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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	12801/12 PECHE 288 CODEC 1959 - COM(2012) 371 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions for fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic and repealing Regulation (EC) No 2347/2002

Delegations will find in Annex the final compromise text on the abovementioned proposal for a Regulation, as a result of the informal trilogue held on 30 June 2016 and as endorsed in the European Parliament's Committee on Fisheries in its meeting of 12 July 2016.

(...) REGULATION (EU) 2016/...

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing specific conditions for fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic and repealing Regulation (EC) No 2347/2002

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

- (1) Regulation (EU) No 1380/2013 of 11 December 2013 on the Common Fisheries Policy¹ requires that fishing activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supply. The Common Fisheries Policy should apply the precautionary as well as the ecosystem-based approach to fisheries management so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised and to endeavour to ensure that fisheries activities avoid the degradation of the marine environment. In this context, Articles 2(2), 7 and 20 and 22 of that Regulation are also of particular relevance.

¹ OJ L 358, 31.12.2002, p. 59.

- (2) The Union is committed to implement the Resolutions adopted by the General Assembly of the United Nations, in particular Resolutions 61/105 and 64/72, which call on States and Regional Fisheries Management Organisations to ensure the protection of vulnerable deep-sea marine ecosystems from the impact of bottom fishing gears, as well as the sustainable exploitation of deep-sea fish stocks.
- (3) The Commission evaluated Regulation (EC) No 2347/2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks. The Commission found in particular, that the scope of the fleet concerned was too large, that there was guidance lacking on control in designated ports and on sampling programmes, and that the quality of Member States' reporting of effort levels was too variable. Furthermore, the Commission evaluation concluded that the capacity ceiling, consisting of the aggregate capacity of all the vessels that caught more than 10 tonnes of any mixture of deep sea species in any of the years 1998, 1999 or 2000 and applicable since 2002, had no substantial positive effect. The capacity ceiling regime should therefore be updated as part of the measures to remedy the shortcomings identified in Regulation (EC) No 2347/2002
- (4) For the purpose of maintaining necessary reductions in fishing capacity in deep-sea fisheries and in order to obtain more comprehensive information about the deep-sea fishing activities and their impact on marine environment, it is appropriate to provide that fishing for deep-sea species is subject to a fishing authorisation. Each application for a fishing authorisation should be accompanied by a detailed description of the intended fishing area, including ICES and CECAF subareas, divisions and subdivisions, as well as the type of gears, the intended depth range, the intended frequency and duration of the fishing activity and the names of deep-sea species concerned.

The system of fishing authorisations should also contribute to the limitation of the capacity of vessels eligible to fish for deep-sea species. With a view to focusing management measures on the part of the fleet that is the most relevant for deep-sea fisheries, the fishing authorisations should be issued according to whether they relate to target or by-catch fishery. The application of the landing obligation established in Regulation (EU) No 1380/2013 of the European Parliament and of the Council should, however, not prevent vessels that catch a small quantity of deep-sea species and that are not currently subject to a deep-sea fishing permit, from continuing their traditional fishing activities.

- (5) Holders of a fishing authorisation allowing the catch of deep-sea species should cooperate in scientific research activities leading to an improvement in the assessment of deep-sea stocks and research into deep-sea ecosystems.
- (6) In order to further enhance the protection of the marine environment, it is appropriate to allow targeted fishing activities only in the areas where deep-sea fishing activity has occurred during the reference period 2009-2011. However, for the purpose of a conduct of exploratory fisheries, vessels targeting deep-sea species may fish beyond the existing fishing area provided that according to an impact assessment carried out in accordance with FAO guidelines, the extension of the fishing area does not carry a significant risk of negative impact on vulnerable marine ecosystems.
- (7) Deep-sea fishing with bottom trawls carries a higher risk for vulnerable marine ecosystems among the different gears used and reports the highest rates of undesired catch of deep-sea species. In order to minimise negative impacts of such deep-sea fishing activities on the marine ecosystem, it is appropriate that fishing with bottom trawls is limited above a particular depth and that fishing with bottom gears is subject to specific requirements for the protection of vulnerable marine ecosystems. The use of bottom gears should furthermore be subject to an evaluation after 4 years from the entry into force of this Regulation. In addition, bottom-set gillnets are currently restricted in entering deep-sea fisheries by Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011¹³.

