area of 59,105 km² was mapped to know its topography. To locate and describe sensitive habitats, a total of 91,905 km of profile surveying were carried out, detecting them in an area of approximately 41,300 km². These works were carried out with multibeam echo sounders, using the existing protocols of the International Hydrographic Bureau (IHO-S44).

In pursuance of the UN GA Resolutions and Council Regulation (EC) 734/2008, from January 1, 2009 and to date, the restriction of fishing to the area defined by the historical footprint of the fishery was established as a mitigating factor. To this end, Spain has adopted a comprehensive set of measures and standards which are binding on the shipping company (vessel owner), among which include the mandatory presence on board of an observer. A similar encounter protocol to that established in the two North Atlantic RFMOs is also in place.

- South-East Atlantic: Spanish/Namibian research project: Walvis Ridge in the South Atlantic

A multidisciplinary campaign was carried out by the Spanish Institute of Oceanography and the National Marine Information and Research Centre (Namibia), in 2008 and 2009 on board the research vessel "Vicente de Eza" on the seamounts of the Walvis Ridge off the coast of Namibia, as a pilot study for the location and identification of vulnerable marine ecosystems associated with seamounts that could be impacted by fishing gear. The prospected area was 17,899 km² and had a depth range between 200 and 3000 meters.

Furthermore, France through its "Ministère de l'agriculture, de l'alimentation, de la pêche, de la ruralité et de l'aménagement du territoire français" will be providing part-financing (up to \$ 400 000) for an FAO project (code GCP/GLO/309/FRA) to develop a database on vulnerable marine ecosystems on the high seas. This project is part of a broader FAO program entitled "Balancing the utilisation of marine resources and the protection of vulnerable marine ecosystems in the high seas".

3: Training activities

Spain has also utilised its fisheries oceanographic vessels: "Miguel Oliver", "Vizconde de Eza", and "Emma Bardán" as well as its fisheries cooperation vessel "Intermares" to provide training in a number of countries in Africa and Latin and South America. In fact, Spain has signed 22 Memoranda of Understanding with African and Latin American Countries. In particular, the vessel "Intermares" is used to provide fisheries training in all areas and activities related to the marine environment for both senior staff of government, scientists and other professionals in the fisheries and aquaculture. During 2010 and early 2011 a total of 14 courses have been given to countries in these areas, establishing for the period a Cooperation Programme for Training in Marine Fisheries and Aquaculture. These courses include modules dealing with the research and data collection, basic safety on board, use of selective fishing gear, oceanography, fisheries control, and institutional strengthening, among others.

4: Areas not covered by RFMO/As measures

In such areas, fishing vessels from EU Member States wishing to undertake bottom fishing activities are regulated by the measures contained in Council Regulation (EC) No 734/2008 (above).

From the information provided by the EU Member States in conjunction with the review of the implementation of Regulation (EC) No 734/2008⁶ carried out in early 2010, it was ascertained that:

- Only vessels from one Member State, Spain, fell under the scope of the Regulation and were fishing in the South West Atlantic in international waters in two areas within FAO fishing area 41: subdivision 3.1.
- These vessels had to be in possession of a special fishing permit for the duration of their activities which specified the zones where bottom fishing activities could be carried out, the authorised species, the fishing gear and the depths at which it could be deployed.

⁶ COM (2010) 651 final

- Most of the species caught in these fisheries were considered to be high or medium productivity species mainly squid and hake species.
- Spain restricted the area where bottom fishing activities could be carried out by their vessels to two specified areas in the South West Atlantic where such activities had been carried out for more than two years.
- An observer scheme was obligatory for all vessels.
- Fishing vessels were not authorised to carry out bottom fishing activities in unassessed areas. No fishing activities were registered in closed areas.
- The indicators used to signal unforeseen encounters with vulnerable marine ecosystems were those utilised previously by NEAFC and NAFO i.e. 100 kg of live Corals and 1000 kg of live sponges per fishing haul though a more restrictive encounter protocol was used which obliged the vessel to resume operations at a minimum distance of 5 nautical miles from the site of an encounter. No unforeseen encounters with vulnerable marine ecosystems were registered and thus, no remedial measures were necessary.
- No serious infringements were detected and consequently no sanctions were implemented.
- Spain restricted its bottom fishing footprint in the South-West Atlantic to two areas which have been fished for the last 25 years (the northern area: 41 ° 50' S and 42 ° 30' S and the 500 m isobath while the southern area: latitude 44 ° 45' S and 47 ° 20' S and the 500 m isobath) since it assumed that it would be improbable that these areas still contained VMEs which could be damaged by bottom fishing. Furthermore, to prevent authorised fishing activities in those two areas from impacting on any possible existing VMES, Spanish fishing licences contained a "compulsory encounters and moving-on Protocol", monitored by the observer on board each of the authorised vessels.

