



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 23 October 2007 (24.10)  
(OR. fr)**

**14231/07**

**Interinstitutional File:  
2007/0224 (CNS)**

**PECHE 303**

**PROPOSAL**

---

from: European Commission  
dated: 22 October 2007

---

Subject: Proposal for a COUNCIL REGULATION on the protection of  
vulnerable marine ecosystems in the high seas from the adverse impacts  
of bottom fishing gears

---

Delegations will find attached a proposal from the Commission, submitted under a covering letter from to Mr Javier SOLANA, Secretary-General/High Representative.

Encl.: COM(2007) 605 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.10.2007  
COM(2007) 605 final

2007/0224 (CNS)

Proposal for a

**COUNCIL REGULATION**

**on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears**

(presented by the Commission)

{SEC(2007) 1315}  
{SEC(2007) 1317}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The proposed Council Regulation implements the recommendations issued by the General Assembly of the United Nations (Resolution 61/105 of 8 December 2006) on measures to eliminate destructive fishing practices that threaten vulnerable marine ecosystems in the high seas. The proposal applies to EU vessels operating in the high seas in areas that are not subject to regulation by a Regional Fisheries Management Organisation (RFMO) and thus require unilateral flag State regulation.

- **General context**

Certain marine ecosystems such as seamounts, deep water corals and hydrothermal vents are threatened by fishing practices that can have destructive effects on the physical integrity of the habitat. Bottom fishing gears, when deployed in areas containing these ecosystems, have been documented to destroy deep water corals and sponges, and with them the complex ecosystem they host and support. These habitats have not been fully explored and described yet, but there is abundant scientific evidence suggesting their high value as biodiversity hotspots.

The UN General Assembly has been discussing the problems posed by high seas destructive fishing practices since 2004. The problem has therefore become a sensitive issue in international fisheries governance. It is the subject of particular concern in relation to areas of the high seas for which a regional fisheries management organisation has not been established to regulate fishing and its environmental impacts. The EU has been a very active participant in this debate and was instrumental in defining the package of recommendations on which the general Assembly ultimately reached consensus.

The UN debate was marked by proposal made by certain UN Members to adopt a general moratorium of bottom trawling in the high seas, whereas other countries were initially reluctant to any collective action determined at global level. The EU promoted, successfully, an alternative proposal based on stringent regulation of bottom fishing activities that should inform the conservation and management measures adopted by RFMOs, and should also determine the discipline that flag States must apply in respect of their vessels when these operate in areas of the high seas not regulated by an RFMO. This approach is based on the requirement of an assessment of environmental impacts as a condition for authorising fishing activities, complemented by safeguard rules, increased efforts to identify and describe vulnerable marine ecosystems through scientific research and surveys, and the continued adoption of area-based measures and closures to protect these ecosystems.

The EU counts a sizeable presence of bottom trawlers in areas where there is no established RFMO to regulate bottom fishing, notably the Southwest Atlantic. The EU must respond to the UNGA calls by adopting regulations to prevent the risks that bottom fishing activities could destroy vulnerable marine ecosystems located in these areas.

Resolution 61/105 called on States to adopt measures such as those provided for in this proposal by December 2008 and the General Assembly will review the response given to its calls in 2009 with a view to further recommendations.

- **Existing provisions in the area of the proposal**

The Community has adopted measures to protect deep sea ecosystems in EU waters, has tabled proposals to the same end in relevant Regional Fisheries Management Organisations - NEAFC and NAFO for the North Atlantic; SEAFO for the Southeast Atlantic; CCAMLR for the Antarctic; GFCM for the Mediterranean - and has transposed the measures so adopted into Community Law. The present proposal completes the coverage of the EU action by addressing activities taking place outside EU waters and in areas not placed under the responsibility of an RFMO.

- **Consistency with the other policies and objectives of the Union**

This proposal integrates the Union's Environmental and Common Fisheries Policies by establishing the rules whereby the adverse effects of certain fishing practices on the marine environment can be prevented and eliminated.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

*Consultation methods, main sectors targeted and general profile of respondents*

The views of stakeholders and of representatives of the civil society have been received throughout the two-year process during which the issue was discussed in the context of the United Nations. In particular, the Commission made publicly available its report to the UN Secretary General submitted in April 2006 and a Commission Staff Working Document outlining the intended position of the EU in the General Assembly Consultations in September 2006. Stakeholders provided views to the Commission on both documents, which were also approved by Member States prior to submission and publication.