- (8) In order to mitigate potential damaging impacts of bottom trawling, it is appropriate to permit fishing with bottom trawls only at or above the depth of 800m. This limit is building on existing industry-led voluntary measures that is applied in the Union waters and takes into account the specificities of the deep-sea fishery in the Union waters.
- (9) In order to minimise the impact of fishing activities occurring in deep sea waters on vulnerable marine ecosystems (VME), it is appropriate to provide a set of measures aiming at reducing VME encounters. In particular, a move-on rule and a reporting obligation should apply where a VME encounter occurs. Furthermore, a list of VME areas should be established where the fishing with bottom gears should be prohibited.
- (10) Given that biological information can best be collected by way of harmonised data collection standards, it is appropriate to integrate data collection on deep-sea métiers into the general framework of scientific data collection, while ensuring the provision of additional information necessary to understand the dynamics of the fisheries. Funding for the collection of data under this regulation is available under the terms and principles of the Regulation on the data collection framework.
- (11) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy² lays down more stringent control and enforcement requirements that apply in specific circumstances. Deep-sea species, by nature vulnerable to fishing, should thus receive an increased attention in terms of control. It is also appropriate to provide specific cases of infringement of CFP rules that should lead to a withdrawal of the fishing authorisation.

² OJ L 343, 22.12.2009, p. 1.

- (12) The Convention on future multilateral cooperation in the North-East Atlantic fisheries was approved by Decision 81/608/EEC and entered into force on 17 March 1982. That convention provides for an appropriate framework for multilateral cooperation on the rational conservation and management of fishery resources in international waters of the North-East Atlantic. Management measures adopted in NEAFC comprise a specific system of measures for the protection of vulnerable marine ecosystems in the NEAFC Regulatory Area. However, in order to ensure continuity of the current *modus operandi* by EU vessels in NEAFC waters, the currently applicable rules of Regulation (EC) 2347/2002 concerning the deep-sea fishing permit, designated ports, and communication of information by the Member States should continue to apply to deep-sea fishing activities in the NEAFC Regulatory Area. Moreover, in order to continue improving the scientific knowledge about these stocks, and as the NEAFC Recommendation does not include an observer coverage, it is appropriate to apply the same observer coverage in all areas in the North Sea and CECAF where fishing for deep-sea species occurs.
- (13) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of VME indicator species in Annex III for the purpose of aligning that list to the latest scientific advice. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (14) In order to ensure uniform conditions for the implementation of this Regulation in respect of the determination of the existing fishing areas, the approval of exploratory deep-sea fisheries and the establishment and adaptation of the list of areas where VMEs are known to occur or are likely to occur, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) 182/2011 of the European Parliament and of the Council.
- (15) It is therefore necessary to put in place new rules to regulate fishing for deep-sea stocks in the Union waters of North-East Atlantic and in the international waters within the area of competence of the Fishery Committee for Eastern and Central Atlantic.

Article 1

Objectives

This Regulation shall contribute to the achievement of the objectives listed in Article 2 of Regulation (EU) 1380/2013 as far as deep-sea species and habitats are concerned. In addition, it shall aim at:

- (a) improving the scientific knowledge on deep-sea species and their habitats;
- (b) to prevent significant adverse impacts on vulnerable marine ecosystems within the framework of deep sea fishing and ensure the long-term conservation of deep sea fish stocks;
- (c) ensuring that the Union measures aiming at the sustainable management of deep-sea fish stocks are consistent with Resolutions adopted by the General Assembly of the United Nations, in particular Resolutions 61/105 and 64/72;

Article 2

Scope

1. This Regulation applies to fishing activities or intended fishing activities in the following waters:
 - (a) by Union fishing vessels and third-country fishing vessels in Union waters of the North Sea, of the North Western waters and of the South Western waters as well as Union waters of ICES zone IIa;
 - (b) by Union fishing vessels in international waters of CECAF areas 34.1.1, 34.1.2 and 34.2
2. Paragraph 1 is without prejudice to Article 15(5) of this Regulation.

Article 2a (new)

Material scope of application

1. This Regulation shall apply to species that occur in deep-sea waters and that are characterised by a combination of the following biological factors: maturation at relatively old ages, slow growth, long life expectancies, low natural mortality rates, intermittent recruitment of successful year classes and spawning that may not occur every year, (hereinafter "deep-sea species").
2. For the purpose of this Regulation, deep-sea species and, among them, most vulnerable species are identified in Annex I to this Regulation.

