

**EU Report on major developments of relevance on sustainable fisheries since 2008**  
**(A/63/2008, "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")**

**I. Achieving sustainable fisheries - Introduction**

The European Union, through its Common Fisheries Policy (CFP), has been working towards the application of the Johannesburg Plan for Implementation of the outcomes of the World Summit on Sustainable Development in relation to achievement of sustainable fisheries. The objectives of the CFP focus not only on ensuring exploitation of living aquatic resources in an environmentally, socially and economically sustainable way. It foresees also the application of the precautionary approach to protect living aquatic resources, the minimisation of the impact of fishing activities on marine eco-systems, the progressive implementation of the eco-system approach to fisheries management. The principles and key instruments of the CFP are enshrined in Council Regulation (EC) No 2371/2002<sup>1</sup>. That regulation is complemented by legal provisions and actions. This report gives a detailed record about the rules adopted and implemented since 2008.

At the same time, based on an analysis in the Green Paper on the reform of the CFP<sup>2</sup> and a wide stakeholder consultation, the EU is undergoing an ambitious reform of its CFP to make sure that policy objectives are achieved in a better and more effective and efficient way. The legal proposal for reform was adopted by the European Commission in 2011<sup>3</sup> and is currently undergoing extensive EU internal discussion. Achieving sustainability in a more efficient way is at the heart of the proposed reform. To this end, the proposal aims to bring all fish stocks above MSY levels, it envisages the gradual elimination of discards, the introduction of multiannual multispecies plans, the application of the precautionary approach and of the ecosystem approach to conservation addressing the issues of the protection of habitats of specific concern, and fighting IUU fishing. The domestic discussion process should lead to the entry into force of the new policy framework by 2014.

For fish stocks in European waters the proportion of overfished stocks in the Atlantic and nearby seas fell from 32 out of 34 stocks in 2004 to 18 out of 38 stocks in 2011, i.e. from 94% to 47%. Now stocks of Iberian-Atlantic anglerfish, blue whiting, Celtic Sea sole, west of Scotland haddock, North Sea herring, North Sea plaice and Herring in the Gulf of Bothnia are

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<sup>1</sup> Article 2 of Council Regulation (EC) No. 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, OJ L 358 of 31.12.2002, p.59.

<sup>2</sup> COM(2009)163final of 22 April 2009

<sup>3</sup> COM(2011) 417, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Reform of the Common Fisheries Policy; COM(2011) 418, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, on reporting obligations under Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy; COM(2011) 425, Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy; COM(2011) 416, Proposal for a regulation of the European Parliament and of the Council on the Common Organisation of the Markets in fishery and aquaculture products; COM(2011) 424, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on External Dimension of the Common Fisheries Policy.

known not to be overfished. This is to a large extent due to determined action with regard to the setting of levels for Total Allowable Catches over recent years at MSY levels. However, the percentage of overfished stocks is still too high and the EU will continue its efforts to phase out overfishing within European waters.

However in European waters 65% of the stocks are not fully assessed and only 22% of stocks under TACs known not to be overfished. Furthermore, the tendency over the past years has been that a decreasing proportion of stocks (from 47% in 2003 to 35% in 2012) can be classified according to safe biological limits.

In the Atlantic, North Sea and Baltic Sea, the number of stocks for which advice could be provided with respect to MSY rose from 34 in 2005 to 39 in 2010 and was 38 in 2012. There has been a slight declining trend in the proportion of stocks where a quantified analysis and forecast is available. The proportion of stocks where no scientific advice is available rose from 45% in 2003 to 52% in 2006 and then fell again to 36% for 2012.

But the EU is not only striving for sustainability within EU waters. As a global fisheries player and important market for fish and fish products, EU external action is guided by the principles and standards for fisheries management applicable to EU waters under the Common Fisheries Policy. This has been confirmed and strengthened recently in the Commission Communication on the external dimension of the CFP<sup>4</sup> issued as part of the CFP reform proposal. The orientations proposed by the Commission for the external dimension of the CFP are strongly supported by EU Member States in their Conclusions on the Commission's Communication<sup>5</sup>.

In this vein, the EU plays an active role in six tuna Regional Fisheries Management Organisations (RFMOs) (including the Agreement on the International Dolphin Conservation Programme – AIDCP) and 9 non-tuna RFMOs. The EU is also member of two advisory Regional Fisheries Organisations<sup>6</sup>. Over the last years, the EU's involvement in these RFMOs has been key for increasing the efficiency of RFMOs with regard to sustainable fisheries management. At the same time the EU has been adamant to make sure that vessels flying the flags of its Member States comply with management and conservation rules of RFMOs. Assuming that RFMOs will report themselves on their achievements this report does not address sustainable fisheries management under the purview of RFMOs.

Finally, to make sure that conservation measures are actually enforced and their objectives achieved through appropriate implementation by its Member States the EU has reformed fundamentally its fisheries control system in 2009. It also has established a European Fisheries Control Agency. In addition, to stop illegal, unregulated and unreported (IUU) fishing activities that jeopardise sustainable fisheries management this system is complemented by rules adopted in 2010 that prevent the marketing of IUU products in the EU.

