



**ASSEMBLY OF THE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE**

Opinion

COM(2012) 371

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing specific conditions to 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



**ASSEMBLY OF THE REPUBLIC
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PART I - INTRODUCTION

In accordance with Article 7 of Law No 43/2006 of 25 August 2006 on the monitoring, examination and issuing of opinions by the Assembly of the Republic in the context of the construction of the European Union, as amended by Law No 21/2012 of 17 May 2012 and in accordance with the Guidelines for the Scrutiny of EU initiatives approved on 20 January 2010, the European Affairs Committee received the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing specific conditions to 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 [COM(2012)371].

In view of its subject matter, the above-mentioned initiative was forwarded to the Committee on Agriculture and the Sea, which examined it and approved the Report which is attached to and forms an integral part of this Opinion.

This initiative was also forwarded to the Legislative Assemblies of the Autonomous Regions of the Azores and Madeira, which have examined and unanimously approved their own Reports, also attached to this Opinion, and which form an integral part thereof.

PART II – BACKGROUND

1 – This initiative aims to establish a framework Regulation for exercising fishing activity targeting deep-sea species in the North-East Atlantic, whether in European Union waters, including outermost regions of Spain and Portugal, or in international waters governing agreements within the North-East Atlantic Fisheries Commission (NEAFC), also repealing Regulation (EC) No 2347/2002 [COM(2012)371].



ASSEMBLY OF THE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE

2 – The main objectives of this Proposal for a Regulation include the reduction of high levels of undesired catch of deep-sea species, with a view to reducing the harmful effect on the marine ecosystem. We would underline that these deep-sea stocks are fish stocks caught in waters beyond the main fishing grounds of continental shelves and they are distributed on the continental slopes or associated with seamounts.

3 – It should be noted that deep-sea fisheries have only been subject to detailed management on fishing opportunities since 2003. Before 2003, the development of the fisheries was largely unregulated and partly showed typical symptoms of the 'race to fish' problem, resulting in the depletion of stocks. Since 2002, the Union has had in place a specific access regime (Regulation (EC) No 2347/2002) for fishing vessels engaged in deep-sea fisheries of the North-East Atlantic, comprising capacity restriction, data collection, effort monitoring, and control.

4 – The obligation on Member States, in accordance with the Marine Framework Strategy Directive, to achieve or maintain a good environmental status of marine ecosystems by 2020¹ has fostered a critical assessment of the conditions for pursuing deep-sea fisheries, including environmental and biodiversity aspects.

5 - The general objective of the proposal is therefore to ensure as much as possible the sustainable exploitation of deep-sea stocks while reducing the environmental impact of these fisheries, and to improve the information base for scientific assessment, although this falls far short of actual requirements. As long as data and method have not achieved the required level to allow MSY-based management, the

¹ See Marine Strategy Framework Directive, Directive 2008/56/EC, OJ L 164, 25.6.2008, p. 19.



ASSEMBLY OF THE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE

intention is that fisheries are managed according to the precautionary approach to fisheries management.

6 – To this end, and in order to reduce the destructive impact on the marine ecosystem, this Proposal for a Regulation establishes the need to phase out the use of bottom trawls, as they are the most harmful to vulnerable marine ecosystems and have shown high levels of undesired catch of deep-sea species. The transitional restrictions on bottom-set gillnets in fisheries below 600m depth and in the depth-range 200-600m should be accompanied by a ban on fishing targeting deep-sea species. The proposal also considers the possibility of simplifying the management system for these stocks, currently subject to a double instrument: catch limitations and capacity/effort limitation.

7 – It should be stressed that deep-sea fisheries in the North-East Atlantic are essentially dominated by traditional coastal fleets (Portugal) and large nomadic trawlers (France, Spain). Although these account for approximately 1% of landings from the North-East Atlantic, they are essential to ensuring the economic viability of various fishing communities dependent on such fisheries.

8 – Lastly, the Committee on Agriculture and the Sea, the committee responsible for this subject matter, has issued a written opinion on this proposal for a Regulation and approved a Report which reflects the content of the proposal in detail, raising the questions relevant at this stage. As a result, in the interests of avoiding repetition and redundancy, the content in that Committee's report relating to 'Background and legal basis' and the principle of subsidiarity and the conclusions should also be included in full in this opinion.



ASSEMBLY OF THE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE

9 – The Legislative Assemblies of the Autonomous Regions of the Azores and Madeira have also been consulted, who have issued and unanimously approved their own written opinions, which are attached to this opinion in full.

