



Commission Proposal for Deepwater Stocks in the North East Atlantic: Response by the National Federation of Fishermen's Organisations (NFFO)

The European Commission has made a Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions to fishing for deep-water stocks in the North East Atlantic (COM(2012) 371 final).

This paper is the NFFO response to that proposal.

Summary

This proposal has all the hallmarks of a work in progress that has subsequently been hijacked by a fundamentalist political agenda. It has the potential to do a great deal of harm to fishing businesses and communities both directly and indirectly.

The Proposal departs from the principles of good governance and proportionality. As such it sets an unwelcome precedent for a reformed CFP.

From experience we know that the type of draconian blanket approach proposed is likely to be pregnant with unintended consequences.

The proposal is supported by a 55 page impact assessment but prematurely and capriciously rules out the only viable management option: a risk-based approach which provides necessary protection through specific, targeted, species and area measures.

The Proposal

We can agree with the Commission's proposal, and associated press release, to the extent that:

- Deep sea species are mainly caught on the continental shelf
- Deep Sea ecosystems and the species that live in them are particularly vulnerable to human activities
- Deep sea stocks are caught both as targeted fisheries and as by-catch in many fisheries, including those which could not be reasonably described as taking place in deep water
- Fishermen already cooperate with scientists to establish a better understanding of deep water ecosystems

- The general objective of the Regulation should be to ensure as far as possible the sustainable exploitation of deep sea stocks whilst reducing the environmental impact of these fisheries and to improve the information base for scientific assessment
- A licensing regime for deep water species is an appropriate management tool for controlling fishing access to deep water fisheries

Areas of Contention

We disagree:

- That the Commission's Proposal has found an *appropriate balance* between sustainable exploitation and protection for vulnerable species and habitats
- That a *blanket approach* to bottom trawling and deep water gill nets is a proportionate management response, even within an approach based on the precautionary principle
- That it is possible to conclude on the basis of scientific advice that the current level of fishing activity is excessive on all deep water stocks: ICES' 2012 advice for a number of deep water species of commercial importance (including Blue Ling, Black Scabbardfish and Roundnose Grenadier) is quite positive, with recommendations for increased TACs
- That the issues of *displacement and other unintended consequences* of the type of blanket ban proposed for bottom trawling and deep water gill nets have been adequately assessed
- That it is reasonable to propose or adopt a new deep water species regulation prior to the publication (scheduled for later in 2012) of the conclusions of the *Deepfishman* scientific project which is specifically tasked to *recommend harvest rules based on secondary indicators* for the exploitation of deep sea species. At very best, the timing of the Proposal could be considered premature.
- That the Proposal, if adopted and implemented, would lead to a reduction of discards. Even with a 100kg *de minimis* threshold, given the widespread capture of some "deepwater" species such as Tusk, Ling and Conger, by a variety of fleets unconnected with deep water fisheries, the ban will result in a significant increase in discards that would be inconsistent with the Commission's general policy objective of eliminating discards

Comment

As a matter of principle it cannot be right in any decision based on natural justice or good governance, to prohibit a particular gear, with potentially serious socio-economic consequences, without a thorough analysis of those consequences and *reasonable alternative options*. The Proposal contains no Impact Assessment options that are based on an approach targeted by species or a zoned approach to vulnerable ecosystem features.

The elements of an alternative *precautionary*, as opposed to an *over-precautionary* approach, would include:

- *Targeted measures*, both by species and vulnerable ecosystem features based on available scientific evidence,

- Protection, through appropriately precautionary TACs, for those vulnerable deep water stocks for which there are conservation concerns, underpinned by observer programmes
- Protection for vulnerable ecosystem features through well designed marine protected areas, monitored by VMS. (Extensive scientific work has been undertaken under NEAFC auspices to survey the continental slope and identify ecosystem features which require special protection through marine protected areas)
- De-politicisation of the issue and refocus of management measures on impartial and objective science. Deepwater fisheries have become a trial of strength between a *cause celebre* for the environmental and those whose livelihoods depend on the deepwater fisheries rather than the focus of proportionate and balanced management measures
- Using a 10% criterion to define a *targeted* deep sea fishery is arbitrary and disproportionate. A vessel with catch records at a particular point in time suggesting 11% of deep water species will be included but a vessel with 9% excluded. This is bound to create a series of anomalies. Not only that but the Proposal suggests that the type of licence (target or by-catch) will be granted on the basis of catch record *during any of the two calendar years preceding entry into force of this regulation, whichever year provides the higher figure*. This would almost certainly lead at least some vessel operators to change their activities to secure advantage.
- Articles 6 and 7 provide the basis of a reasonable and proportionate although somewhat bureaucratic approach to managing deep water fisheries. However Article 9 would lead these licences to expire after 2 years following the introduction of the Regulation. This Article shows all the signs of a poorly considered afterthought superimposed on a more reasoned and proportionate underlying approach.
- The proposed prohibition on deep water gill nets is distinctly odd. Transitional technical measures have been in place since 2006. Is there evidence that these measures are not working? Has there been any discussion about the effectiveness of these measures? We are unaware of any such discussions, which strengthens our conviction that a fundamentalist environmental agenda, devoid of any evidence base is at work within at least some parts of the Commission in the preparation of this proposal.

Delegated Acts

There may be instances when it is reasonable to delegate management responsibility to the Commission under tightly defined conditions. This is not one of those instances. In a shared stock fishery, such as this, we do not believe that according member states responsibility to act unilaterally, with loosely defined Commission powers to step in if these prove inadequate is an appropriate arrangement. Individual member states are likely to be reluctant to constrain their own vessels whilst other member state fleets continue unrestricted and handing so much unaccountable authority to the Commission would not be healthy from a good governance perspective.

We believe that the regionalisation model broadly along the lines described in the Council's 'General Approach' to CFP reform offers a more attractive framework for management decisions for deep sea stocks.

Conclusion

For the reasons outlined above, we do not think that this proposal is a proportionate, reasoned or appropriate management response to the undoubted challenges of managing a fishery on deep water species on the continental slope. An alternative approach based on well-defined and targeted measures is available and should be substituted for this flawed proposal.