The Commission considered that the implementation of aspects of the said Regulation should be improved, particularly with respect to the differentiation of areas within the two fished areas which could possibly still contain VMEs as requested in the FAO Guidelines. The Commission is undertaking consultations with Spain to achieve this.

Spain has made available the scientific outcome of the Atlantis project that mapped an area of 59,105 km², including both within the existing footprint fishing area as well as the adjacent seabed, as previously mentioned in this report. Based on the scientific advice, the Spanish government is closing 9 areas, with a total extent of 41,300 km² to bottom fishing, including two located in the footprint area, where due to the type of seafloor sensitive habitats may be able to recover.

In addition, the latest information provided by Member States in April 2011, established that one vessel from a second EU Member State, Estonia, also fished in the waters of the South-West Atlantic in 2010.

From the information provided, this vessel submitted a fishing plan prior to the granting of a special fishing permit which foresaw that bottom trawls would be used to target mainly hake species in two areas within FAO fishing area 41 subdivision 3.1 in the same areas fished by Spanish vessels. A special fishing permit valid until 31.12.2010 was issued to this vessel listing the authorised species, and the conditions for the use of the fishing gear as well as the area where the vessel was authorised to carry out bottom fishing activities. Once more, a footprint approach

was used, based on the assumption that it would be unlikely that, after several years of fishing activities, these two boxes would contain VMEs which could be damaged by bottom trawls, particularly at the depths (70-300 metres) trawled. No unforeseen encounters with VMEs using the thresholds previously utilised by NEAFC and NAFO were registered in either the master's or observer reports. The European Commission will also undertake consultations with this Member State to improve its implementation of the Regulation.

5: Areas covered by RFMO/As measures

In accordance with the Treaty on the Functioning of the European Union, Member States have transferred their competence on issues pertaining to the conservation of marine biological resources under the Common Fisheries Policy to the European Union. Conservation measures established by RFMOs to which the EU is a Contracting Party, become binding on the EU under the respective international treaties, and, through Article 216 on the Treaty on the Functioning of the EU, on the Member States too. They are transposed at EU level in order to ensure uniform application by all EU Member States.

Consequently, EU Member States vessels are obliged to respect all measures adopted by RFMO/As to which the EU is party concerning deep sea fisheries and the protection of VMEs.

The European Union has constantly supported the adoption of measures to protect vulnerable marine ecosystems from the impact of bottom fishing activities in the different RFMO/As in which it participates in line with the precepts laid down in the UN GA Resolutions 61/105 and 64/72 and on the basis of the best available scientific advice. In addition, the European Union actively promotes the use of an ecosystem approach to deep water fisheries management in every RFMO/A in which it is a member and contributes to the identification of marine environments in need of protection. It supports the FAO in collecting data globally on vulnerable marine ecosystems.

The EU participates in the following RFMOs which manage stocks on a geographical basis and which have a competence to manage bottom fishing activities:

➤ **North-East Atlantic Fisheries Commission (NEAFC)**

In the Regulatory Area of NEAFC, which consists of the international waters of the North-East Atlantic, the main measures adopted within NEAFC are the following:

- Fishing effort directed towards deep-sea species is capped until 2012 at 65% of the effort expended in 2003.
- All gillnets are banned from waters deeper than 200 m.
- Fisheries targeting orange roughy are not allowed in NEAFC regulatory area in ICES areas V, VI and VII. In the other areas, each Contracting Party shall not exceed 150 tonnes per year. This provision is in force till the end of 2011.