Given the provisions made in this proposal, the following questions should be raised:

a) Legal basis

Article 43(2) of the Treaty on the Functioning of the European Union serves as the legal basis.

b) Subsidiarity

This proposal falls under exclusive competence of the Union as referred to in Article 3(1)(d) of the Treaty on the Functioning of the European Union. The subsidiarity principle therefore does not apply.

PART III – RAPPORTEUR'S OPINION

Given the information set out in the examination of this initiative and the content of the conclusions made in the Committee on Agriculture and the Sea's report and the opinions issued by the Legislative Assemblies of the Autonomous Regions of the Azores and Madeira, the Rapporteur considers it essential to stress the significant impact that this Proposal for a Regulation could have on the Portuguese fishing sector, which is predominantly composed of multipurpose fleets, given the depth of Portugal's national waters.

It should be stressed that the consequences of the Proposal have the potential for being even more damaging for the fishing communities in the Outermost Regions of the Azores and Madeira: the fact that these regions are surrounded by deep sea and



ASSEMBLY OF THE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE

do not have a continental shelf makes deep-sea fishing essential in these areas, since it is the only type of fishing which enables vessels to operate all year round.

The Rapporteur would also draw attention to the apparent inconsistency between the written opinions of the Legislative Assemblies of the Autonomous Regions of the Azores and Madeira. This could be explained by the fact that the opinions were produced by parliamentary committees with different remits – the Committee for Natural Resources and the Environment in the case of the Madeira Legislative Assembly and the Committee for Economic Affairs in the case of the Azores. Another possible reason is the difference between the species targeted by the fleets - the Madeira fleet fishes almost exclusively black scabbard fish whereas the Azores work with species such as blackspot seabream, greater forkbeard, wreckfish, alfonsino and *imperador*.

This Proposal for a Regulation also does not address the concerns expressed by Commissioner Maria Damanaki to the European Affairs Committee on the need for European fisheries management to be based on sound scientific advice. In the case of deep-sea species, this need is far from having been resolved, even due to the large absence of information concerning the cycle of species with a long life, caused by the difficulty in collating scientific data from a deep sea environment.

Similarly Commissioner Damanaki's concerns regarding the need for greater balance between the three pillars of the Common Fisheries Policy have not been reflected in this Proposal for a Regulation; the Proposal places great emphasis on the precautionary principle and the predominance of the environmental pillar over the economic and social pillars, two pillars fundamental to the continued survival of vulnerable fishing communities such as those found in Portugal, and whose activities are based on non-industrial gears.

PART IV – OPINION



ASSEMBLY OF THE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE

In view of the information provided above and in the light of the Reports attached to this written opinion, the European Affairs Committee is of the opinion that:

1. Given that the subject-matter of this proposal falls within the exclusive remit of the Union, the principle of subsidiarity does not need to be examined.

2. As regards the questions raised above, the European Affairs Committee will continue to monitor the legislative process for this initiative, in particular by means of an exchange of information with the Government.

Palácio de São Bento, 26 March 2013

Rapporteur

(Lídia Bulcão)

Chairman of the Committee

(Paulo Mota Pinto)



ASSEMBLY OF THE REPUBLIC
EUROPEAN AFFAIRS COMMITTEE

PART V – ANNEXES

Report by the Committee on Agriculture and the Sea;
Report by the Legislative Assembly for the Autonomous Region of the Azores;
Report by the Legislative Assembly for the Autonomous Region of Madeira



COMMITTEE ON AGRICULTURE AND THE SEA

Report issued by the Committee on Agriculture and the Sea

[Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions to 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]

COM (2012) 371 final

Author: Ulisses Pereira,
Member of Parliament (PSD)



COMMITTEE ON AGRICULTURE AND THE SEA

CONTENTS

- PART I - INTRODUCTION
- PART II – BACKGROUND
- PART III – OPINION OF THE RAPPORTEUR
- PART IV - CONCLUSIONS

PART I - INTRODUCTION

The Committee on Agriculture and the Sea received from the European Affairs Committee in accordance with and for the purposes of Article 7 of Law 43/2006 of 25 August 2006 (monitoring, examination and issuing of opinions by the Assembly of the Portuguese Republic in the context of the process of EU integration) initiative COM (2012) 371 – a Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions to 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.

This Committee is responsible for examining the proposal in question and issuing an opinion relating to the same, which will subsequently be submitted to the European Affairs Committee.