*Summary of responses and how they have been taken into account*

The Commission received essentially two sets of opposing views: on the one hand, environmental non-governmental organisations (ENGOS) pleaded with the EU to support a blanket moratorium of bottom trawling in the high seas as the only means to ensure effectively the preservation of vulnerable deep sea ecosystems. On the other hand, the fishing sector stated its opposition to the blanket ban approach.

The Commission proposed a negotiating stance that sought a balanced solution that would also seek the objective of gathering international consensus. The Commission shared the views of ENGOS regarding the gravity of the threat and the need for decisive action, but agreed with the fishing sector that stringent regulation can be more effective than a high seas fishing ban, notably where such a ban would not be the subject of consensus in the United Nations. In such case, there would be no guarantees of a level playing field in the high seas, with certain flag States complying with the moratorium and others not. Instead, the package agreed by the General

Assembly on a consensus basis provides clear guidance to all States and RFMOs on how to regulate bottom fishing activities by introducing an assessment of potential environmental impacts based on the precautionary approach and make the results of this assessment determinant on whether the activities may or not be authorised. These recommendations establish a basis for decisive action not only in the high seas, but also in RFMOs and even in areas within national jurisdiction, and should therefore have the effect of bringing about broader environmental benefits in all areas.

- **Collection and use of expertise**

Scientific/expertise domains concerned

Deep sea ecology, fishery data.

Methodology used

Recourse to published scientific literature on deep sea ecosystems - particularly cold water corals - and the effect of fishing and other human activities thereon. On-going work on the subject by the International Council on the Exploration of the Sea. In-house studies regarding the activities of the fleets in areas of the high seas not regulated by an RFMO. Research projects under the 6th Framework Programme (in particular HERMES, including an ad-hoc technical meeting with experts involved in this project).

Main organisations/experts consulted

ICES, HERMES, UNEP publications

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has been mentioned. There is a broad consensus on the existence of such risks.

The protection of vulnerable marine ecosystems such as reefs, deep water corals, seamounts, hydrothermal vents, deep water sponges, against impacts from bottom fishing gears requires limiting or excluding the use of such gears in areas where these ecosystems are found. Although impacts are variable according to different gears, these ecosystems are extremely fragile and should be protected by means of area closures. It was also advised, however, that further research to fully document fishing impacts would be necessary, although action should be taken urgently on a precautionary basis.

Means used to make the expert advice publicly available

The Commission Staff Working Document published by the Commission in September 2006 stated the conclusions of the Commission's analysis based on advice and views received.

- **Impact assessment**

Option 1: no specific action to transpose Resolution 61/105, as this is a non-binding act. This option, however, does not mean the EU would disregard these recommendations. They would inform its position in international fisheries cooperation. As for EU vessels operating in non-RFMO areas, the issue would be left to individual EU Member State responsibility. This option was assessed as having negative impacts on the EU's international credibility and ability to play a leading role in enhancing international fisheries governance. It also implies abandonment of responsibilities falling upon the EU under the Common Fisheries Policy.

Option 2: going farther than the recommendations made by the General Assembly and implement a prohibition applicable to EU vessels unilaterally. This option was assessed as having significant economic and social negative impacts on the EU fleets. It was also assessed that this option would demonstrate a strong commitment by the EU to protect vulnerable marine ecosystems. The effectiveness of this effort, however, would not be guaranteed if other flag States should continue to authorise fishing and thus would make it difficult to justify the constraints imposed on the EU fleet.

Option 3: Clear policy definition and stringent regulation implementing the General Assembly recommendations. This option entails taking specific action to implement the Resolution by adopting a) a policy document that commits the Commission and the EU on a clear strategy in international fora, indicating objectives and intended actions; and b) a regulation to implement the measures recommended by the General Assembly in respect of EU vessels operating in non-RFMO areas, namely the present proposal. This option was assessed to give visibility to the EU's commitment to the attainment of the objective and reinforce the EU's credibility and ability to lead in the international scene. It will entail impacts on national authorities responsible for implementing these rules, particularly the prior assessment procedure, but will also allow the continuation of fishing activities provided they are environmentally sound. As a result, the system is geared to ensure the protection of vulnerable marine ecosystems.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The Proposal subjects fishing activities with bottom gears that are carried out in areas not regulated by an RFMO to the requirement of a fishing permit in accordance with Regulation (EC) No 1627/94. The issuance of this permit is subject to the condition that the issuing Member State authority carries out an assessment of potential impacts of the activities on vulnerable marine ecosystems and determines there are no risks of significant adverse impacts. This assessment is based on the submission of fishing plans by the operators and the examination of the plans by the issuing authority in light of available scientific information and advice on the occurrence (or likelihood thereof) of the relevant ecosystems in the foreseen area of operations, to verify that the intended activities remain clear of vulnerable sites.

