



January 2006

## **MOMENTUM IN SUPPORT OF A MORATORIUM ON HIGH SEAS BOTTOM TRAWLING CONTINUES TO GROW**

In April, 2005, the Deep Sea Conservation Coalition published the paper, "A Moratorium on Deep Sea Bottom Trawling on the High Seas: Political Momentum is Building Rapidly." The paper described the growing number of States which support UN action on this issue, and/or which have taken steps to curb the problem in their own areas of jurisdiction. Since this time, momentum has continued to grow, and this paper serves as an addendum to the original publication, highlighting the global reach of support for a UN General Assembly moratorium on high seas bottom trawling.

### **UN Task Force**

The UN Task Force on Environmental Sustainability of the Millennium Project (an independent advisory body commissioned by UN Secretary-General Kofi Annan to advise the UN on strategies for achieving the Millennium Development Goals) has called for urgent action on bottom trawling. The report was launched in New York in March 2005, and states that:

"Global fisheries authorities must agree to eliminate bottom trawling on the high seas by 2006 to protect seamounts and other ecologically sensitive habitats... [An] immediate moratorium would prevent irreversible destruction on the high seas and provide more time to fully assess deep sea biodiversity, fisheries, and ecosystems; determine their vulnerability to deep sea fishing on the high seas; and adopt and implement protection laws."

### **UNICPOLOS**

In June 2005, the United Nations Open-Ended Informal Consultative Process on Oceans and the Law of the Sea (UNICPOLOS) called on countries to accelerate action to protect deep-sea ecosystems and deal with the impact of bottom trawl fishing on the high seas. It reaffirmed the call to take urgent action to prevent bottom trawl fishing from damaging vulnerable deep-sea ecosystems on the high seas made by the United Nations General Assembly (UNGA) in 2004 and recommended accelerated progress on implementation of the 2004 UNGA resolution. UNICPOLOS also called on states to urgently speed up cooperation in establishing "interim targeted protection mechanisms for vulnerable marine ecosystems," a recommendation which largely applies in international waters where no regional fisheries management organisations (RFMOs) currently exist. In addition, where they do exist, RFMOs are requested to implement measures to protect vulnerable marine ecosystems as a matter of urgency.

Initially there was considerable reluctance on the part of many countries to even re-open negotiations further to the 2004 UNGA resolution. However, this proved impossible after a number of governments spoke to the issue during the course of the meeting. In the end, governments agreed that the issue continues to warrant urgent action and has not yet been resolved effectively.

Amongst others, **Nigeria** called for a moratorium on high seas bottom trawl fishing and **Chile** announced its position in support of an interim prohibition on all high seas bottom trawl fishing in areas not covered by a competent RFMO.

### **United States**

In August, the National Marine Fisheries Service of the US National Oceanographic and Atmospheric Administration issued a 'decision' to "proceed with designating the largest marine protected area in U.S. waters" in the Aleutian Islands area of the North Pacific which "will prohibit bottom trawling in an area exceeding 274,000 square nautical miles. The agency's decision also includes protections for other areas and new measures to identify and conserve essential fish habitat in Alaska." The decision was designed primarily to protect cold-water corals, seamounts and other deep-sea ecosystems from bottom trawl fishing within the US EEZ off Alaska.<sup>1</sup>

Similarly, the Pacific Fisheries Management Council in the US has recommended the closure of approximately 82% of the US EEZ off California, Oregon and Washington to bottom trawl fishing primarily to protect deep-sea habitats such as corals and seamounts.

Legislation currently (January 2006) pending before the US Congress provides for sanctions against countries whose vessels engage in IUU fishing. IUU fishing would be classified to include fishing activity, including bottom trawling, that has adverse impacts on seamounts, hydrothermal vents, and cold water corals in areas of the high seas where there are no applicable conservation or management measures or in areas with no applicable RFMO.