PART II - BACKGROUND

1. General aspects

The initiative in question relates to a Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions to fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic. It replaces Regulation (EC) No 2347/2002, which will be repealed following the entry into force of this Proposal for a Regulation.

The general objective of the proposal is to ensure a more sustainable exploitation of deep-sea stocks while reducing the environmental impact of these types of fisheries, and to improve the information base for scientific assessment.

The proposal provides for new restrictions on the use of bottom trawls, with transitional restriction schemes being provided for. It also proposes the possibility of simplifying the system for managing deep-sea stocks.

2. Relevant aspects

2.1. Assessment of the initiative

This Proposal for a Regulation establishes a framework Regulation for exercising fishing activity targeting deep-sea species in the North-East Atlantic in EU waters, including the Outermost Regions of Spain and Portugal, and also in international waters.

The proposal for a Regulation applies to fishing activities or intended fishing activities in the following waters: Union waters of the International Council for the Exploration of the Sea (ICES) sub-areas II to XI and of the Fishery Committee for the Eastern Central Atlantic (CECAF) areas 34.1.1, 34.1.2 and 34.2, international waters of CECAF areas 34.1.1, 34.1.2 and 34.2; waters covered by the Regulatory Area of the NEAFC.

It also seeks to reduce the high levels of undesired catch of deep-sea species, in order to *'reduce the destructive impact on the marine ecosystem'*.

Deep-sea fishing with bottom trawls carries the highest risk for vulnerable marine ecosystems and consequently reports the highest rates of undesired catch of deep-sea species. As a result, the proposal for a Regulation backs a permanent ban on bottom trawls from targeting deep-sea species.

In accordance with Article 9 of the proposal for a Regulation, fishing authorisations for vessels using bottom trawls or bottom-set gillnets *'shall expire at the latest two years after the entry into force of this Regulation'*.

COMMITTEE ON AGRICULTURE AND THE SEA

In this context, it is proposed that transitional restrictions *'on bottom-set gillnets in fisheries below 600m depth and in the depth-range 200-600m should be accompanied by a prohibition to target deep-sea species'*.

Consequently, vessels which have to change gear in order to be able to remain in the fishery could be eligible for financial assistance from the European Fisheries Fund provided that the new gear reduces the impact of fishing on non-commercial species and provided also that the national operational programme allows contributions to such measures.

In order to ensure an adapted management of the specific fisheries, *Member States concerned should be empowered to take accompanying conservation measures and to annually assess the effort levels' consistency with scientific advice on sustainable exploitation. The regionally adapted effort limits should also replace the existing global limit on fishing effort agreed in the North-East Atlantic Fisheries Commission (NEAFC).*

The intention is also to simplify the management system for the stocks concerned (i.e. deep-sea stocks), currently subject to a double instrument: catch limitations and capacity/effort limitation. *'Where this duplication is not necessary to achieve the objectives of this Regulation, proposals are made to regulate the concerned fisheries with only one management instrument.'*

The European Parliament and the Council recognise that biological information can best be collected by way of harmonise data collection. Therefore, *'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. For simplification purposes, the effort reporting by species should be discontinued and replaced by the analysis of recurrent scientific data calls to Member States which contain a specific chapter on deep-sea métiers'*.

2.2. Background

This proposal for a regulation is designed to cover deep-sea stocks, which are fish stocks caught in waters beyond the main fishing grounds of continental shelves.

Until 2003, the fishery developed in a largely unregulated manner and showed some typical symptoms of the *"race to fish problem, resulting in the depletion of stocks"*. It was only after that date that it was subject to detailed management (Total Allowable Catch, Maximum Fishing Effort).

Until the entry into force of the Treaty of Lisbon, various technical measures recommended by NEAFC (North East Atlantic Fisheries Commission) were in force, via an annual Council Regulation on fishing opportunities. Since then a transitional regime (Regulation (EC) No 1288/2009) for the whole North-East Atlantic has been in force, including measures adopted in NEAFC.

Since 2002, the Union has in place a specific access regime for fishing vessels engaged in deep-sea fisheries in the North-East Atlantic, comprising four components (capacity restriction, data collection, effort monitoring and control). However, the measures so far taken have not effectively solved the main problems of the fishery, namely:

- the high vulnerability of these stocks to fishing; many of them can only sustain a low fishing pressure over a longer period, something which is economically not viable;
- fishing with bottom trawls represents the highest risk of destroying irreplaceable and vulnerable marine ecosystems by fishing gear;
- fishing with trawls for deep-sea species involves high levels of undesired catch of deep-sea species (on average 20 to 40% in weight with individual peaks at much higher levels);

COMMITTEE ON AGRICULTURE AND THE SEA

- determining the sustainable level of fishing pressure using scientific advice is particularly difficult.