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<sup>4</sup> COM(2011) 424, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on External Dimension of the Common Fisheries Policy.

<sup>5</sup> Council Conclusions of 19 March 2012.

<sup>6</sup> Western Central Atlantic Fisheries Commission (WECAF) and Fisheries Commission for the Eastern Central Atlantic (CECAF).

## **II. Implementation of international instruments for the long-term conservation, management and sustainable use of fishery resources**

### **A. Implementation of the United Nations Fish Stocks Agreement**

Latvia, Lithuania, Czech Republic, Romania, Hungary and Slovakia have ratified, in recent years, the 1995 United Nations Fish Stocks Agreement, although some of those States' fishing vessels are not directly involved in the fishing for stocks concerned. Consequently, by 2008 the EU and all its Member States have completed the ratification process and are contracting parties of this Agreement. A harmonization of national legislations with the Agreement and its obligations has been reached through implementation of respective EU law.

Some elements of the Agreement (e.g. rules for inspection, boarding on the vessel) have also been implemented through decisions taken by Regional Fisheries Management Organisation to which the EU is a Contracting Party<sup>7</sup> and which are binding upon EU Member States according to Article 216(2) of the Treaty on the Functioning of the EU.

### **B. Implementation of fishery instruments of the Food and Agriculture Organization of the United Nations**

The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing was approved by the FAO Conference at its Thirty-sixth Session on 22 November 2009, through Resolution No 12/2009, under Article XIV, paragraph 1 of the FAO Constitution. Under Article 25, the Agreement was open for signature at FAO from 22 November 2009 until 21 November 2010, by all States and regional economic integration organizations. It should be noted that, as all the matters of this Agreement fall within the exclusive competence of the EU, only the EU was entitled to sign and approve it and not its Member States. The Agreement has been subject to approval by the EU as previous signatory. The EU instrument of approval has been deposited with the Director-General of FAO on the 7 July 2011.

## **III. Promoting responsible fisheries in the marine ecosystem**

As the EU has signed up to the commitments agreed through the 2002 World Summit on Sustainable Development in Johannesburg which established ambitious global targets for restoring oceans to ecological health and optimal productivity (including a programme for

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<sup>7</sup> International Commission for the Conservation of Atlantic Tunas (ICCAT), Indian Ocean Tuna Commission (IOTC), Western and Central Pacific Fisheries Commission (WCPFC), Inter-American Tropical Tuna Commission (IATTC), Agreement on the International Dolphin Conservation Programme (AIDCP), Commission for the Conservation of Southern Bluefin Tuna (CCSBT), North-East Atlantic Fisheries Commission (NEAFC), Northwest Atlantic Fisheries Organization (NAFO), North Atlantic Salmon Conservation Organization (NASCO), South-East Atlantic Fisheries Organization (SEAFO), South Indian Ocean Fisheries Agreement (SIOFA), South Pacific Regional Fisheries Management Organization (SPRFMO), Convention on Conservation of Antarctic Marine Living Resources (CCAMLR), General Fisheries Commission for the Mediterranean (GFCM), Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (CCBSP). The EU also participates in two RFMOs which have a purely advisory status: Western Central Atlantic Fisheries Commission (WECAFC) and Fisheries Committee for the Eastern Central Atlantic (CECAF).

integrated, ecosystem-based ocean and coastal management, reducing the loss of marine biodiversity, establishing networks of marine protected areas, and restoring world fish stocks to good biological condition) the EU and its Member States are fully committed to integrate those obligations into legislation. Moreover, as contracting party of the RFMOs above mentioned, the European Union is fully implementing all the measures for sustainable fisheries adopted in these international bodies.

#### **A. Setting of Fishing opportunities (quotas and effort)**

One of the main instruments used by the EU to manage fish stocks in EU waters is the setting of Total Allowable Catches (TACs) and effort limits. They are fixed on an annual or bi-annual basis and on the basis of scientific advice provided by ICES and its own Scientific, Technical and Economic Committee for Fisheries (STECF). For the setting of limits a number of key principles is followed as set out in a Commission Communication<sup>8</sup>: Firstly, TACs are set at a level which ensures the sustainable exploitation of resources in environmental, economic and social terms. Secondly, to ensure a stable and predictable framework for operators depending on fisheries, annual variations are kept within pre-determined limits. Thirdly, international commitments must be respected, including the commitment to rebuild stocks so that they reach their maximum productivity. Furthermore, long-term plans in force must be implemented, fishing on overexploited stocks must be reduced and depleted stocks must be rebuilt. Overall, a precautionary approach is applied. The aim of setting levels of Total Allowable Catches (TACs) and quotas and the fishing effort levels for European fisheries for next years will be to phase out overfishing<sup>9</sup>.

Each TAC is divided into quotas between Member States and they are responsible for the correct management and appropriate use of them. The distribution of the quotas is based in the so-called '*relative stability*' principle, which provides Member States with their relative share of each concerned TAC for which they have historic rights. Therefore, quotas are normally allocated according to a fixed allocation key: each Member State's quota is a fixed percentage of the TAC. In this way relative stability between Member States is ensured. The application of the relative stability principle implies a deviation from this system which allows for the special needs of regions that are particularly dependent on fishing to be met in cases when the TAC reaches a low level. The preferences are expressed as minimum quantities which the relevant Member State should obtain as a quota for each stock, even if the TAC falls to a low level.