The permit's validity is then subject to the condition that fishing activities respect the fishing plans, providing for control means to monitor such compliance (includes stringent vessel monitoring by satellite and on-board observers) and fixing legal consequences in case of non-compliance (includes falling under the Common Fisheries Policy regime for "serious infringements"). The proposal further establishes the obligation to withdraw from sites where vulnerable ecosystems are encountered and a precautionary limit for the depth at which bottom gears can be deployed (maximum 1 000 m) to ensure a precautionary depth-based protected area in all fishing grounds. Finally, the proposal establishes reporting obligations falling on Member States and a review clause two years after entry into force.

- **Legal basis**

Article 37 of the EC Treaty

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

The proposal relies on an established regime, namely that contained in Regulation (EC) No 1627/94 whereby Member States are responsible for the issuance of special fishing permits, while ensuring a Community-wide coherence and transparency in the application of the system. It does not create a new authorisation regime but relies on the permit as the vehicle for the compliance with requirements on how fishing operations should be conducted to prevent the destruction of vulnerable marine ecosystems.

Currently, Member States are not required, under CFP rules, to apply a prior assessment of environmental impacts as a condition for authorising any individual fishing activities. Implementing this system, as called for by the General Assembly, will therefore entail an increase in workload for these authorities, even if the fisheries concerned are relatively limited. The proposal, however, provides for criteria for this assessment, notably the use of scientific advice, that Member States have at their disposal and will not normally require an overhaul of the current authorisation system. It will merely imply a more documented authorisation procedure. These are the minimum requirements that the system must implement to respond effectively to the approach agreed by the General Assembly.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason(s).

The Common Fisheries Policy is an area of exclusive competence by the Community. The rules adopted at Community level should be uniform and binding in

order to avoid the coexistence of different standards between Member States. It is therefore justified that the measures are contained in a Proposal for a Regulation.

**4. BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

**5. ADDITIONAL INFORMATION**

- **Review/revision/sunset clause**

The proposal includes a review clause.



Proposal for a

**COUNCIL REGULATION**

**on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Whereas:

- (1) The Community is a Contracting Party to the United Nations Convention on the Law of the Sea and to the Agreement on 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. These international instruments lay down the duty of States to cooperate on conserving the living resources of the high seas, and prescribe that such cooperation shall be pursued directly by States or through appropriate subregional or regional fisheries management organisations or arrangements.
- (2) The absence of a regional fisheries management organisation or arrangement does not exempt States from their obligation under the law of the Sea to adopt with respect to their nationals such measures as may be necessary for the conservation of the living resources of the high seas, including the protection of vulnerable marine ecosystems against the harmful effects of fishing activities.
- (3) 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<sup>3</sup> provides that the common fisheries policy is to apply the precautionary approach in taking measures to minimise the impact of fishing activities on marine ecosystems. Article 7 of the same Regulation provides that the Commission may decide on emergency measures at the substantiated request of a Member State or on its own initiative if there is evidence of a serious threat to the conservation of living

---

<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ L 358, 31.12.2002, p. 59.

aquatic resources, or to the marine eco-system resulting from fishing activities and requiring immediate action;