Generally speaking, the European Parliament and the Council would conclude that the depletion of deep-sea stocks could be imminent, since it is incompatible with the fishery activities which have taken place to date. In fact, fishing opportunities have consistently decreased since their regulation began.

In the COM document, the Commission confirms that it is *'exploring ways to improve the system of scientific surveys and data collection'* with regard to deep-sea species for the next programming period. In this context, a scientific Project (DEEPFISHMAN) is running until 2012, the aim of which is to develop catch rules based on secondary indicators, in the absence of primary indicators.

2.3. Consultation process

The responses to the consultation on this legislative proposal showed a broad agreement on the need to improve the 2002 access regime. Member States expressed doubts as to whether the costs involved in moving towards analytical stock assessments could be justified, favouring a precautionary management approach based on stock trends observed.

The Regional Advisory Councils (RACs) proposed effort management by *métier*, which might look different for the groups of a few multi-*métier* large vessels compared to groups of many small vessels. They called for more action aiming at the protection of vulnerable marine ecosystems and a system of allocation, renewal and withdrawal of fishing authorisations.

The strategic option which was chosen was to *'to phase out the most harmful fishing gears targeting deep-sea species'*.

2.4. Principles of subsidiarity and proportionality

This proposal falls under the exclusive competence of the Union as referred to in Article 3(1)(d) of the Treaty on the Functioning of the European Union, and therefore the principle of subsidiarity does not apply.

The principle of proportionality is complied with by this proposal. Member States are able to develop measures for their own fleets leading to a more sustainable management of deep-sea resources. However, many deep-sea stocks are shared between Member States (in some cases the fleet of one Member State is mostly present in the waters of another Member State). This makes Member States reluctant to submit their own fleets to restrictive measures unless the same or equivalent rules apply to neighbouring fleets.

PART III — OPINION OF THE RAPPORTEUR

Although Article 137(3) of the [Portuguese] Parliament's Rules of Procedure, states that Rapporteurs are not required to provide an opinion, the Rapporteur in this case considers it important to point out that this Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions to fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic will have a significant impact on Portugal's national fishing sector: in Portugal, the most potent deep-sea fishing in its truest meaning (i.e. at a depth of >500/600 metres) lies in Portugal's multi-purpose fleets, the licensing system for which enables fleets to operate with multiple types of fishing gear, specifically bottom-set gillnets/trammel nets and bottom longlining gear.

In Portugal, in terms of quantity and value, black scabbard fish accounts for 84% of deep-sea species landed, and forkbeard 12% of all fish landed.

COMMITTEE ON AGRICULTURE AND THE SEA

In actual fact, as far as operators in the Portuguese fishing sector were concerned, Regulation (EC) No 2347/2002, the repealing of which has been proposed here, was a balanced piece of legislation as it provided a mechanism of control for access to deep-sea fishing. There is concern that the new Proposal for a Regulation may neglect the three pillars of the Common Fisheries Policy – i.e. the environmental, economic and social.

Of the various regulatory amendments contained in the Proposal, the following could potentially be improved:

- The ban on towed gear and gillnets within two years.
- The ban on fishing (TAC=0) for species in respect of which MSY rates have not been established or have been established on a precautionary basis.
- A ban on extending the fishing zone in which a vessel has caught deep sea species.

We would also question the pertinence of including in a single annex the species listed in the current two annexes, given that the biological resources in question evolve in very different bathymetries of depth.

The ban on bottom trawlers in the next two years provided for in this initiative was a measure which some countries sought to approve in order to use this type of gear in international waters.

In order to justify a ban on towed gears for deep sea fishing, reference has been made to a number of potential adverse impacts for the marine ecosystem. However, no reference was made to the sustainability of their use with regard to the deep-sea species which are the subject of this regulation. This situation should encourage the European Union to invest, just as the NEAFC has done, in the protection of biologically sensitive areas, in relation to the constitution or morphology of ocean floors. The EU cannot decide to introduce a ban without any scientific basis, purely because it does not wish to or is

COMMITTEE ON AGRICULTURE AND THE SEA

unable to conduct the assessments which it requires all Member States to perform (e.g. Natura 2000).