Recent practice has been that the fishing opportunities are decided in five separate regulations for deep-sea species, for the Baltic Sea, for the Black Sea, for the remaining EU waters (North-East Atlantic, including the North Sea) and for international waters to transpose TACs decided in RFMOs or bilateral agreements. The regulation concerning deep-sea species covers a two-year period, while the others are annual Regulations.

Apart from setting TACs and quotas, these fishing opportunities regulations also establish maximum fishing effort levels where necessary, as well as certain additional conditions relevant to ensure the appropriate use of the fishing opportunities concerned or needed to comply with the international obligations under the fisheries agreement to which the EU is

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<sup>8</sup> COM(2010)241 final, Communication from the Commission, Consultation on Fishing Opportunities for 2011, p.3.

<sup>9</sup> COM(2011) 298, Communication from the Commission, concerning a consultation on Fishing Opportunities, p.2.

bound.

In the Black Sea<sup>10</sup> TACs are the main tool whereas in Baltic, the North Sea and also in the European Western Waters this instrument is complemented by long term management plans. For the rest of the Atlantic Waters such plans are in preparation. TACs and quota system is not applied in the Mediterranean Sea. See also next section.

Overfishing puts stocks at risk of extinction or collapse - it also means that as much fish or even more could be caught with less fishing activity. This means taking each year a proportion of the fish in the sea that is the right size to let fish grow and reproduce at their most productive level. Under these conditions, the long-term catches from fish stocks will be at their maximum sustainable level (MSY). Fishing too hard means the fish will be caught too soon and too small and using too much fuel. The European Commission and the Member States of the Union have committed themselves to reach the objective of MSY fishing on an urgent basis.

## **B. Long-Term Management Plans & the Ecosystem Approach**

This section describes the different long-term management plans in place for fish stocks in the different European sea basins as well other fisheries management measures applied. All current management plans are subject to a process to evaluate their effectiveness in taking the stocks to safety levels where necessary, and beyond this, to levels capable of producing the maximum sustainable yield. The objective is to replace current single-stock-based plans with multi-annual multi-stock management plans. The first proposal to be presented in 2013 will be a multi-species plan for the Baltic Sea, incorporating biological interactions such as predation and competition. Work is also underway on a mixed-fisheries plan for the North Sea, which will incorporate technical interactions, i.e. the way in which different fleets and fishing gears catch different mixtures of fish. Such plans will help in ensuring the best return for the fleets from the available resources while paving the way for an ecosystem-based management of the exploited stocks.

Work is underway within the various bodies that provide advice to the EU on conservation and management to set the technical base for these multi-species plans. Until this base is available, the EU will consider introducing short-term updates and improvements to the various plans in force, in light of the results of the evaluation processes led over the last two years.

For stocks that are not covered by multi-annual management plans, the EU has taken great steps towards reaching the objective set forth at the Johannesburg summit of 2002 to bring stocks to MSY in 2015.

### North Sea

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<sup>10</sup> Regarding the Black Sea, a system of quotas for certain species (sprat and turbot) has been established since the adhesion of Bulgaria and Romania to the European Union. Furthermore, since 2010, Bulgarian and Romania have implemented national control programmes for turbot, which have allowed improving the management of the fishery. Recently (February 2012), both countries have agreed on harmonise their control programmes and define common control actions under the coordination of the EFCA, which is expected to bring as a result a level playing field on control and a development of a culture of compliance by fishermen.

The present long-term management plans for North Sea sole and plaice<sup>11</sup> and for cod in the North Sea, Skagerrak, Kattegat and other areas,<sup>12</sup> include provisions to restrict fishing effort in line with fishing mortality targets. The multi-annual plan for cod also provides incentive rules for Member States to implement cod avoidance and discards reductions measures. In line with this, several Member States have implemented voluntary real time closures and permanent closures to reduce cod fishing mortality. In the North Sea and Skagerrak there are also obligatory real time closures to protect juveniles of cod, haddock, whiting and saithe. A number of multi-annuals plans are jointly prepared and implemented between the European Union and Norway in the North Sea, including cod, haddock, whiting, saithe, herring and plaice.

Since 2000, a number of technical measures have been adopted to ensure the greater responsiveness of North Sea fisheries to on-going developments in the knowledge and status of fish stocks and of their broader ecosystems. These include the use of real time closures and the banning of high-grading, as well as other more targeted measures. Since 2000, in accordance with Council Regulation (EC) No 43/2009<sup>13</sup> Annex III point 4, commercial fishing for sandeel has been prohibited in the Firth of Forth (North Sea, Scotland) given studies demonstrating the link between low sandeel availability and the poor breeding success of the black-legged kittiwake (*Rissa tridactyla*).

### Baltic Sea

A multi-annual plan for the two cod stocks in the Baltic Sea has been in force since 2007 (Council Regulation (EC) No 1098/2007<sup>14</sup>). As well as setting the appropriate levels of TAC, the plan also restricts fishing effort in terms of numbers of days of absence from port. The effort observed since the implementation of the cod plan has demonstrated effective year on year reductions in total effort deployed<sup>15</sup>.