Article 3

Definitions

1. For the purposes of this Regulation, definitions referred to in Article 4 of Regulation (EU) No 1380/2013 and Article 2 of Council Regulation (EC) No 734/2008³ shall apply.
2. In addition, the following definitions shall apply:
 - (a) "ICES zones" means the zones defined in Regulation (EC) No 218/2009 of the European Parliament and of the Council⁴;
 - (b) "CECAF areas" means the areas defined in Regulation (EC) No 216/2009 of the European Parliament and of the Council⁵;
 - (c) "Regulatory Area of the NEAFC" means the waters subject to the Convention on future multilateral cooperation in North-East Atlantic fisheries which lie beyond the waters under the fisheries jurisdiction of the contracting parties to that Convention;
 - (d) "most vulnerable species" means the deep-sea species that are indicated in the third column 'Most vulnerable (x)' of the table in Annex I;
 - (e) "métier" means fishing activities targeting certain species by a certain gear in a certain area;
 - (f) "deep-sea métier" means a métier that targets deep-sea species according to the indications laid down in Article 4(2) of this regulation;
 - (g) "fisheries monitoring centre" means an operational centre established by a flag Member State and equipped with computer hardware and software enabling automatic data reception, processing and electronic data transmission;

³ OJ L 201, 30.7.2008, p. 8.

⁵ OJ L 87, 31.3.2009, p. 1.

- (h) "encounters" means catches of such quantities of vulnerable marine ecosystem indicator species that are above threshold levels set out in Annex IV of this Regulation.
- (i) "unintended catches" means incidental catches of marine organisms which, under Article 15 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council (*), must be landed and counted against quotas either because they are below the minimum conservation reference size or because they exceed the quantities permitted under the catch composition and by-catch rules.
- (j) "VME indicators" are those included in Annex III to this regulation.
- (k) "existing deep sea fishing areas" means the portion of the area defined in Article 2(a), where deep sea fishing activities have historically occurred and that is defined in accordance with Article 6.

Article 4

Fishing authorisations

1. Fishing activities targeting deep-sea species shall be subject to a fishing authorisation (hereinafter the "targeting fishing authorisation"). The targeting fishing authorisation shall indicate the deep-sea species that the vessel is authorised to target.
2. For the purposes of paragraph 1, a fishing vessel carrying out a fishing activity is deemed to target deep-sea species:
 - (i) if its communications about catches (in the logbook, landing declarations, sales notes or similar document) in a calendar year concerned contain at least 8% of deep-sea species per any fishing trip, and
 - (ii) with the exception of fishing vessels for which the overall recording of deep-sea species in the calendar year concerned is less than 10 tonnes. This is without prejudice to paragraph 6 of this Article,

3. Fishing activities of fishing vessels that, although not targeting deep-sea species, catch deep-sea species as a by-catch, shall be subject to a fishing authorisation (hereinafter the “by-catch fishing authorisation”). The by-catch fishing authorisation shall indicate the deep-sea species that the vessel may encounter as by-catch while targeting other species.
4. The two types of fishing authorisations referred to in paragraphs 1 and 3 respectively shall be clearly distinguishable in the electronic database referred to in Article 116 of Regulation (EC) No 1224/2009.
5. Fishing vessels not holding any fishing authorisation under this Article shall be prohibited from fishing for deep-sea species in excess of 100 kg in each fishing trip. Deep-sea species caught in excess of 100 kg by such vessels shall not be retained on board, trans-shipped or landed, except for unintended catches of deep-sea species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013 which shall be landed and counted against quotas.
6. A fishing vessel holding a by-catch authorisation and having access to a quota for by-catches of deep-sea species that exceeds by no more than 15% the threshold of 10 tonnes set out in paragraph 2, shall not be considered to be targeting deep-sea species. It shall land such catches and count them against quota. Unintended catches of deep-sea species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013 shall be landed and counted against quotas.
7. This Regulation shall apply *mutatis mutandis* to issuance of fishing authorisations to third-country fishing vessels pursuant to Regulation (EC) 1006/2008.

Article 5

Capacity management

1. The aggregate fishing capacity measured in gross tonnage and in kilowatt of all Union fishing vessels to whom a Member State has issued a targeting fishing authorisation shall at no time exceed the aggregate fishing capacity of the vessels of that Member State, during 2009-2011, whichever year provides the higher figure:
 - (a) which have caught 10 tonnes or more of deep-sea species during any of the three calendar years 2009-2011, whichever year provides the higher figure; and
 - (b) which are registered in any of the outermost regions, within the meaning of Article 349 TFEU, of that Member State and where the catches of deep-sea species of each such vessel in any of the three calendar years 2009-2011 constituted at least 10% of their total yearly catches , whichever year provides the higher figure.
2. By derogation from paragraph 1(a), where a Member State has been allocated fishing opportunities for species listed in Annex I before the entry into force of this Regulation, but its vessels have not caught 10 tonnes or more of deep-sea species in any of the reference years, the aggregate fishing capacity of such Member State shall at no time exceed the aggregate fishing capacity of its vessels in any of the three latest years in which at least one of its vessels caught 10 tonnes or more of deep-sea species, whichever year provides the higher figure.