However, we agree with the proposals made with regard to the system provided for the issuing of fishing permits, the participation of vessels in observation programmes and the collection of data, mixed management, where relevant, using TAC and quotas and fishing effort regimes, equipping deep sea fisheries for a multi annual plan, assisting investigation missions in order to improve biological knowledge and the actual conservation status of deep sea species and stocks. We also agree with the mapping of seabeds, in connection with the existence of relevant VMEs and closing areas where this is required.

The Rapporteur takes the view that the most appropriate way of making fishing compatible with the sustainability/integrity of the most vulnerable marine ecosystems is to establish measures which are based on scientific knowledge of the ocean beds, limiting or prohibiting deep sea fishing in vulnerable areas.

The constant reduction of fishing opportunities is a preventive measure which is in keeping with EU guidelines for the fish population management for which scientific knowledge is not available or where data is insufficient. However, this does not necessarily mean that all stocks are depleted. The claim that generally speaking fisheries are not sustainable would seem to be harsh and one which the European Commission should prove by means of technical studies based on scientific knowledge.

PART IV - CONCLUSIONS

In view of the foregoing, the Committee on Agriculture and the Sea concludes as follows:

COMMITTEE ON AGRICULTURE AND THE SEA

1. The Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions to fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic is within the exclusive competence of the European Union (Article 3(1)(d) of the Treaty on the Functioning of the European Union) and therefore the principle of subsidiarity does not apply.
2. This Proposal for a Regulation establishes a framework regulation for exercising fishing activity targeting deep-sea species in the North-East Atlantic in EU waters, including the Outermost Regions of Spain and Portugal, and also in international waters, repealing Regulation (EC) No 2347/2002 currently in force.
3. The content of this initiative relates to an issue which requires future monitoring by this Committee, and which also raises very important questions for the economic sustainability of this sector whose concerns must be safeguarded in the Regulation, if adopted.
4. As regards the principle of proportionality, provisions should be introduced to take account of the fact that various deep sea stocks are shared between various Member States.
5. We are also concerned that under this initiative, bans or prohibitions on fishing could be implemented without a scientific basis, something which we do not find acceptable.
6. This Proposal for a Regulation should respect the three pillars of the Common Fisheries Policy - environmental, economic and social - without any of these pillars being afforded greater importance.



COMMITTEE ON AGRICULTURE AND THE SEA

7. The Committee on Agriculture and the Sea has therefore hereby concluded the scrutiny of this initiative and hereby submits this opinion, in accordance with Law No 43/2006 of 25 August 2006, to the European Affairs Committee.

Palácio de São Bento, 13 November 2012

Rapporteur

Chairman of the Committee

(Ulisses Pereira)

(Vasco Cunha)

LEGISLATIVE ASSEMBLY OF THE AUTONOMOUS REGION OF THE AZORES

SUBCOMMITTEE OF THE STANDING COMMITTEE FOR ECONOMIC AFFAIRS

**REPORT AND OPINION ON THE PROPOSAL FOR A REGULATION OF THE
EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING SPECIFIC
CONDITIONS TO 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 [COM (2012) 371] AND THE IMPACT ASSESSMENT RELATING
THERE TO**

PONTA DELGADA, 1 MARCH 2013

The Subcommittee of the Standing Committee for Economic Affairs met on 1 March 2013, at the delegation of the Legislative Assembly for the Autonomous Region of the Azores, in the town of Ponta Delgada, and by video conference with the delegations of Angra do Heroísmo, Madalena do Pico and Santa Cruz da Graciosa, in order to examine and provide an opinion on the Proposal for a Regulation of the European Parliament and of the Council establishing specific conditions to 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 [COM (2012) 371] and the related impact assessment.

CHAPTER I

LEGAL FRAMEWORK

The examination of this initiative results from the Legislative Assembly of the Autonomous Region of the Azores' right to be consulted pursuant to Article 229(2) of the Portuguese Constitution, and in this case, as provided for in Article 3(4) of Law No 43/2006 of 25 August 2006, as amended by Law No 21/2012 of 17 May 2012.

Law No 43/2006 of 25 August 2006 states, with regard to the *'monitoring, examination and pronouncement by the Assembly of the Republic on matters relating to the construction of the European Union'*, that, if the relevant subject matter falls within the remit of the Legislative Assemblies of the Autonomous Regions, those assemblies should be *'consulted in good time'* by the Assembly of the Republic, with a view to ensuring the principle of subsidiarity (Article 3(4) of Law No 43/2006 of 25 August 2006, as amended by Law No 21/2012 of 17 May 2012).