- (4) The Community is committed to the conservation of marine ecosystems such as reefs, seamounts, deep water corals, hydrothermal vents and sponge beds. There is abundant scientific information showing that the integrity of these ecosystems is threatened by fishing activities using bottom gears. The Community has already adopted measures to close to bottom fishing areas within Community waters where such ecosystems are found. It has also been instrumental in the adoption of similar measures in the high seas within the areas of competence of all existing regional fisheries management organisations empowered to regulate bottom fisheries. It has also actively contributed to the establishment of new organisations or arrangements with a view to achieving global coverage of the world's ocean by appropriate regional fisheries conservation and management regimes. There are, however, certain areas of the high seas for which the establishment of such a body encounters significant difficulties.
- (5) By Resolution 61/105 of the General Assembly of the United Nations, adopted on 8 December 2006<sup>4</sup>, the international community has agreed on the pressing need to adopt measures to protect vulnerable marine ecosystems from the destructive effects of bottom fishing activities through strict regulation of those activities by regional fisheries management organisations or arrangements or by States in respect of their flagged vessels operating in areas where no such organisations or arrangements are in place. The General Assembly has provided guidance as to the kind of measures that should be adopted to this end.
- (6) The Community has a sizeable fleet conducting bottom fishing in areas not regulated by a regional fisheries management organisation or arrangement and for which the establishment of such organisation or arrangement cannot be expected in the short term. Without prejudice to continued efforts to remedy these remaining spatial gaps in the international fisheries governance system, the Community must discharge its obligations under the law of the sea with regard to the conservation of the marine living resources in these areas and must therefore adopt appropriate measures in respect of these fleets. In doing so, the Community must act in accordance with the guidance provided by the General Assembly in Resolution 61/105.
- (7) A key component of the recommendations made by the General Assembly is measures "... to assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts, or not authorised to proceed"<sup>5</sup>.
- (8) The implementation of that recommendation requires that the fishing vessels concerned are authorised to fish under a special fishing permit issued in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general

---

<sup>4</sup> General Assembly Resolution 61/105 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.

<sup>5</sup> Resolution 61/105, paragraph 83 (a).

provisions concerning special fishing permits<sup>6</sup> and Commission Regulation (EC) No 2943/95 of 20 December 1995 setting out detailed rules for applying Council Regulation (EC) No 1627/94<sup>7</sup>. In addition, the issuance and validity of such permits must be subject to specific conditions ensuring that the impact of the authorised fishing activities has been properly assessed and that the conduct of fishing operations complies with such assessment.

- (9) The implementation of the Recommendations made by the General Assembly also requires relevant monitoring measures to ensure compliance with the conditions under which the permits are issued. These include on-board observers and specific provisions regarding the operation of satellite-based Vessel Monitoring Systems to address events of technical failure or non-functioning of the system, beyond those set forth by Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems<sup>8</sup>.
- (10) The identification of vulnerable marine ecosystems in areas not regulated by a regional fisheries management organisation is a work in progress and there is relatively limited scientific information in this respect. A depth limit for the deployment of bottom gears provides a precautionary protected boundary for deep water corals and sponges within the water column. A depth of 1 000 m represents a reasonable choice providing a suitable degree of protection while compatible with the continuation of bottom fisheries for demersal species generally found at shallower depths such as hake and squid. This depth restriction is also compatible with the progressive development, under this regulation, of area-based measures to fully protect sites where vulnerable ecosystems are known or likely to occur.
- (11) The violation of specific conditions such as those relating to the depth restriction, the operation of the Vessel Monitoring System and the relocation of activities in case of unforeseen encounter with a vulnerable marine ecosystem may result in irreparable damage to such ecosystems and deserves therefore to be included among the list of serious infringements contained in Council Regulation (EC) No 1447/1999 of 24 June 1999 establishing a list of types of behaviour which seriously infringe the rules of the common fisheries policy<sup>9</sup>.
- (12) The Community has established a specific management regime that applies to fishing for deep sea stocks through Council Regulation (EC) No 2347/2002 establishing specific access requirements and associated conditions applicable to fishing for deep sea stocks<sup>10</sup>. It is appropriate to ensure that the requirements set forth in Regulation (EC) No 2347/2002 also apply to Community fishing vessels targeting deep sea stocks in areas where there is no international management measures or arrangements in force.

---

<sup>6</sup> OJ L 171, 6.7.1994, p. 7.

<sup>7</sup> OJ L 308, 21.12.1995, p. 15.

<sup>8</sup> OJ L 333, 20.12.2003, p. 17.

<sup>9</sup> OJ L 167, 2.7.1999, p. 5.

<sup>10</sup> OJ L 351, 28.12.2002, p. 6.