### **New Zealand**

New Zealand has one of the largest fleets of vessels bottom trawl fishing on the high seas. In September 2005, the government announced "New Zealand would be prepared to support, in principle, the concept of an interim global moratorium on bottom-trawling on the high seas if such a proposal had sufficient support to be a practical and enforceable option for improving biodiversity protection on the high seas. At a minimum, New Zealand would need to be confident of the commitment of key likeminded fishing nations to a moratorium before lending its support to the proposal."<sup>2</sup>

### **The European Union**

It is no secret that the EU remains the single largest obstacle to obtaining a high seas bottom trawling moratorium. EU member States are not allowed to put forward individual positions on this issue at the UN negotiations; a collective position is negotiated and put forward by the country holding the EU presidency. Whereas in 2004 the EU held a collective position – driven by Spain, the world's leading high seas bottom

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<sup>1</sup> See NOAA press release, 8 August 2005 at <http://www.fakr.noaa.gov/newsreleases/efhrod080805.htm>

<sup>2</sup> <http://www.doc.govt.nz/Conservation/Marine-and-Coastal/Fishing/120~Bottom-trawling-strategy.asp>

trawling country – in opposition to the moratorium, there are now indications that support for this position is starting to crumble. Several countries have begun calling for a stronger EU position, at a minimum for a moratorium in high seas areas outside the jurisdiction of RFMOs. In the run-up to UNICPOLOS, these included **Belgium, The Netherlands, Sweden, Germany** and the **UK**.

Spain clearly began to feel the pressure: On 12 August, the Spanish Ministry of Agriculture and Fisheries published a press release titled, "Spain, First Major Fishing Power to Support regulation on Bottom Trawling." However, as always, the devil is in the details. According to the press release, "the General Secretariat for Fisheries has adopted a precautionary position whereby in those areas on the high seas where no regional fisheries management organization (RFMO) has been established, the practice of bottom trawling will only be permitted based on scientific reports determining that no vulnerable marine ecosystems exist."

The statement also said: "Where an RFMO exists, Spain will support regulations establishing specific conditions for fishing activities, in particular bottom trawling, to ensure that they that respect marine ecosystems."<sup>3</sup>

Despite its limitations, the new Spanish position is a significant development. **Spain now admits that bottom trawling is inherently destructive to vulnerable seabed ecosystems** such as seamounts and deep-sea coral reefs, **and that trawling on sensitive ecosystems will most certainly wipe them out**. In addition, it calls for a reverse burden of proof: that trawling should not be allowed until it is proven safe. This is a conceptual reversal of the EU position in 2004 which called for case by case protection on the basis of scientific evidence that vulnerable ecosystems are being damaged.

Unfortunately Spain, (together with the European Commission's DG Fisheries and Maritime), continued through the remainder of 2005 to block the adoption of a European Union 'consensus' position in support of a moratorium on deep-sea bottom trawling on the high seas in non-RFMO areas and actions to protect vulnerable deep-sea ecosystems in high seas areas where such RFMOs do regulate deep-water fisheries. Furthermore, **there is growing evidence that Spain is not taking seriously its duty to curb illegal, unregulated and unreported fishing activities<sup>4</sup> - 2006 will thus be a 'test-year' to determine whether Spain is able or willing to fulfil the commitments it has made to protect marine biodiversity and engage in responsible fishing.**

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<sup>3</sup> For details and links, see <http://www.savethehighseas.org/display.cfm?ID=76>

<sup>4</sup> See: <http://www.greenpeace.org/espana/news/greenpeace-pide-una-investigac>; [http://www.oceana.org/index.php?id=327&no\\_cache=1&tx\\_pressrelease\\_pi1\[pointer\]=0&tx\\_pressrelease\\_pi1\[showUid\]=353](http://www.oceana.org/index.php?id=327&no_cache=1&tx_pressrelease_pi1[pointer]=0&tx_pressrelease_pi1[showUid]=353); and <http://assets.panda.org/downloads/iiumr.pdf>

In November, one of Spain's staunchest allies adopted a position which further undermines European Union opposition to a moratorium. **France** has now called for a moratorium on ALL deep sea fishing in areas outside the jurisdiction of RFMOs.<sup>5</sup> The position states: "In order to limit the impact on habitats in the high sea, France will support a moratorium on all fishing techniques for deep-sea species, where there is no competent authority in this regard (75% of the oceans), pending the creation of a Regional Fisheries Management Organisation (RFMO)."

In the meantime the **EU** has adopted a permanent ban on all deep-water bottom trawl fishing in the 200 nm limits (EEZs) surrounding the Azores, Madeira and Canary Island groups in the Northeast Atlantic. The ban, which covers several hundred thousand square kilometres of ocean encompassing seamounts and oceanic ridge systems, was adopted in recognition of the need to protect deep-sea corals and other vulnerable deep-sea ecosystems from the destructive impact of bottom trawl fishing within European Union waters.