Cod fisheries in the Baltic are also regulated by seasonal closures in order to protect spawning aggregations of cod in an environment where salinity and oxygen in-flow from the North Sea determine successful cod egg survival. In the Eastern Baltic (ICES sub-divisions 24-32) since 2005 a closure for all fisheries at all times in specific areas of the Bornholm Deep, the Gotland Basin and the Gdansk Deep has been in place with the aim of reducing fishing mortality.

Capacity has been capped at 2005 levels for cod fisheries. Capacity has also been substantially reduced, resulting in reductions in some Baltic countries in excess of 30%<sup>16</sup>.

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<sup>11</sup> Council Regulation (EC) No 676/2007 of 11 June 2007 establishing a multiannual plan for fisheries exploiting stocks of plaice and sole in the North Sea; OJ L 157, 19.6.2007, p. 1.

<sup>12</sup> Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing Regulation (EC) No 423/2004; OJ L 70, 9.3.2004, p. 8.

<sup>13</sup> Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required; OJ L 22, 26.1.2009, p. 1.

<sup>14</sup> Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97; OJ L 248, 22.9.2007, p. 1.

<sup>15</sup> [https://stecf.jrc.ec.europa.eu/c/document\\_library/get\\_file?p\\_l\\_id=53314&folderId=133326&name=DLFE-12703.pdf](https://stecf.jrc.ec.europa.eu/c/document_library/get_file?p_l_id=53314&folderId=133326&name=DLFE-12703.pdf)

<sup>16</sup> <http://ec.europa.eu/fisheries/fleet/index.cfm?lg=en>

There has been a noticeable improvement in the control of Baltic Sea cod fisheries. During 2000 to 2007 industry and enforcement sources indicated that catches were around 32 - 45% higher than the reported figures. Since 2008 unreported landings have been reduced to less than 7% of reported landings<sup>17</sup>. The use of Joint Deployment Programmes of inspectors from across the Baltic Member States is considered to have contributed to this.

In line with the generalised approach to long-term management plans a first proposal for a multi-species approach is currently under preparation for the long-term management of Baltic cod, herring and sprat.

Various technical measures have been adopted to ensure the greater responsiveness of Baltic Sea fisheries to on-going developments in the knowledge and status of fish stocks and of their broader ecosystems. These include the prohibition of high-grading, the establishment of minimum landing sizes as well as restrictions on the fishing for certain species whether temporal (e.g. flounder and turbot) or linked to specific gears (e.g. eels, electro fishing, with explosives and/or chemicals), as well as other more targeted measures. These measures are included in Council Regulation (EC) No 2187/2005<sup>18</sup>.

Significant work has been undertaken over the past decade to pursue increased selectivity in Baltic cod fisheries. The latest modifications to the gears allowed were adopted in 2010 (Commission Regulation (EU) No 686/2010<sup>19</sup>). A further study is underway on collaboration between the scientific community and the fishing sector on how to further minimize discards in Baltic cod fisheries. It will be finalised in 2013.

#### European Western Waters

Multi-annual management is also well established for the stocks exploited in the European western waters. West of Scotland and Irish Sea cod are regulated together with the North Sea, Skagerrak and Kattegat stocks under Regulation (EC) No 1342/2008 (see above). In addition, key stocks such as those of hake (north<sup>20</sup> and south<sup>21</sup>), sole (Bay of Biscay<sup>22</sup> and the western Channel<sup>23</sup>) and herring (West of Scotland<sup>24</sup>, Celtic Sea<sup>25</sup>) are managed in accordance with

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<sup>17</sup> [https://stecf.jrc.ec.europa.eu/c/document\\_library/get\\_file?p\\_l\\_id=53322&folderId=254315&name=DLFE-15301.pdf](https://stecf.jrc.ec.europa.eu/c/document_library/get_file?p_l_id=53322&folderId=254315&name=DLFE-15301.pdf) and [https://stecf.jrc.ec.europa.eu/c/document\\_library/get\\_file?p\\_l\\_id=53310&folderId=252974&name=DLFE-15303.pdf](https://stecf.jrc.ec.europa.eu/c/document_library/get_file?p_l_id=53310&folderId=252974&name=DLFE-15303.pdf)

<sup>18</sup> Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98; OJ L 349, 31.12.2005, p. 1.

<sup>19</sup> Commission Regulation (EU) No 686/2010 of 28 July 2010 amending Council Regulation (EC) No 2187/2005 as regards specifications of Bacoma window and T90 trawl in fisheries carried out in the Baltic Sea, the Belts and the Sound; OJ L 199, 31.7.2010, p. 4.

<sup>20</sup> Council Regulation (EC) No 811/2004 of 21.4.2004 establishing measures for the recovery of the Northern hake stock.