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Scope**

1. This Regulation shall apply to Community fishing vessels carrying out fishing activities with bottom gears in the high seas.
2. This Regulation shall not apply to Community fishing vessels whose areas of operation lie within areas :
  - (a) Under the responsibility of a regional fisheries management organisation of arrangement with competence to regulate such fishing activities;
  - (b) For which a process for the establishment of a regional fisheries management organisation is underway; where the participants in such process have agreed on interim measures to protect vulnerable marine ecosystems from destructive impacts resulting from the use of bottom gears.

### *Article 2*

#### **Definitions**

For the purpose of this Regulation, the following definitions shall apply:

- (a) 'marine ecosystem' means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;
- (b) 'vulnerable marine ecosystem' means any marine ecosystem whose specific structure and function is, according to the best scientific information available and to the principle of precaution, likely to be compromised by stress resulting from physical contact with bottom gears in the course of fishing operations, including *inter alia* reefs, seamounts, hydrothermal vents, cold water corals or cold water sponge beds;
- (c) 'bottom gears' means bottom trawls, dredges, bottom-set gillnets, bottom-set longlines, pots and traps.

### *Article 3*

#### **Special fishing permit**

1. In order to conduct the fishing activities referred to in Article 1(1), Community fishing vessels must have a special fishing permit.

2. The special fishing permit shall be issued in accordance with Council Regulation (EC) No 1627/94<sup>11</sup> and subject to the conditions established in the present Regulation.

#### *Article 4*

##### **Conditions for issuance**

1. Applications for a special fishing permit provided for in Article 3(1) shall be accompanied by a detailed fishing plan specifying in particular:
  - (a) the intended location of the activities,
  - (b) the targeted species,
  - (c) the depth at which the gears will be deployed, and
  - (d) the configuration of the bathymetric profile of the seabed in the intended fishing grounds.
2. The competent authorities shall issue a special fishing permit after having carried out an assessment on the potential impacts of the vessel's intended fishing activities and concluded that such activities are not likely to have significant adverse impacts on vulnerable marine ecosystems.
3. For the purposes of the implementation of the assessment referred to in paragraph 2, the competent authorities shall rely on the best scientific information available concerning the location of vulnerable marine ecosystems in the areas in which the fishing vessels concerned intend to operate. That scientific information shall include, where available, scientific data on the basis of which the likelihood of occurrence of such ecosystems can be estimated.
4. The competent authorities shall apply precautionary criteria in the conduct of the assessment referred to in paragraph 2. In case of doubt on whether the adverse impacts are significant or not, they shall consider that the likely adverse impacts resulting from the scientific advice provided are significant.
5. Where the assessment should conclude that activities carried out in accordance with the submitted fishing plan might result in significant adverse impacts to vulnerable marine ecosystems, the competent authorities shall specify the assessed risks and allow applicants to amend the fishing plan to avoid them. In the absence of such amendments, the competent authorities shall refrain from issuing the requested special fishing permit.

---

<sup>11</sup> OJ L 171, 6.7.1994, p. 7.

## *Article 5*

### **Conditions for validity**

1. The special fishing permit provided for in Article 3(1) shall remain valid throughout the execution of the fishing plan submitted in accordance with Article 4(1) on condition that fishing activities conform to such plan at all times.
2. Where circumstances beyond the control of the person responsible for the vessel operations necessitate an alteration of the submitted plans, the person responsible for the vessel's operations shall inform the competent authorities without delay, indicating the modifications intended to the original plan. The competent authorities shall examine such alterations and confirm the validity of the permit only if they do not entail a relocation of the activities to areas where vulnerable marine ecosystems occur or are likely to occur.

## *Article 6*

### **Depth limits**

The use of bottom gears at depths beyond 1 000 m of depth shall be prohibited.

## *Article 7*

### **Unforeseen encounters with vulnerable marine ecosystems**

1. Where, in the course of fishing operations, a fishing vessel encounters a vulnerable marine ecosystem, it shall immediately cease fishing, or refrain from engaging in fishing in the site concerned. It shall resume operations only when it has reached an alternative site at a minimum distance of 5 nautical miles from the site of the encounter within the area foreseen in its fishing plan provided for in Article 4(1).
2. If a new encounter takes place in the alternative site referred to in paragraph 1, the vessel shall keep relocating in accordance with the rules set out in that paragraph until a site where no vulnerable marine ecosystems are found is reached.
3. The fishing vessel shall report each encounter to the competent authorities without delay, providing precise information on the nature, location, time and any other relevant circumstances of the encounter.