- Since 2009, NEAFC has developed maps on existing and new fishing areas in order to develop proportionate prerequisites for undertaking fishing trips with bottom gears. These comprehensive maps of existing bottom fishing areas will be revised regularly.
- From the thirteen existing fishing areas: three are completely open to bottom fisheries (Bay of Biscay, Josephine Bank and The loophole/Barents Sea) while ten fishing areas have been partially closed for bottom gears in order to protect VMEs
 - Until 31/12/2015, five very large areas of the Mid-Atlantic are closed for gears which are likely to contact the seafloor during the normal course of fishing operations.
 - For year 2011, five areas (Hatton/Rockall Bank and Logachev Mounds) are partially closed for bottom trawlers and fishing with static gears, including bottom set gillnets and long-lines.
- All bottom fishing activities in new bottom fishing areas or with bottom gear not previously used in the area concerned are to be considered as exploratory bottom fishing activities and are subject to assessment procedure.
 - Vessels involved in these activities must have an observer on board to collect data in accordance with a VME Data Collection Protocol.
 - On the basis of the best available scientific information, NEAFC shall identify VMEs and map sites where VMEs are known to occur or likely to occur.
 - The NEAFC Commission shall adopt further conservation and management measures to prevent significant impacts on VMEs taking into account any new information.
- For both existing and new fishing areas, an encounter with primary indicator species is defined as a catch per set of more than 60 kg of live coral (and/or 800 kg of live sponge) and which has been decreased from previously higher levels (100 kg of live coral and/or 1000 kg of live sponge). In all areas, vessels encountering evidence of VMEs in the course of fishing operations shall cease bottom fishing activities and move away at least 2 nautical miles from the position and shall report the encounter, including the location and the type of ecosystem in question. There are special requirements to authorize again bottom fishing activities in the site concerned.

➤ **North-West Atlantic Fisheries Organisation (NAFO)**

In 2009 and 2010, NAFO adopted improvements to the previously adopted measures relating to bottom fishing which were mostly adopted in 2008.

2009

The NAFO Fisheries Commission adopted interim measures applicable until the end of 2011 to protect significant sponge concentrations as well as the recommendations on the closure of areas with high concentrations of corals.

The package of adopted measures also included officially mapped areas in the NAFO Regulatory Area where bottom fishing has historically taken place (the 'footprint'). This footprint will be revised regularly to incorporate any new relevant information.

Furthermore, the encounter thresholds for VME indicator species used in conjunction with the "move-on rule" were reduced to a more precautionary level of 60 kg of live coral and/or 800 kg of live sponge (the previous levels were 100 kg of live coral and/or 1000 kg of live sponge).

At the 2009 Annual Meeting, the template Data Collection Plan was elaborated, specifying the data collection requirements of research and fishing vessels. A new NAFO Coral identification Guide for identifying corals was developed.

All of these measures were fully supported by the European Union.

2010

NAFO agreed to maintain for the next four years the existing measures on seamounts (stipulated in Article 15 of the NAFO Conservation and Enforcement Measures). Thus the six identified seamounts will continue to be closed to all bottom fishing activities until December 31, 2014. The aim of these closures is to protect the VMEs present in these areas from the impact of bottom fishing gears. The NAFO Scientific Committee had limited information for three areas and no information for the other three. Though the EU supported the proposed extension of the closure which was finally agreed, it would have preferred the adoption of the recommendation of the Scientific Council to designate three of them as VMEs, while maintaining a temporary closure of the three remaining seamounts, pending more information becoming available and on the basis of precautionary principle.

NAFO also decided to implement more rigorous impact assessments:

- For bottom fishing occurring outside of the NAFO fishing footprint,
- Or when new scientific information on the existence of VMEs came to light,
- Or if significant changes occurred in fishing conduct or technology (following a proposal from the US). This was supported by the EU.

NAFO also approved a more comprehensive data collection protocol for coral and sponge species encountered in exploratory and existing fishing areas. This includes a revision of data collection requirements in existing and new fishing areas and the adoption of the revised Exploratory Fishery Data Collection Form. This was supported by the EU.