<sup>21</sup> Council Regulation (EC) No 2166/2005 of 20 December 2005 establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula and amending Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms

<sup>22</sup> Council Regulation (EC) No 388/2006 of 23 February 2006 establishing a multiannual plan for the sustainable exploitation of the stock of sole in the Bay of Biscay

<sup>23</sup> Council Regulation (EC) No 509/2007 of 7 May 2007 establishing a multi-annual plan for the sustainable exploitation of the stock of sole in the Western Channel

<sup>24</sup> Council Regulation (EC) No 1300/2008 of 18 December 2008 establishing a multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock.

long-term harvesting rules. The Commission has made further proposals to regulate two other stocks of high economic importance, namely the western stock of horse mackerel<sup>26</sup> and the stock of anchovy in the Bay of Biscay<sup>27</sup>. These proposals are still under discussion between the European parliament and the Council of Ministers. The annual fishing opportunities decisions taken since their tabling have followed the harvesting rules as proposed.

### Mediterranean Sea

In the Mediterranean Sea the EU is bound to apply the decisions adopted by ICCAT and GFCM. This concerns in particular the bluefin tuna recovery plan adopted in 2006 and amended and reinforced since then. The plan was established to address the significant over capacity of fleets fishing bluefin tuna as well as the high level of non-compliance with ICCAT conservation and management measures. The plan has, and continues to be transposed into EU legislation<sup>28</sup> and has been complemented by a control and inspection programme which defines objectives and priorities and benchmarks. The multi-annual recovery plan which continues to be reinforced provides a system of TACs and a suite of monitoring and control measures which are binding for contracting parties. These provisions are contributing to enhanced levels of catch monitoring, allowing the Commission and/or Member States to close fisheries where the risk of overfishing is detected. The plan has contributed to progressively reduce overcapacity of fishing fleets notably purse-seiners and a significantly reduce non-compliance with ICCAT provisions. Specific conservation measures have also been reinforced for the Mediterranean swordfish, in particular by extending a seasonal fishing ban and ring-fencing the pelagic long-line fisheries.

Purely at EU level, the Mediterranean Regulation<sup>29</sup> is the first example of EU legislation regarding fishery matters, where environmental concerns have been substantially integrated. Moreover, with a view to elicit bottom-up approaches and greater participation of stakeholders, a more decentralized decision-making approach, through the development of national multiannual management plans has been implemented. Mapping and monitoring of sensitive habitats (*mäerl*, *coralligenous* and seagrass beds) to be protected from certain fishing activities is a specific requirement.

### **C. Measures in force in order to guarantee the long-term sustainability of certain deep sea fish stocks**

Since 2002 the Union has in place a specific access regime (Council Regulation (EC) No

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<sup>25</sup> Agreed harvesting rules embedded in a joint Council and Commission Statement to the Minutes of the December 2009 Fisheries Council.

<sup>26</sup> COM(2009)189 final - Proposal for a Council Regulation establishing a multi-annual plan for the western stock of Atlantic horse mackerel and the fisheries exploiting that stock.

<sup>27</sup> COM(2009)399 final - Proposal for a Council Regulation establishing a long-term plan for the anchovy stock in the Bay of Biscay and the fisheries exploiting that stock.

<sup>28</sup> First by Council Regulation (EC) N° 1559/2007 of 17 December, O.J. L 340 of 22.12.2007 and lately by Council Regulation (EC) N° 302/2009 of 6 April 2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, amending Regulation (EC) N° 43/2009 and repealing Regulation (EC) N° 1559/2007; O.J. L 96; 15.04.2009

<sup>29</sup> Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) N° 2847/93 and repealing Regulation (EC) N°1626/94; O.J. L36 of 8.02.2007

2347/2002<sup>30</sup>) for fishing vessels engaged in deep-sea fisheries of the North-East Atlantic, made of four components: capacity restriction, data collection, effort monitoring and control. In parallel, fishing opportunities (TACs) for EU vessels to fish certain deep-sea species are fixed on a biannual basis based on the latest scientific advice from ICES (Regulation (EC) No 1225/2010<sup>31</sup>).

There are several technical measures spread over different EU legislative acts affecting the concerned EU operators involved in deep sea fishing activities, most of them having entered into force before 2008. EU fishing vessels activity is also bound by the NEAFC recommendations in force concerning certain deep seas fish stocks (elasmobranches and other). Since 2009, in order to protect the spawning aggregations of blue ling, it is prohibited during a certain period to retain on board any quantity of blue ling in excess of 6 tonnes per fishing trip of EU vessels. There are other consequent rules in application<sup>32</sup>. In 2011 and with the same aim, a new seasonal sunset closure was established in a small area of the Reykjanes ridge<sup>33</sup>.

Blue ling and other deep sea species are also under TAC regime both in NEAFC and EU waters on the basis of the available scientific advice. As for the orange roughy, ICES advised no directed fishery should be allowed and consequently a zero TAC fixed by the Union since 2010<sup>34</sup>.

Concerning deep sea sharks, the main commercial species are considered depleted, and therefore no directed fishing should take place. Since 2012 in the EU deep sea sharks are under zero TAC and by-catches are not allowed.

#### **D. Developments on efforts to establish marine protected areas for fisheries purposes**

Under Council Directive 92/43/EEC<sup>35</sup> (on the conservation of natural habitats and of wild fauna and flora) as well as Directive 2009/147/EC<sup>36</sup> of the European Parliament and of the Council (on the conservation of wild birds); the designation and establishment of management measures for marine protected areas within the European "NATURA 2000" network is the competence of EU Member States. Nonetheless, the adoption of universally applicable fisheries management measures in marine sites is subject to the rules of the European Union common fisheries policy. The "NATURA 2000" network applies in both the territorial and EEZ waters of the EU.