This rule also applies the provisions of Article 227(1)(v) of the Portuguese Constitution, given that the Autonomous Regions have the authority to *'on their own initiative, or when consulted by entities that exercise sovereignty, to pronounce on issues that are within the latter's competences and concern the autonomous regions, as well as, in matters that concern their specific interests, on the definition of the Portuguese State's positions within the ambit of the process of constructing the European Union'*.

Article 122(1) and (2)(c) of the Political and Administrative Statutes of the Autonomous Region of the Azores (*Estatuto Político Administrativo da Região Autónoma dos Açores* - EPARAA) also provide for this right to participate in and be consulted in the State of Portugal's efforts to shape the process of EU integration as regards subjects which affect the Regions, in respect of the participation of the Region in the Republic's external policy, in Article 121(2) of the EPARAA.

The Legislative Assembly of the Autonomous Region of the Azores would therefore take this opportunity to stress that the concept of 'specific interest', on the basis of which the Head of the Cabinet of Her Excellency the Speaker of the Portuguese Parliament consults the Autonomous Regions, has ceased to apply since the 2004 constitutional reform, and therefore reference to this concept is entirely inappropriate under the Constitution of the Portuguese Republic.

Finally, in view of the subject matter of this initiative, we would state that in accordance with Article 1 of the Resolution of the Legislative Assembly of the Autonomous Region of the Azores No 30/2012/A of 21 December 2012, examination of this initiative falls within the remit of the Committee for Economic Affairs.

CHAPTER II

ASSESSMENT OF GENERAL AND SPECIFIC ASPECTS

This Proposal for a Regulation establishes, in general terms, a framework regulation for exercising fishing activity targeting deep-sea species in the North-east Atlantic in EU waters, including the Outermost Regions of Spain and Portugal, and also in international waters.

In 2002, the Union established a specific access regime applicable to fishing vessels engaged in deep-sea fisheries [Regulation (EC) No 2347/2002], which consisted of four components: capacity restriction, data collection, effort monitoring, and control.

The measures taken to date have been unable to solve the main problems surrounding this type of fishery (depth), specifically:

- a) 'The high vulnerability of these stocks to fishing; many of them will only sustain fishing pressure over a longer period that is economically not viable;

- b) Fishing with bottom trawls destroys or risks destroying irreplaceable benthic habitats (vulnerable marine ecosystems) which represent main sources of biodiversity in the deep sea;
- c) Fishing with trawls for certain deep-sea species produces medium to high levels of undesired catch of deep-sea species;
- d) Determining the sustainable level of fishing pressure via scientific advice is particularly difficult.'

The following shortcomings of the current regime are therefore identified:

- 1) 'The scope of fleets concerned is too large and too inflexible (lack of effectiveness as the regime is not targeted enough);
- 2) After the adoption of the new control regulation, the regime is partly redundant and the link to the control standards is unclear (lack of coherence);
- 3) The separate data collection is of very limited use to scientific advisory bodies, although constituting an administrative burden (lack of effectiveness and lack of coherence with the Data Collection Framework).'

The general objective of the Proposal for a Regulation is therefore to 'ensure sustainable exploitation of deep-sea stocks according to the concept of Maximum Sustainable Yield, thereby limiting the environmental impact as much as possible'. The Proposal also states that 'As long as data and method have not achieved the requisite quality level allowing a management towards MSY, the fisheries have to be managed according to the precautionary approach'.

In order to fully achieve this general objective, it is proposed that the following specific objectives be complied with:

- 'to comply with scientific advice on precautionary catch levels; to facilitate the future development of MSY-management for these data-poor stocks;
- to reduce the impact of bottom trawls on the seafloor in order to reduce the risk of damage to VMEs;

- to reduce the level of undesired catches;
- to ensure the collection of all data needed for improving scientific advice;
- to focus the rules on the métiers that are targeting deep-sea species and make the métier-definition adaptable to evolving scientific advice and fleet behaviour;
- to make the access regime coherent with the control regulation;
- to harmonise the special data collection with the general standards and ensure follow-up’.

On the other hand, we note that the Commission has examined Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks, and found in particular that the scope for application was too extensive as regards the fleet concerned, the guidelines on controls in designated ports and on sampling programmes were insufficient and that the quality of reporting of effort levels by Member States was too variable.