### **Canada**

"Canada is teaming up with some of its traditional high seas foes to fight efforts for an international ban on the controversial practice of dragging the ocean bottom for fish."

This quote from a Canadian Press article, which appeared on 29 December 2005 in newspapers across the country, summed up the Canadian Government's record in 2005 and also exposed the contradictory and awkward position the Canadian Government finds itself in opposing an international moratorium – especially since a recent nationwide opinion poll shows that 78.3% of Canadians support a moratorium on high seas bottom trawling.<sup>6</sup> Two weeks later, in January 2006, Canadian researchers reported in the prestigious science journal *Nature*, that, "five species of deep-sea fish have declined over a 17 year period in the Canadian waters of the Northwest Atlantic to such an extent that they meet the IUCN criteria for critically endangered."

Editorials and letters to the editors in Canadian newspapers are increasingly calling into question the government position. The all-party House of Commons Standing Committee on Fisheries and Oceans has issued a strongly-worded report urging the Canadian government to take action on dragging. The opposition to Canadian support for the moratorium is coming from the Canadian fishing industry which fears that it will have consequences for their activities in domestic waters. However, there are many independent, fixed gear fishermen who are supportive of efforts to address bottom trawling.

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<sup>5</sup> (1) Des actions pour enrayer l'érosion du vivant. Actions phares des plans d'action sectoriels de la Stratégie Nationale pour la Biodiversité, 23 novembre 2005, Ministère de l'Ecologie et du Développement Durable. See Paragraphs 24 and 25. [Download pdf](#)

<sup>6</sup> See: <http://www.savethehighseas.org/display.cfm?ID=90>

In March 2006 the Canadian government is going to hold the first-ever, national scientific review of the impacts of fishing gear on the ocean floor. This review could have a significant impact on Canada's position in UN talks in 2006.

### **Australia**

Australia has been a global leader on other significant fishery issues and has taken a strong proactive regulatory stand on illegal fishing practices in its EEZ. On high seas protection, it has promoted implementation of long-term sustainable high seas fisheries management, and is focusing particular effort on the development of 'model' RFMOs. However, it has been loathe to support urgent protection measures, arguing in particular that a moratorium would not be enforceable and would unfairly penalize 'responsible' fishers. Until late 2004 Australia had been prepared to block discussion of short-term measures in favour of the longer-term RFMO approach.

During 2005, there have been several indications of a shift both within the government and the Department of Fisheries, towards acknowledging the need for urgent protection measures in addition to longer term governance solutions. There are indications that the tension between the relevant government departments which has hindered the development of a unified position, is lessening with growing widespread support for short-term measures, including consideration of temporal and spatial closures.

At the parliamentary level, in mid October, the government-controlled Senate agreed to a Motion which noted the damage that may be caused to deep sea coral and sponge communities by destructive fishing practices and supported the development and implementation of an effective, legally binding governance framework to protect deep sea biodiversity in the high seas area and to conserve and manage bottom fisheries of the high seas consistent with the UN Convention on the Law of the Sea and 2004 UN General Assembly resolution 59/25. The main opposition Labour Party, has publically announced its support of the need for urgent protective measures, and is intending to table a policy position on the issue in early 2006.

### **Iceland**

In October 2005, an event organized by the Deep Sea Conservation Coalition (DSCC) together with the Iceland Nature Conservation Association, and attended by key Icelandic government officials, initiated a debate in Iceland over the country's opposition to the high seas bottom trawling moratorium. Iceland believes that fisheries should be regulated not on a global scale by the UN, but at a regional level through RFMOs. Media coverage subsequent to the event resulted for the first time in an active public discussion on this issue. While the government remains firmly opposed to a moratorium, the Icelandic Fisheries Minister recently declared some 80 sq km off-limits to all bottom trawling in order to protect cold water corals.<sup>7</sup> This is an entirely new approach by Iceland.