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<sup>30</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, 28.12.2002, p. 6.

<sup>31</sup> Council Regulation (EU) No 1225/2010 of 13 December 2010 fixing for 2011 and 2012 the fishing opportunities for EU vessels for fish stocks of certain deep-sea fish species; OJ L 336, 21.12.2010, p. 1.

<sup>32</sup> If a vessel reaches 6 tonnes of blue ling during a fishing trip, shall immediately cease fishing and exit the area in which it is present, may nor re-enter the area until its catch have been landed and may not return to the sea any quantity of blue ling.

<sup>33</sup> Both in NEAFC and EU legal framework (Point 7.6 of Annex III of Council Regulation (EC) No 43/2009)

<sup>34</sup> Until 2011 it was prohibited to target the fishery to catch orange roughy in certain areas (others areas under TAC regime). Notwithstanding, NEAFC has failed to agree as for 2012, mainly due to the existence of a directed fishery in the Feroe Island.

<sup>35</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora; OJ L 206, 22.7.1992, p. 7.

<sup>36</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds; OJ L 20, 26.1.2010, p. 7.

In line with this, by Commission Decision 2008/914/EC measures proposed by the Netherlands for the conservation of marine ecosystems in the Voordelta area were confirmed in 2008. The measures concern the restriction of trawling and the use of gillnets and trammel nets for the protection of seabirds (Eider duck (*Somateria mollissima*), Sandwich (*Sterna sandvicensis*) and common tern (*Sterna hirundo*), Common scoter (*Melanitta nigra*)), the Common seal (*Phoca vitulina*) and the shallow sandbank habitats.

Fisheries management measures for a host of marine Natura 2000 sites by the Netherlands, the United Kingdom, Belgium, Germany and Denmark are being developed since 2011. Relevant Member States cooperate also for the development of proposed fisheries management measures for the sandbank habitat of the Dogger Bank<sup>37</sup>.

The Baltic Sea was the first marine region in the world to achieve the target set by the CBD WSSD and CBD decision (VII/30) calling for the effective conservation of at least 10% of each of the world's marine ecological regions by 2012. By February 2010, 159 protected areas (or 10.3% or 42.823 km<sup>2</sup>) of the Baltic marine area had been officially designated under the Helsinki Convention (HELCOM) Baltic Action Plan<sup>38</sup>. Combined with the sites designated part of the EU's NATURA 2000 network (see above), this amounted to 12% of the Baltic Sea.

Moreover, the Mediterranean Regulation<sup>29</sup> sets a procedure calling to create protected areas for fisheries purposes in addition to what was already implemented before 2007 (namely "fishing protected areas-FPAs"). Since protection of the marine ecosystems may be one out of other objectives of these protected areas, the establishment of the FPAs may also backup the "NATURA 2000" network under the Habitat Directives.

#### **E. Protecting vulnerable marine ecosystems, including seamounts, hydrothermal vents and coral waters**

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. This applies also to RFMO/A measures 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

<sup>37</sup> <http://jncc.defra.gov.uk/page-4534#DoggerBank>; <http://www.noordzeenatura2000.nl/en/sites/dogger-bank.html>; <http://www.bfn.de/habitatmare/de/schutzgebiet-doggerbank.php>

<sup>38</sup> HELCOM 2010 Towards an ecologically coherent network of well-managed Marine Protected Areas – Implementation report on the status and ecological coherence of HELCOM BSPA network. Balt. Sea Environ. Proc. N°1248

fishing activities: North-East Atlantic Fisheries Commission (NEAFC); North-West Atlantic Fisheries Organisation (NAFO); South Pacific Regional Fisheries Management Organisation (SPRFMO); Convention on Conservation of Antarctic Marine Living Resources (CCAMLR); General Fisheries Commission for the Mediterranean (GFCM); South-East Atlantic Fisheries Organisation (SEAFO); South Indian Ocean Fisheries Agreement (SIOFA).

In 2008 the Council adopted Regulation (EC) No 734/2008<sup>39</sup> on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears, thus transposing UNGA Resolution 61/105 into EU law. 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.

In EU waters there are not specific rules as for the contents in the paragraph above, with the exception of the banned gears in waters deeper than 200m, although there is derogation in force<sup>40</sup>.

Regulation (EC) No 734/2008 will be amended to take into account the latest developments at the UN GA, the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas, the latest available information as well as the lessons learnt from past experience.

## **F. Achieving sustainable aquaculture**

Sea water and fresh water aquaculture plays an important role in numerous Member States. The importance of aquaculture has been acknowledged by the Commission Communication<sup>41</sup> on Building a Sustainable Future for Aquaculture. In this Communication the Commission examined the root causes of the stagnation in EU aquaculture production.

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<sup>39</sup> Council Regulation (EC) No 734/2008 of 15 July 2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears; OJ L 201, 30.7.2008, p. 8.

<sup>40</sup> Point 9 of Annex III to Regulation (EC) No 43/2009.