Article 6

Existing deep sea fishing area

1. No later than 6 months from the entry into force of this Regulation [to be inserted by the OJ], the Member States whose vessels have been granted a deep-sea fishing permit in accordance with Article 3(1) of Regulation (EC) No 2347/2002 where it relates to fishing activities by vessels catching more than 10 tonnes each calendar year, shall inform the Commission, by means of VMS records or other means of relevant and verifiable information, if the VMS records are not available of the locations of fishing activities for deep-sea species of such vessels during the reference calendar years 2009-2011.
2. On the basis of information provided under paragraph 1 as well as on the basis of the best available scientific and technical information, the Commission shall, no later than 1 year from the entry into force of this Regulation, determine, by means of an implementing act, the existing deep sea fishing area. Such implementing act shall be adopted in accordance with the examination procedure referred to in Article 17.

Article 7

General requirements for applications for fishing authorisations

1. Each application for a fishing authorisation shall be accompanied by a detailed description of the area where the fishing vessel intends to carry out fishing activities, the type of gears, the depth range at which the activities will be carried out, the intended frequency and duration of the fishing activity, as well as the names of deep-sea species concerned.
2. Targeting fishing authorisations shall only be issued for fishing activities within the existing deep sea fishing areas.

3. By way of derogation to paragraph 2, until the determination of the existing deep sea fishing areas in accordance with Article 6, targeting fishing authorisations may be issued provided that the fishing vessels has presented evidence that it had been exercising fishing activities in the deep sea métier during at least three years before the application for the fishing authorisation is lodged. Such fishing authorisation may be issued only in respect to locations where such previous fishing activities have been carried out.
4. No fishing authorisation shall be issued for the purpose of fishing with bottom trawls at a depth below 800 meters.
5. By way of derogation from paragraph 2, a Member State may submit a request to conduct exploratory fisheries in locations outside the existing deep-sea fishing areas. Such a request shall be accompanied by an impact assessment, which has been conducted in accordance with the standards set out in the 2008 FAO International Guidelines for the management of Deep-Sea Fisheries in the High Seas. When submitting such a request, the Member State shall indicate the estimated duration of exploratory fisheries and the estimated number of vessels taking part and their capacity. It shall propose mitigating measures to prevent an encounter with or effectively protect vulnerable marine ecosystems.
6. The Commission, after having assessed the information provided by the Member States and on the basis of advice from a scientific advisory body, may grant by means of an implementing act an approval to conduct the requested exploratory fisheries. In the approval the Commission may in particular define:
 - (a) area for exploratory fisheries,
 - (b) maximum number of vessels and the maximum capacity
 - (c) duration of such fisheries not exceeding one year, renewable once,

- (d) maximum percentage of the total allowable catch of deep-sea species that may be caught in the exploratory fisheries, and
 - (e) mitigating measures that must be complied with in order to protect vulnerable marine ecosystems.
7. In order to ensure a collection of representative data that is adequate for the assessment and management of deep sea fish stocks and of encounters with vulnerable marine ecosystems, any fishing authorisation issued in accordance with paragraph 5 shall require the presence of scientific observers or remote electronic monitoring on the vessel concerned during the first 12 months of the duration of the fishing authorisation.
8. On the basis of a request and information provided by the Member State concerned, the Commission may adjust, by means of an implementing act, the determination of the existing deep sea fishing area in order to include the locations of the fishing activities conducted under a fishing authorisation issued in accordance with paragraphs 5 and 6.

Article 8

Specific requirements for the protection of vulnerable marine ecosystems

1. This Article shall apply to fishing operations with bottom gears below a depth of 400 m.
2. Where, in the course of fishing operations, the quantity of VME indicators, as defined in Annex III, that have been caught in that fishing operation, exceeds the thresholds defined in Annex IV, an encounter with a vulnerable marine ecosystem has taken place. The fishing vessel shall immediately cease fishing in the area concerned. It shall resume operations only when reaching an alternative area that shall be at least five nautical miles from the area in which the encounter occurred.
3. The fishing vessel shall immediately report each encounter with vulnerable marine ecosystems to the competent national authorities, who shall notify the Commission without delay.