Furthermore, it was also decided that the Working Group of managers and scientists on VMEs should make recommendations to the Fisheries Commission on the effective implementation of measures to prevent significant adverse impacts on VMEs.

➤ **South Pacific Regional Fisheries Management Organisation (SPRFMO)**

There have been no changes to the Interim Measures on bottom fishing since the ones adopted in 2007.

However, there has been improved compliance by the Participants with the requirement to produce assessments – the EU (Spain) submitted its benthic impact assessment in 2009.

At the 8th International Consultations for the Establishment of South Pacific RFMO held in

November 2009 in NZ, the Participants agreed on an Interim Measure for deepwater gillnets, de facto banning them as of 1 February 2010 until relevant conservation and management measures are adopted by the SPRFMO Commission. The EU is complying fully with this interim measure even though it is not legally binding.

In consequence, there are no EU vessels undertaking bottom fishing activities in the SPRFMO Convention area since only bottom gillnetting was previously practised by EU fishing vessels in the area covered by this RFMO.

➤ **Convention on Conservation of Antarctic Marine Living Resources (CCAMLR)**

In 2009, CCAMLR revised Conservation Measure 22-06 (Bottom Fishing in the Convention Area), most particularly Annex 22-06/B (Notification of an encounter with a VME) to reflect its use mainly by Member's Scientists. CCAMLR also added a clarification to CM 22-06 stating that Contracting Parties shall not authorise their vessels to participate in bottom fishing activities if the preliminary assessment was not submitted by the given deadline (at least 3 months before the Annual Meeting) or when the CCAMLR Commission determines, on the Scientific Committee advice, that the proposed fishing activities should not proceed.

CCAMLR also clarified the data requirements in Conservation Measure 22-07 (Interim Measure for bottom fishing activities subject to Conservation Measure 22-06 encountering potential vulnerable marine ecosystems in the Convention Area). These requirements included: (i) using the "CCAMLR VME Taxa Classification Guide", (ii) collecting segment-specific data, (iii) including zero catches in the reporting of VME indicator units.

In 2010, CCAMLR revised Annex 22-06/A of the CM 22-06, which is the pro forma for use in the submission of preliminary assessments of the potential for proposed bottom fishing activities to have significant adverse impacts on VMEs. The revision will facilitate the work of WG FSA (Fish Stock Assessment) to estimate the spatial footprint and potential impact of notified fishing activities.

CCAMLR also revised paragraph 10 of CM 22-07 to ensure that this measure would be reviewed in 2012.

The abovementioned changes were proposed on the basis of Scientific Committee recommendations and were fully supported by the EU and its Member States.

There is one EU vessel (MS Spain) licensed to fish for "Dissostichus eleginoides" by long-lining in the CCAMLR Convention area and which is fully compliant with the measures adopted by this RFMO with regard to bottom fishing activities. CCAMLR adopted measures since 2006 on fisheries management background, requiring the Contracting Parties whose vessels wish to participate in any activity of bottom fishing from December 2008, a preliminary assessment of known and anticipated impacts of fishing activities background on vulnerable marine ecosystems and proposed mitigation measures to avoid such effects.

In order to meet the obligation requiring the Contracting Parties whose vessels wish to participate in any bottom fishing activity as from December 2008 to submit a preliminary assessment of known and anticipated impacts of fishing activities background on vulnerable marine ecosystems and proposed mitigation measures to avoid such effects, Spain prepared for the 2008/09, 2009/10 and 2010/2011 campaigns, respectively a "preliminary assessment

of the risk of serious harm to vulnerable marine ecosystems and protocol performance".

➤ **General Fisheries Commission for the Mediterranean (GFCM)**

Further to the establishment of three fisheries restrictive areas to protect the deep sea sensitive habitats: the Lophelia reef off Capo Santa Maria di Leuca, the Nile delta area cold hydrocarbon seeps and the Eratosthenes Seamount (Recommendation GFCM/2006/3), in 2009 GFCM adopted Recommendation GFCM/3.3/2009/1 on the establishment of a fisheries restricted area in the Gulf of Lions in order to protect spawning aggregations and deep-sea sensitive habitats.