<sup>41</sup> COM(2009) 162 final, Communication from the Commission to the European Parliament and the Council, Building a sustainable future for aquaculture, A new impetus for the Strategy for the Sustainable Development of European Aquaculture.

The proposal for the reform of the CFP takes this analysis a step further and intends to promote a collaborative approach among Member States to remove unnecessary administrative burdens, address difficulties to access space, and introduce measures to improve the competitiveness of sustainable EU aquaculture and promote on the market its high value production. On the basis of this process the Commission will issue, in 2013, strategic guidelines for a sustainable aquaculture.

#### **IV. Measures to address unsustainable fishing activities**

##### **A. Illegal, unreported and unregulated fishing (IUU)**

###### **a. Background**

In view of the high level of IUU fishing in the world and the responsibility the EU has to assume as a key player in global fisheries, the EU decided to take action in addition to international regional and international efforts to stop this harmful activity. Based on the FAO International Plan of Action against IUU fishing of in 2001, Council Regulation (EC) 1005/2008<sup>42</sup> to prevent, deter and eliminate IUU fishing (the IUU Regulation) was adopted on 29 September 2008 and entered into force on 1 January 2010. This Regulation aims at preventing the marketing of IUU products in the EU and thereby cutting off profit for illegal operators.

The system requires that all fishery products entering the EU must be accompanied by a catch certificate which is validated by a competent public authority of the flag State of the vessel catching the fish. Through this instrument, the competent authorities of the flag State will validate that the catches concerned have been made in accordance with applicable laws, regulations and international conservation and management measures. Products which are not accompanied by a catch certificate will be denied entry to the EU. The Regulation requires all flag States to take responsibility as a flag State as failure may result in a ban of import and corrective measures. In addition, vessels which are not sanctioned for their illegal activities by the relevant States risk ending up on the EU IUU vessel list, which may include both EU and non EU vessels. Countries which fail to adhere to their responsibility, established by international Law, as a flag, coastal, port or market State and refuse to cooperate in the fight against IUU fishing risk being listed as non-cooperating and no longer be able to trade fish with the EU.

The Regulation also comprises provisions on port State control, mutual assistance and a Community alert system.

The fight against IUU fishing has high political support at all levels in the EU. For instance, the European Parliament adopted a report<sup>43</sup> on "*Combating Illegal Fishing at the Global*

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<sup>42</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999; OJ L 286, 29.10.2008, p. 1.

<sup>43</sup> P7\_TA(2011)0516: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0516+0+DOC+XML+V0//EN>

*Level – the role of the EU*”, supporting, amongst others, the full implementation of the EU IUU Regulation.

#### **b. Actions – before and after the entry into force of the IUU Regulation**

In the preparatory phase, the Commission informed all third countries which resulted in notifications from 90 flag States. 15 additional countries informed that they would not notify due to no trade with the EU or no seagoing vessels. Another 10 flag States submitted notifications which are still not complete (May 2012).

EU Member States have also been required to notify their competent authorities for the purpose of validation of catch certificates and verification on incoming consignments with catch certificates as well as for exports of EU catches or re-exports of previously imported catches.

Since 2010, the cooperation with flag States, coastal States, processing States and market States and civil society has increased considerably, making it more difficult for illegal operators to sell their products in the EU. The Commission is currently conducting an extensive investigative work with flag States and coastal States of both third country and EU vessels. This has in some cases contributed to coastal and flag States taking action against vessels fishing in its waters, such as removal of licenses or heavy fines.

The Commission and Member States have increased the use of tools foreseen in the EU IUU Regulation (e.g. mutual assistance system, exchange of information, risk management and cooperation between Member States, verification of catch certificates issued by third countries etc.).

On the international level the increased political focus is reflected by the signing of a Joint Statement in September 2011 between the United States of America and the European Union on increased cooperation in the fight against IUU fishing. Also at the international level the EU is promoting the adoption of IUU measures in RFMO's, including global catch documentation schemes. The Commission cooperates administratively with third countries on the implementation of the IUU Regulation and fisheries governance. In addition, the Commission has since 2010 a programme of technical assistance of developing countries where external consultants help countries understand the principles of the EU IUU Regulation and assist countries in assessing their systems.

#### **B. EU fisheries control system**

The EU reformed fundamentally its fisheries control system by adopting Council Regulation (EC) No 1224/2009 establishing a new all-encompassing European Union control system for ensuring compliance with the rules of the Common Fisheries Policy in October 2009 and its Implementing Regulation (EU) No 404/2011 in April 2011 to remedy any deficiencies of the previous control system and ensure the full implementation of Common Fisheries Policy's rules. The system is designed to foster compliance with the rules of the Common Fisheries Policy and ensure a level playing field for fishermen and other operators and to ensure the same control standards by authorities. For this purpose the new control system is making a wide use of modern technologies and is generally based on a risk based approach allowing

targeting irregularities in a more resource efficient manner.