4. Member States shall use the best available scientific and technical information, including biogeographical information and the information referred to in paragraph 3, to identify where vulnerable marine ecosystems are known or are likely to occur. In addition, a competent scientific advisory body shall be requested by the Commission to carry out an annual assessment of areas where vulnerable marine ecosystems are known or are likely to occur.

That assessment shall be conducted in accordance with the 2008 FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, shall apply the precautionary approach as referred to in art. 4 paragraph (8) of Regulation 1380/2013 and shall be made publicly available.

5. Where, based on the procedure referred to in paragraph 4, areas where vulnerable marine ecosystems are known or are likely to occur have been identified, Member States and the competent scientific advisory body shall inform the Commission in a timely manner.
6. By ...^{*}, on the basis of the best scientific and technical information available and based on the assessments and identifications carried out by Member States and the scientific advisory body, the Commission shall adopt, in accordance with Article 17, an implementing act for the purpose of establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur. The Commission shall review the list annually on the basis of advice received from the STECF and, where appropriate, amend the list in accordance with Article 17, by means of an implementing act. The Commission may remove an area from the list provided that it determines, on the basis of an impact assessment and after consulting the competent scientific advisory body, that there is sufficient evidence to indicate that vulnerable marine ecosystems are not present, or that appropriate conservation and management measures have been adopted which ensure that significant adverse impacts on vulnerable marine ecosystems in that area are prevented. The Commission may review, based on the best available scientific information, and amend the list included in Annex III by means of delegated acts in accordance with Article 16.

*1 year after the entry into force of the regulation

7. New impact assessments shall be required if there are significant changes to the techniques used for carrying out fisheries with bottom gear, or where there is new scientific information indicating the presence of vulnerable marine ecosystems in a given area.
8. Fishing with bottom gears shall be prohibited in all areas listed in accordance with paragraph 6.

Article 9

Application of specific control provisions

Fisheries and fishing activities covered by this Regulation shall also be subject to the provisions in Articles 7, 17, 42, 43, 45, 84(1)(a), 95(3), 104(1), 105(3)(c), 107(1) and 108(1), 115(c) and Annex I of Regulation (EC) No 1224/2009, except where otherwise provided for in this Chapter.

Article 10

Designated ports

1. Member States shall designate the ports in which any landing or transhipment of deep-sea species or any mixture thereof in excess of 100 kg is to take place. By ...+, Member States shall transmit to the Commission the list of these designated ports.

+OJ please insert the date: 60 days after the entry into force of this Regulation.

2. No quantity of any mixture of deep-sea species in excess of 100 kg may be landed at any place other than the ports which have been designated by Member States pursuant to paragraph 1.

Article 11

Prior notification

By way of derogation of Article 17 of Regulation (EC) No 1224/2009, the masters of all Union fishing vessels intending to land 100 kg or more of deep-sea species, whichever their length, shall be required to notify their flag Member State's competent authority of that intention.

The master or any other person responsible for the operation of vessels of 12 meters in length or less shall notify the competent authorities at least one hour before the estimated time of arrival at port.

Article 12

Logbook entries in deep waters

1. Where the obligation to keep a logbook applies, masters of Union fishing vessels holding a fishing authorisation in accordance with Article 4(1) or (3) of the present Regulation shall, when engaged in a deep-sea métier or when fishing below 400 m:
 - (a) draw a new line in the paper logbook after each haul; or,
 - (b) when they are subject to the electronic recording and reporting system, record separately after each haul.
2. Masters of Union fishing vessels shall also record in the vessel's logbook any quantities of deep-sea species listed in annex I caught, retained on board, transhiped or landed in accordance with Article 4(5) and any quantities of VME species listed in Annex III above the thresholds included in Annex IV, including species compositions, weight, and report to the competent authorities.

Article 13

Withdrawal of fishing authorisations

1. Without prejudice to Articles 7(4) and 92 of Regulation (EC) 1224/2009 and in accordance with the provisions of art. 90 (1) of the above-mentioned Regulation, the fishing authorisations referred to in Article 4(1) and (3) of this Regulation shall be withdrawn for a duration of at least two months in any of the following cases:
 - a) failure to conform to the conditions set in the fishing authorisation with regard to limits on the use of gears, allowed areas of operation or catch limits on the species whose targeting is allowed;
 - b) failure to take on board a scientific observer or to allow sampling of catches for scientific purposes as specified in Article 15 of this Regulation.