In addition, in 2009, GFCM also adopted Recommendation GFCM/33/2009/2 establishing a minimum mesh size of 40mm in the codend of demersal trawl nets to ensure greater protection of juveniles of several species as well as to reduce discarding practices in multispecies fisheries.

➤ **South-East Atlantic Fisheries Organisation (SEAFO)**

The following measures were adopted by SEAFO at its 2010 meeting with regard to bottom fishing and VMEs. These were proposed by the Scientific Committee of SEAFO and were supported strongly by the EU:

- New closed areas in the Convention Area: the closure of 11 areas was adopted on the recommendation of the Scientific Committee with the objective to protect seamounts with characteristics suggesting that they could contain VMEs. Some of the previous closed areas were redefined while new areas in the Mid-Atlantic ridges were also closed.
- Definition of its fishing footprint: officially mapped areas in the SEAFO Convention Area where bottom fishing has historically occurred are being established. This "footprint" distinguishes between existing and new fishing areas. To this end, all available data is being gathered in order to establish the fishing footprint.

➤ **South Indian Ocean Fisheries Agreement (SIOFA):**

This RFMO is not yet in force and has not adopted interim measures for the protection of VMEs from bottom fishing on the high seas.

6: Assessment of progress achieved so far

The European Union is of the opinion that Council Regulation (EC) N° 734/2008 has served to ensure that EU vessels undertaking bottom fishing respected the measures contained in the UN GA Resolutions 61/105 and 64/72 in areas beyond national jurisdiction where there is no

RFMO/A. However, it acknowledges that this Regulation will need to be amended to take into account the latest available information as well as the lessons learnt from past experience. In fact, amendment of this Regulation is targeted for next year, following this year's review at the UN.

The European Union also considers that considerable progress has been achieved in transposing the measures for the protection of vulnerable marine ecosystems from the impact of bottom fishing on the high seas included in UN GA Resolutions 61/105 and 64/72 into the rules adopted by RFMO/As to which it is a Party which has taken place in all such bodies with the exception of SIOFA.

In addition, most RFMO/As have continued to update previously adopted measures to follow new scientific advice. This is typified not only by the increased areas which are closed to bottom fishing practices in the different RFMO/As but also by the lower thresholds which have been adopted to signal encounters with VMEs and which are more in line with the precautionary approach. Nevertheless, the EU still believes that in the absence of definitive scientific advice, an even more precautionary approach continues to be necessary.

However, considerable variation continues to exist between the different RFMO/As as regards the speed and the degree of detail with which the implementation takes place and their following of available scientific advice.

The European Union also considers that States and RFMO/As should closely follow the guidance provided in the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas in the management of these fisheries and helping to implement the precautionary approach in the absence of adequate scientific information. In particular, this applies to the guidance provided with respect to the carrying-out of prior impact assessments and the need to differentiate areas which have experienced more heavy fishing from those where fishing pressure was lighter. The European Union continues to believe that even in those areas where bottom fishing has taken place in the past, it should not be assumed that VMEs are not present unless this is confirmed by scientific evidence. In addition, the EU also believes that there is also a high probability of significant adverse impacts on VMEs in new fishing areas. Therefore, periodic evaluation of the effectiveness of adopted provisions to protect VMEs is necessary and might require regular updating.

The European Union would like to stress the important scientific work undertaken by Spain and other States, particularly with respect to mapping of the sea bed and which has started to be disseminated. This work will provide the international community with a better basis on which to establish management measures which will adequately protect VMEs and deep-sea stocks in the future. The European Union is of the view that still more scientific work needs to be done in order to increase knowledge on VMEs and the impacts of bottom fishing on them.

In view of the above, the European Union considers that substantial progress has been achieved by States and RFMO/As in the implementation of the measures in the two UN GA Resolutions 61/105 and 64/72 to protect VMEs on the high seas, particularly since the latest measures were adopted at the end of 2009. However, the EU deems that implementation of the agreed UN GA measures as well as the FAO Guidelines still needs to be improved in order to achieve an adequate level of protection of vulnerable habitats from bottom trawling in the high seas. This particularly applies to the use of prior impact assessments, to the need to improve our knowledge of VMEs and the associated deep-sea species and to improve the scientific advice on which management measures should be based.