## *Article 8*

### **Area closures**

1. On the basis of the best scientific information available on the occurrence or on the likelihood of occurrence of vulnerable marine ecosystems in the region where their fishing vessels operate, Member States shall identify areas that shall be closed to fishing with bottom gears. Member States shall implement these closures without

delay in respect of their vessels and submit a report to the Commission in accordance with Article 13.

2. Without prejudice to Article 7 of Council Regulation (EC) No 2371/2002, the Commission shall examine this information and submit, where appropriate, proposals to the Council for the adoption of Community measures to protect these areas. The Commission shall also consider, where appropriate, the adoption of such measures on its own initiative.

#### *Article 9*

##### **Vessel monitoring system**

1. Notwithstanding Article 11(1) of Commission Regulation (EC) No 2244/2003, in the event of technical failure or non-functioning of the satellite tracking device fitted on board a fishing vessel, the master of the vessel shall report its geographical situation to the flag Member State every two hours.
2. After returning from the sea trip, the vessel shall not leave the port again until the satellite tracking device is functioning to the satisfaction of the competent authorities.

#### *Article 10*

##### **Serious infringements**

1. Failure to conform to the fishing plan provided for in Article 4(1) in circumstances other than those specified in Article 5(2) shall entail the loss of validity of the special fishing permit issued to the fishing vessel concerned. Any fishing activities carried out from the time when the vessel departed from its fishing plans shall be considered as fishing without holding a fishing permit under the terms of paragraph C, first indent, of the Annex to Regulation (EC) No 1447/1999.
2. Repeated instances of non-compliance with the obligations laid down in Articles 6, 7 and 9 shall be considered as conduct that seriously infringes the Common Fisheries Policy, according to Council Regulation (EC) No 1447/1999.

#### *Article 11*

##### **Fishing vessels targeting deep sea stocks**

Community fishing vessels referred to in Article 1(1) and which target deep sea stocks shall also be subject to the requirements laid down in Regulation (EC) No 2347/2002 of 16 December 2002.

## *Article 12*

### **Observers**

1. Each Member State shall assign scientific observers to the vessels to which a special fishing permit provided for in Article 3(1) is issued. The observers shall observe the fishing activities of the vessel throughout the execution of its fishing plan provided for in Article 4(1).
2. The scientific observer shall:
  - (a) record independently in a logbook the catch information prescribed in Article 6 of Regulation (EEC) No 2847/93<sup>12</sup>;
  - (b) record any instances of alteration of the fishing plan as referred to in Article 5(2);
  - (c) document any instances of unforeseen encounter with vulnerable marine ecosystems referred to in Article 7, including the gathering of information that may be of use in relation to the protection of the site;
  - (d) record depths at which gear is deployed;
  - (e) present a report to the competent authorities of the Member State concerned within 20 days following the termination of the observation period. A copy of this report shall be sent to the Commission, within 30 days after receipt of a written request.
3. The scientific observer shall not be any of the following:
  - (a) a relative of the master of the vessel or other officer serving on the vessel to which the observer is assigned;
  - (b) an employee of the master of the vessel to which he is assigned;
  - (c) an employee of the master's representative;
  - (d) an employee of a company controlled by the master or his representative;
  - (e) a relative of the master's representative.

## *Article 13*

### **Information**

1. Member States shall communicate to the Commission, for each half calendar year within three months of the expiry of that half calendar year, a report on:

---

<sup>12</sup> OJ L 261, 20.10.1993, as amended.



- (a) in addition to the requirements laid down in Article 18 of Regulation (EEC) No 2847/93, the catches made by the fishing vessels referred to in Article (1), established on the basis of the information recorded in logbooks, including full records of fishing days out of port and reports presented by the scientific observers, broken down by quarter of the year, by type of gear and by species;
  - (b) the compliance with the fishing plans and with the requirements laid down in Articles 6, 7 and 8 by the fishing vessels referred to in Article 1(1) and the measures taken to remedy and sanction instances of non-compliance and of serious infringements referred to in Article 10;
  - (c) their implementation of Article 8.
2. The Commission shall transmit the information contained in the report referred to in paragraph 1 to the relevant scientific bodies without delay.

#### *Article 14*

##### **Follow-up**

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

#### *Article 15*

##### **Entry into force**

This Regulation shall enter into force on the seventh 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,

*For the Council*  
*The President*