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Accompanying document to the

Proposal for a

COUNCIL REGULATION

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

SUMMARY OF THE IMPACT ASSESSMENT

on possible initiatives to protect vulnerable deep sea ecosystems from the adverse impacts of bottom fishing gears, providing a response to the call for urgent action by the U.N. General Assembly

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This report concerns possible Commission initiatives to be taken following a two-year international process in the framework of the United Nations General Assembly. The Commission has represented the Community in this process in accordance with a position defined through continuous consultation with Member States. It also requested and received feedback from stakeholders and studied the large amount of scientific expertise and literature brought to the attention of participants by NGOs, the fishing sector and the UN Secretariat. The process therefore allowed the Commission to carry out an on-going assessment of the best options to address the problem of destructive fishing practices in accordance with the basic tenants that inform the impact assessment approach. Presently, the Community must envisage providing adequate follow-up to its international commitments.

The U.N. General Assembly (UNGA) drew attention to the destruction of deep sea coral reefs and other fragile habitats already in 2004, through its Resolution 59/25. There was then a call for urgent action in respect of destructive fishing practices that threaten these vulnerable ecosystems, and a commitment to review progress made in 2006. In November 2006, this review led to the formulation of specific recommendations on how to regulate bottom fisheries to address this sensitive issue. The Commission, in representation of the European Community, was instrumental in brokering the set of recommendations agreed in UNGA Resolution 61/105 of 8 December 2006. The results of this international debate have thus been considered satisfactory inasmuch as they confirm, to a large extent, the soundness of the position held by the Community.

This report assesses the options available to the Community to provide an effective response to the calls made by the UNGA. It analyses the following options:

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. This option was assessed to give visibility to the EU's commitment to the attainment of the objective, 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.

The report concludes that option 3 should be the chosen action. It suggests that the Commission should indeed adopt a policy document (a Communication to the Council and European Parliament) to clearly define a strategy to address the problem, in light of the Community's responsibilities as a major international fisheries player and as the primary regulatory authority of fisheries in Community waters. In addition, it concludes on the need to adopt urgently a regulation applicable to the EU fleets operating in areas of the high seas not regulated by a Regional Fisheries Management Organisation or Arrangement (RFMO), and directed essentially to the Falkland/Malvinas fishery in the South West Atlantic. For such "non-RFMO covered" areas, the UNGA has rightly emphasised the responsibility of flag States in a context where the international fisheries governance system remains weak. This justifies addressing the threats to fragile deep sea ecosystem in these areas as a matter of the highest priority.