Chapter 5

Article 14

Rules on data collection and reporting

1. Without prejudice to more specific provisions in this Regulation, Regulation (EC) No 199/2008 shall apply.
2. When collecting data on deep-sea métiers in accordance with the general rules on data collection and with the precision levels laid down in the relevant multiannual Union programme for collection and management of biological, technical, environmental, social and economic data, Member States shall observe the specific data collection and reporting requirements set out in Annex II for the deep sea métier.

3. Member States shall include the necessary conditions in all fishing authorisations issued in accordance with Article 4 to ensure that the vessel concerned participates, in cooperation with the relevant scientific institute, in any data collection scheme whose scope would comprise the fishing activities for which authorisations are delivered.
4. The master of a vessel, or any other person responsible for the vessel's operation, shall be required to take on board the scientific observer whom the Member State has assigned for his vessel, unless this is not possible for security reasons. The master shall facilitate the discharging of the scientific observer's tasks.
5. Upon a request from the Commission, a Member State shall submit annual reports containing aggregate data on the number of vessels flying its flag that are involved in deep-sea fishing, their fishing area, the type of gear, the size, the number of each type of fishing authorisations issued, their originating port, the total deep-sea fishing opportunities available to its vessels and the aggregate percentage of the use of such fishing opportunities. These reports shall be made publicly available.

Article 15

Observer coverage

1. Member States shall establish a programme for observer coverage to ensure the collection of relevant, timely and accurate data on the catch and by-catch of deep-sea species and encounters with vulnerable marine ecosystems and other relevant information for the effective implementation of this regulation. Vessels using bottom trawls or bottom set gillnets with a fishing authorisation to target deep-sea species shall be subject to at least 20 % observer coverage, excluding vessels that, for security reasons, are not suitable to receive an observer. All other vessels with an authorisation to catch deep-sea species shall be subject to at least 10% observer coverage, excluding vessels that, for security reasons, are not suitable to receive an observer.

2. Where an operator has been requested by its Member State to receive an observer on board of its vessel, the absence of an observer for reasons beyond the control of the operator shall not prevent that vessels from leaving the port.
3. By 1 January 2018, the Commission shall seek scientific advice, based on the data collected under this regulation, whether the observer coverage set out in the first paragraph is sufficient to achieve objectives of Article 1, in particular to prevent significant adverse impact on vulnerable marine ecosystems within the framework of deep-sea fishing, and whether it should be adapted on the basis of an updated sampling methodology. The Commission shall without delay inform the European Parliament and the Council of the results.
4. Where, on the basis of the scientific advice referred to in the third paragraph, the Commission considers that the percentages of the observer coverage set out in the first paragraph should be adjusted, the Commission may, as a matter of urgency, submit a proposal for the revision of those percentages.
5. By derogation from Article 2, Article 15 shall apply *mutatis mutandis* to fishing for deep sea species by vessels using bottom trawls or bottom set gillnets in the NEAFC Regulatory Area.

Article 16

Exercise of delegated powers

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts as referred to in Article 8(6) shall be conferred on the Commission for a period of 5 years. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 8(6) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 8(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.

That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 17

Committee procedure

1. The Commission shall be assisted by a Committee for fisheries and aquaculture. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 18

Evaluation

1. By 4 years from the entry into force, the Commission shall on the basis of Member States' reports and scientific advice that it shall request to this effect, evaluate the impact of the measures laid down in this Regulation and determine to what extent the objectives referred to in Article 1(a) and (b) have been achieved.
2. The evaluation shall focus on trends in the following subjects:
 - (a) The use of all types of fishing gear when targeting deep-sea species shall be evaluated with a particular emphasis on the impact on the most vulnerable species and on vulnerable marine ecosystems;
 - (b) the vessels that have changed to using gears with a reduced impact on the sea bottom, and the progress as regards the prevention, minimisation and, where possible, on the elimination of unwanted catches;
 - (c) the range of operation of vessels engaging in each deep-sea métier;
 - (c) the completeness and reliability of data that Member States provide to scientific bodies for the purpose of stock assessment, or to the Commission in case of specific data calls;
 - (d) the deep-sea stocks for which the scientific advice has improved;
 - (e) the effectiveness of accompanying measures to eliminate discards and reduce catches of most vulnerable species;
 - (f) the quality of the impact assessments carried out pursuant to Article 7;
 - (g) the number of vessels and ports in the Union directly affected by the implementation of this Regulation;