In this regard, we support the view that ‘in order to maintain necessary reductions in fishing capacity achieved so far in deep-sea fisheries, it is appropriate to provide that fishing for deep-sea species is subject to a fishing authorisation which limits the capacity of vessels eligible to land deep-sea species.’

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 policy lays down control and enforcement requirements concerning multiannual plans.

Deep-sea species, by nature vulnerable to fishing, should therefore receive the same attention in terms of control as other species which are the subject of conservation measures for which a multiannual management plan has been agreed.

The Proposal is also based on the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries approved by Council Decision 81/608/EEC and which came into force on 17 March 1982, since that Convention provided for an appropriate framework for multilateral cooperation as regards the rational conservation and management of fishery resources in international waters in the North-East Atlantic.

That Convention in practice meant that the management measures adopted in the context of the NEAFC included technical measures for the conservation and management of species regulated as under the Convention and in order to protect vulnerable marine vulnerable habitats, including precautionary measures.

In conclusion, and on the basis of the factual and regulatory background mentioned above, it is necessary to establish new rules to regulate fishing for deep-sea stocks in the North-East Atlantic.

Specifically, this initiative, as indicated in Article 1 thereof, has the following objectives:

- a) to ensure the sustainable exploitation of deep-sea species while minimising the impact of deep-sea fishing activities on the marine environment;*
- b) to improve the scientific knowledge on deep-sea species and their habitats for the purposes referred to in point (a);*
- c) to implement technical measures on fisheries management recommended by the North East Atlantic Fisheries Commission (NEAFC).*

Finally, as a result of the above, Regulation (EC) No 2347/2002 of 16 December 2002 is expected (c.f. Article 23) to be repealed.

The Subcommittee of the Standing Committee of Economic Affairs, given the likely impact of this Proposal for a Regulation for the Autonomous Region of the Azores, has unanimously reached the following conclusions:

1. The management of Community fishing resources requires precise and detailed examination of the biological capacity of the various maritime areas in which Member States' vessels can conduct fishing activities.
2. The Community waters surrounding the Azores are situated in the ICES sub-area X (80%) and 34.2.0 CECAF (20%). The ICES sub-area X includes two divisions – divisions Xa and Xb. Division Xa is formed of two subdivisions: subdivision Xa2, which is almost identical to the Azores EEZ, is that which is more important for the regional fishing fleet and which therefore warrants particular attention as regards its management and operation.

3. We therefore consider it essential to conduct negotiation at Community level with a view to ensuring detailed management of this activity, involving smaller and more detailed maritime areas than ICES subareas, specifically subdivisions of ICES, so that we may be better able to restrict the entry of vessels of other Member States into the main fishing area in which the regional fleet operates (ICES subdivision Xa2).
4. In order to meet this objective, **it is necessary to make amendments to Articles 3, 6 and 7**, in order to ensure the management of fishing permits by the ICES subdivisions already established in Regulation (EC) No 218/2009, given that the definition of these areas, with this level of detail, was clearly the result of a scientific decision to limit the assessment of the fishing activities in these smaller and biologically more sensitive areas.
5. At the same time, in order to make the licensing process more transparent, Member States should be required to annually provide the Commission a list of vessels authorised to fish for deep-sea species, as well as the ICES and CECAF areas, subareas, divisions and subdivisions where they may perform the fishing activity. The European Commission should also make this information available on DG MARE's website so that it can be accessed electronically at any time by any Member State.
6. It is also important to point out the potential consequences of the Commission's proposed wording for **Article 5. The application of the concept of management, as defined in this article, of regional fleets, would have adverse consequences for the Azores fishing community**. Indeed, all vessels contained in the Azores fishing fleet fish deep-sea species. However, 90% of vessels, due to the fact that their activity is small-scale and traditional, do not fish 10 tons per year, despite landings being frequent, many of which, for example, exceed 100 kg.
7. It is known that the maritime area surrounding the Azores has no continental shelf, its geomorphology being dominated by underwater volcanic relief in an abyssal plain in the mid-Atlantic Ocean ridge, resulting in a very uneven and irregular seabed with steep slopes, which is extremely deep only a few metres from the coast. As a result it is normal that deep-sea species are fished for, as identified in Annex I to this Proposal for a Regulation, even in ports in the islands of the Azores. Therefore, given the fact that the Community waters surrounding this Outermost Region are extremely deep, it

should be possible to license all vessels for deep-sea fisheries, irrespective of the volume of annual catches for each vessel, given the absence of fisheries resources to allow alternative fishing during the year.