- The new control system ensures a better monitoring of the fleet through the use of new technologies. All vessels above 10 m must keep a logbook; all vessels above 12 m must keep it and report it in electronic form. It also subjects all vessels above 12 m to a satellite-based Vessel Monitoring System.
- The EU control system has introduced a traceability system for the whole market chain from 'net to plate', covering every stage where the fish is caught, landed, brought to market and sold. Part of this system is the systematic transmission of sales notes electronically for buyers with a yearly turnover in first sales of fisheries products of 200,000 EUR and the possibility to identify the origin of the fisheries products at any stage of the production down to the final consumer.
- In order to improve the management of both the overall fleet capacity and effort regimes that apply in certain fisheries the Control Regulation foresees the systematic certification of new, replaced and technically modified engines whose propulsion engine power exceeds 120 kW. The whole fleet is subject to the verification of engine power, including physical checks.
- The new Control Regulation also lays down common principles for the establishment of sanctions for infringements of Common Fisheries Policy rules. The overall level of sanctions is to be calculated in such a way as to make sure that they effectively deprive the offenders of the economic benefit derived from their infringements. They must be of a nature as to discourage further offences of the same kind. To facilitate the planning of control activities Member States have to set up a national register for inspection and surveillance reports and for infringements.
- The Regulation lays down a point system for serious infringements both for fishing licences and masters.
- The Regulation also includes a number of measures to ensure that Member States enforce the rules of the CFP, and to protect stocks from overfishing. For instance, quotas are reduced in case of overutilization in a previous year of fishing opportunities.. Financial assistance might be withheld if non-compliance by a Member State may lead to a serious threat for conservation or the effective operation of the fisheries control system.
- The management of fisheries related data has been newly organised with common standards in all Member States, systematic data exchanges between Member States in real time and access for the European Commission to the databases of Member States. The reliability of the data of all fisheries control related data sources will be strengthened by systematic cross-checks by means of a computerised data validation system as from 2014 allowing for easier identification of irregularities and ensuring a good data quality both for fisheries management and science.

To encourage closer collaboration and exchange of best practice, the European Union created the European Fisheries Control Agency (EFCA)<sup>44</sup>. EFCA is a European Union body which organises operational coordination of fisheries control and inspection activities by the Member States and assists them to cooperate so as to comply with the rules of the Common EU Fisheries Policy in order to ensure its effective and uniform application. EFCA organises joint control campaigns, where inspectors from different EU countries join forces.

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<sup>44</sup> Council Regulation (EC) No 768/2005, of 26 April 2005, establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p.1); amended by: Council Regulation (EC) No 1224/2009 of 20 November 2009 (OJ L 343, 22.12.2009, p.1).

Furthermore, EFCA provides training for Member States authorities on the application of EU fisheries legislations.

### **C. Trade and sustainable development**

With regard to sustainable fisheries, trade negotiations can make an important contribution. This is why the EU, in the framework of preferential trade agreements, negotiates provisions aimed at improving environmental behaviour in the "Trade and Sustainable Development" chapters. In that framework the EU insists that trade partners adhere to the relevant international conventions and agreements in the area of maritime governance (UN Convention on the Law of the Sea, UN Fish Stocks Agreement, FAO Code of Conduct on Responsible Fisheries, FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, participation in and/or cooperation with relevant Regional Fisheries Management Organisations). Since 2008 specific provisions have been negotiated with Eastern African ACP countries in the framework of Economic Partnership Agreements, with Peru and Colombia, Central America and Ukraine. In all ongoing free trade negotiations the EU pursues the conclusion of a Trade and Sustainable development chapter which would include good governance principles in the fisheries area.

The EU is at present close to the adoption of a regulation setting up a decisional framework for the adoption of measures, including trade restrictions and restrictions in the provision of services, targeting countries that allow non-sustainable fishing on stocks whose management responsibility is shared between those countries and the EU. This regulation will aim at keeping fish stocks in good conservation shape and will complement the measures adopted to combat IUU fishing.

### **V. International cooperation to promote sustainable fisheries**

In view of its role as an important global player in fisheries and as market "state", the EU is fully committed to promote conservation and sustainable management of international fish stocks through strengthened global fisheries governance and intensified dialogue with neighbours and key partners. In that vein the European Commission has adopted in July 2011 a Communication on the External Dimension of the Common Fisheries Policy. It outlines EU actions aimed at transforming bilateral dialogues into working partnerships, fighting IUU, upholding and strengthening the global architecture for fisheries governance, enhancing the performance of RFMOs and reinforcing the governance of bilateral fisheries agreements, including more effective support for sustainable fisheries in partner countries. It also pledges for greater synergies between EU actions and policies in the realm of international fisheries governance and the domains of development, trade, environment, research and innovation, foreign policy and others. The EU member states have endorsed this vision by virtue of Council Conclusions of March 2012, effectively granting the Commission a mandate for bold action covering the entire spectrum of external fisheries policies. In this context, Member States have insisted that bilateral relations are guided by the duty to cooperate for states the fleets of which exploit the same straddling or highly migratory fish stocks in order to conserve and manage those stocks in a sustainable way.

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As demonstrated by this report, The EU is working hard to live up to international commitments, including those arising from Johannesburg, etc. In the same vein, on the third UN Conference on Sustainable Development that will take place in Rio de Janeiro from 20 to 22 June, the EU is fully committed to play a key role for securing renewed political commitment for sustainable development and to set an ambitious green economy roadmap for specific goals, targets and actions at international, regional and national level.