- (h) the effectiveness of measures established to ensure the long-term sustainability of deep-sea fish stocks and to prevent by-catch of non-target species, in particular by-catch of the most vulnerable species.
 - (i) the extent to which vulnerable marine ecosystems have been effectively protected through the restriction of authorised fishing activities to existing deep-sea fishing areas, the move-on rule and/or by other measures;
 - (j) the application of the 800 meter depth limitation.
2. Based on this evaluation, the Commission may, by 4 years from the entry into force of this Regulation, make proposals for amendments to this Regulation, as appropriate. In particular if this evaluation indicates that fishing with bottom gears does not comply with the objectives laid out in Article 1 of this Regulation, the Commission may submit a proposal to amend this Regulation that would aim at ensuring that targeting fishing authorisations for vessels using bottom trawls or bottom-set gillnets expire or are revoked and that any measures necessary regarding bottom gears, including longliners, are put in place to ensure the protection of the most vulnerable species and vulnerable marine ecosystems

Article 19

Repeal and transitional provisions

1. Regulation (EC) No 2347/2002 is repealed.
2. References to the repealed Regulation shall be construed as references to this Regulation in accordance with the correlation table set out in Annex ZZ to this Regulation.

3. By derogation from paragraph 1, Article 3, 7 and 9 of Regulation (EC) No 2347/2002 shall continue to apply to Union fishing vessels carrying out fishing activities in the Regulatory Area of NEAFC.
4. Special fishing authorisations issued in accordance with Regulation (EC) No 2347/2002 shall remain valid, however, for a maximum period of one year after from entry into force of this Regulation.

Article 20

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

Annex I

Deep-sea species

<u>Scientific name</u>	<u>Common name</u>	<u>Most vulnerable (x)</u>
<i>Centrophorus spp</i>	Gulper sharks	
<i>Centroscyllium fabricii</i>	Black dogfish	x
<i>Centroscymnus coelolepis</i>	Portuguese dogfish	x
<i>Centroscymnus crepidater</i>	Longnose velvet dogfish	x
<i>Dalatias licha</i>	Kitefin shark	x
<i>Etmopterus princeps</i>	Greater lanternshark	x
<i>Apristuris spp</i>	Iceland catchark	
<i>Chlamydoselachus anguineus</i>	Frilled shark	
<i>Deania calcea</i>	Birdbeak dogfish	
<i>Galeus melastomus</i>	Blackmouth dogfish	
<i>Galeus murinus</i>	Mouse catshark	
<i>Hexanchus griseus</i>	Bluntnose six-gilled shark	x

<i>Etmopterus spinax</i>	Velvet belly	
<i>Oxynotus paradoxus</i>	Sailfin roughshark (Sharpback shark)	
<i>Scymnodon ringens</i>	Knifetooth dogfish	
<i>Somniosus microcephalus</i>	Greenland shark	

<i>Alepocephalidae</i>	Smoothheads (Slickheads)	
<i>Alepocephalus Bairdii</i>	Baird's smoothhead	
<i>Alepocephalus rostratus</i>	Risso's smoothhead	
<i>Aphanopus carbo</i>	Black scabbardfish	
<i>Argentina silus</i>	Greater silver smelt	
<i>Beryx spp.</i>	Alfonsinos	
<i>Chaceon (Geryon) affinis</i>	Deep-water red crab	
<i>Chimaera monstrosa</i>	Rabbit fish (rattail)	
<i>Hydrolagus mirabilis</i>	Large-eyed rabbitfish (Ratfish)	
<i>Rhinochimaera atlantica</i>	Straightnose rabbitfish	
<i>Coryphaenoides rupestris</i>	Roundnose grenadier	
<i>Epigonus telescopus</i>	Black cardinalfish	x
<i>Helicolenus dactilopterus</i>	Bluemouth (Bluemouth redfish)	
<i>Hoplostethus atlanticus</i>	Orange roughy	x
<i>Macrourus berglax</i>	Roughhead grenadier (Rough rattail)	

<i>Molva dypterigia</i>	Blue ling	
<i>Mora moro</i>	Common mora	
<i>Antimora rostrata</i>	Blue antimora (Blue hake)	
<i>Pagellus bogaraveo</i>	Red (blackspot) seabream	
<i>Polyprion americanus</i>	Wreckfish	
<i>Reinhardtius hippoglossoides</i>	Greenland halibut	
<i>Cataetyx laticeps</i>		
<i>Hoplosthetus mediterraneus</i>	Silver roughy (Pink)	
<i>Macrouridae</i>	Grenadiers (rattails)	
other than <i>Coryphaenoides rupestris</i> and <i>Macrourus berglax</i>	other than roundnose grenadier and roughhead grenadier	
<i>Nesiarchus nasutus</i>	Black gemfish	
<i>Notocanthus chemnitzii</i>	Snubnosed spiny eel	