8. Therefore in order to safeguard and duly protect the legitimate interests of the fishing industry in the Autonomous Region of the Azores, we would propose the following amendments:

‘Article 3

1. [...]

2. In addition, the following definitions shall apply:

- a) "**ICES zones, subzones, divisions and subdivisions**" are as defined in Regulation (EC) No 218/2009 of the European Parliament and of the Council;
- b) "**CECAF zones, subzones, divisions and subdivisions**" are as defined in Regulation (EC) No 216/2009 of the European Parliament and of the Council;
- c) [...]
- d) [...]
- e) [...]
- f) [...]
- g) [...]
- h) [...]
- i) [...]
- j) [...]

‘Article 5

1. [body of the Article above]

2. Notwithstanding the provisions made in the paragraph above, in the case of Outermost Regions where there is no continental shelf, fleets may be permitted a fishing capacity, aggregated to cover deep-sea species, measured in gross tonnage and in kilowatts, which may not at any time exceed the capacity of the existing fleet of each region.'

'Article 6

[...]

Each application for a fishing permit allowing the catch of deep-sea species whether as target or by-catch species, and for its renewal, shall be accompanied by a description of the area where it is intended to conduct fishing activities, **indicating all ICES and CECAF subzones, divisions and subdivisions**, the type of gears, the depth range at which the activities will be deployed, and of the individual species targeted.'

'Article 7

[-.]

1. [...];

a) The locations of the intended activities targeting deep-sea species in the deep-sea métier. The location(s) shall be defined by coordinates in accordance with the World Geodetic System of 1984 **and indicate all ICES and CECAF subzones, divisions and subdivisions**.

b) The locations, if any, of activities in the deep-sea métier during the last three full calendar years. The location(s) shall be defined by coordinates in accordance with the World Geodetic System of 1984 **and indicate all ICES and CECAF subzones, divisions and subdivisions**.

2. Any fishing permit issued on the basis of an application made in accordance with paragraph 1 shall specify the bottom gear to be used and limit the fishing activities authorised **to the ICES and CECAF zone, subzone, division or subdivision** in which the intended fishing activity, as set out in paragraph 1(a), and the existing fishing activity, as set out in paragraph 1(b), overlap. However, the area of the intended fishing activity can be extended beyond the area of the existing **ICES and CECAF zone, subzone, division and subdivision** only if the

Member State has assessed and documented, based on scientific advice, that such extension would not have significant adverse impacts on vulnerable marine ecosystems.’

The Subcommittee of the Standing Committee of Economic Affairs has unanimously decided that it did not have any objections to the Proposal for a Regulation in question, under the assumption that the proposed amendments set out above are taken into account.

The Rapporteur

[signature]

José Ávila

The above report was unanimously approved.

The Chairman

Francisco Vale César

AUTONOMOUS REGION OF MADEIRA

LEGISLATIVE ASSEMBLY

3rd Specialised Standing Committee,

Natural Resources and Environment

Proposal for a Regulation of the European Parliament and of the Council

establishing specific conditions to 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 [COM (2012) 371] and the related Impact Assessment – available only in English [SWD (2012) 202] and the Executive Summary of the Impact Assessment [SWD (2012) 203].

OPINION

At the request of the Office of the Assembly of the Republic, the 3rd Specialised Standing Committee for Natural Resources and the Environment, met on 1 March 2013 at 14.30 hours, for the purpose of examining and issuing an opinion on the abovementioned Proposal for a Regulation of the European Parliament and of the Council, within the context of the participation of the bodies of government specific to the Autonomous Regions, in accordance with the provisions of Article 229(2) of the Constitution of the Portuguese Republic and Article 3(3) of Law No 43/2006 of 25 August 2006.

Having examined the Proposal for a Regulation in question, the Committee considers it is broadly positive, reflecting the views of the Autonomous Region of Madeira concerning the joint use of deep-sea resources, with particular focus on the fishing of black scabbard fish, and in particular in terms of:

- reducing the environmental impact of deep-sea fisheries in the North-East Atlantic with the implications on resources for our seas;
- ensuring policies to ensure sustainable management of deep-sea species;

- minimising the impact on the ecosystem;
- improving scientific knowledge with implications on technical resource management measures..

In view of the foregoing, the Committee has unanimously decided to issue an opinion in favour of this proposal.

This opinion was unanimously approved.

Funchal, 1 March 2013.

The Rapporteur

[*signature*]

Agostinho Gouveia