<i>Raja fyllae</i>	Round skate	
<i>Raja hyperborea</i>	Arctic skate	
<i>Raja nidarosiensis</i>	Norwegian skate	
<i>Trachyscorpia cristulata</i>	Spiny (deep-sea) scorpionfish	
<i>Lepidopus caudatus</i>	Silver scabbard fish (Cutless fish)	
<i>Lycodes esmarkii</i>	Greater Eelpout	
<i>Sebastes viviparus</i>	Small redfish (Norway haddock)	

Annex II

Specific data collection and reporting requirements referred to in Article 15(1)

1. Member States shall ensure that data collected for an area that comprises both Union waters and international waters shall be further disaggregated so that they refer either to Union waters or international waters separately.
2. Where the activity in the deep-sea métier overlaps with activity in another métier in the same area, the data collection concerning the former shall be done separately from the data collection concerning the latter.
3. Discards shall be sampled in all deep-sea métiers. The sampling strategy for landings and discards shall cover all the species listed in Annex I as well as species belonging to the seabed ecosystem such as deep-water corals, sponges or other organisms belonging to the same ecosystem .
- 3a. An observer deployed on board shall be requested to identify and document the weight of any stony coral, soft coral, sponges or other organisms belonging to the same ecosystem taken on board by the vessel's gear.
4. Where the applicable multiannual data collection plan requires the collection of fishing effort data in terms of hours fished by trawls and soak time for passive gear, the Member State shall collect and be ready to present, together with such fishing effort data, the following additional data:
 - (a) geographical location of the fishing activities on a haul-by-haul basis, from vessel monitoring system data transmitted by the vessel to the fisheries monitoring centre;
 - (b) the fishing depths at which the gears are deployed in case the vessel is subject to reporting by electronic logbook. The master of the vessel shall notify fishing depth following the standardised reporting format.

Annex III

VME INDICATOR SPECIES

The following list of habitat types, with the taxa most likely to be found in these habitats, shall be considered as VME indicators.

VME Habitat type	Representative Taxa
1. Cold-water coral reef	
a. <i>Lophelia pertusa</i> reef	<i>Lophelia pertusa</i>
b. <i>Solenosmilia variabilis</i> reef	<i>Solenosmilia variabilis</i>
2. Coral garden	
a. Hard bottom garden	
i. Hard bottom gorgonian and black coral gardens	<i>Anthothelidae</i> <i>Chrysogorgiidae</i> <i>Isididae, Keratoisidinae</i> <i>Plexauridae</i> <i>Acanthogorgiidae</i> <i>Coralliidae</i>

<p>ii. Colonial scleractinians on rocky outcrops</p> <p>iii. Non-reefal scleractinian aggregations</p>	<p>Paragorgiidae</p> <p>Primnoidae</p> <p>Schizopathidae</p> <p>Lophelia pertusa</p> <p>Solenosmilia variabilis</p> <p>Enallopsammia rostrata</p> <p>Madrepora oculata</p>	
<p>b. Soft-bottom coral gardens</p> <p>i. Soft-bottom gorgonian and black coral gardens</p> <p>ii. Cup-coral fields</p>	<p>Chrysogorgiidae</p> <p>Caryophylliidae</p> <p>Flabellidae</p>	

	iii. Cauliflower coral fields	Nephtheidae	
	3. Deep-sea sponge aggregations		
	a. Other sponge aggregations	Geodiidae Ancorinidae Pachastrellidae	
	b. Hard-bottom sponge gardens	Axinellidae Mycalidae Polymastiidae Tetillidae	
	c. Glass sponge communities	Rosellidae Pheronematidae	
	4. Seapen fields	Anthoptilidae Pennatulidae Funiculinidae Halopteridae Kophobelemnidae	

		Protoptilidae Umbellulidae Vigulariidae	
	5. Tube-dwelling anemone patches	Cerianthidae	
	6. Mud- and sand-emergent fauna	Bourgetcrinidae Antedontidae Hyocrinidae Xenophyophora Syringamminidae	
	7. Bryzoan patches		

Annex IV

An encounter with a possible VME is defined as:

- (a) for a trawl tow, and other fishing gear than longlines: the presence of more than 30 kg of live coral and/or 400 kg of live sponge or of VME indicators; and
 - (b) for a longline set: the presence of VME indicators on 10 hooks per caught per 1000 hook segment or per 1200 m section of long line, whichever is the shorter.
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