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<sup>7</sup> For a map of the areas where bottom trawling is banned, see [http://www3.sjavarutvegsraduneyti.is/media/kort/verndun\\_koralsvada\\_des\\_05.bmp](http://www3.sjavarutvegsraduneyti.is/media/kort/verndun_koralsvada_des_05.bmp)

### **Scientists Increasingly Concerned**

There is growing concern amongst scientists about the need to take urgent action to protect deep sea biodiversity - fish stocks as well as habitat. The International Council on the Exploration of the Sea (ICES) prepared a report in October 2005 calling for "a complete overhaul of deep-sea fisheries." According to a 17 October ICES press release about the report's launch, "scientists will recommend that all existing deep-sea fisheries should be cutback to low levels until they can demonstrate that they are sustainable. They will advise zero catch of depleted deep-sea sharks, and they will recommend that no new fisheries for deep-sea fish should be allowed until it can be demonstrated that they are capable of being sustainable." According to David Griffith, General Secretary of ICES, "Deep-sea fish such as the orange roughy or the roundnose grenadier are long-lived, slow reproducing fish that can withstand only low levels of fishing pressure. All our evidence indicates that the current fishing pressure on these stocks is much too high. We are particularly concerned about deep-sea sharks such as the Portuguese dogfish and leafscale gulper shark which are now heavily depleted."

In the UK, in an open letter signed by 50 leading scientists, Minister Ben Bradshaw was urged to "take advantage of a historical opportunity to secure significant protection for the world's deep-ocean ecosystems on the high seas - the two-thirds of the world's oceans that lie beyond the jurisdiction of any nation. We are calling on you exercise leadership during the UK Presidency of the European Union to negotiate a moratorium on deep-sea bottom trawl fishing on the high seas at the United Nations General Assembly this year." Minister Bradshaw also received a letter from Sir John Lawton, Chairman of the prestigious Royal Commission on Environmental Pollution calling on the Minister to take similar action. The Royal Commission, in a report issued in December 2004 had previously called for drastic and urgent action to protect the marine environment from unsustainable fishing and, among other recommendations, called for a prohibition of bottom trawl fishing for deep-sea species.

Leading Canadian scientists also sent a letter to Canadian Prime Minister Paul Martin. In a speech in May, Mr. Martin called on ministers attending an international high-level fisheries governance conference to "seize this historic occasion, and begin the process to stop the rape of our fisheries and oceans, once and for all. I'm asking you to come together - as a global community - to write the next chapter in the history of the world's fisheries and oceans, and to restore their once-proud place in our cultures, in our nations, and in our lives." The scientists' letter, dated 17 October, called on the Prime Minister to support the high seas moratorium, noting that "it would be in keeping with Canada's national and international commitments to biodiversity protection."

Likewise, leading Australian and New Zealand scientists have called on the Australian and New Zealand governments to support the moratorium.

### **Pacific Islands Forum (PIF)**

Pacific Island leaders attending the Forum in October 2005 adopted a statement on high seas bottom trawling: "Leaders noted the proposal by the Republic of Palau for a moratorium on deep sea bottom trawling and for the creation of a legal framework to manage this method of fishing to protect biodiversity in the high seas. Leaders were seriously concerned about the problem and thanked Palau for bringing the matter to the Forum. They agreed to develop an appropriate legal framework for consideration of the

Forum in 2006. The PIFFA and SPC were tasked with the implementation of this decision.”

In its statement to the UNGA Debate on Oceans and Fisheries in November (delivered by **Papua New Guinea**) PIF said: “We are well aware of, and firmly support, the need to take urgent action to prevent and manage the effects of destructive fishing practices, including bottom-trawling, that has adverse impacts on vulnerable marine ecosystems. We are seriously concerned about the destruction caused by these activities.” Bottom trawl fishing nations within the Forum, i.e. Australia and New Zealand, have tempered official PIF statements, but even **New Zealand** has stated that it would support a high seas bottom trawling moratorium if other fishing countries were prepared to do the same<sup>8</sup>.

### **United Nations General Assembly, November 2005**

UNGA reaffirmed its call for nations to take 'urgent action' to protect deep-sea corals, seamounts and hydrothermal vent ecosystems from destruction by bottom trawl fishing. Although it decided to postpone consideration of a moratorium until 2006, it did agree to conduct a review of actions taken by high seas fishing nations and regional fisheries treaty organizations in the meantime to protect deep-sea ecosystems. The outcome of this review is likely to provide renewed impetus to the moratorium call. More countries are speaking out on this issue than ever before, and even more have signaled that they will support the moratorium call by others.

Many **African states** are now in support of a moratorium on high seas bottom trawl fishing. During its address to the General Assembly, **Tunisia** said it supported the decision taken in the Mediterranean that bans bottom trawling below 1000 metres, and will adopt further measures as needed. A number of Asian and South Asian nations also support the moratorium. In Latin America, a number of countries such as **Brazil** and **Chile** have taken stronger positions and are working with other countries in the region. In its statement to the UN Oceans and Fisheries debate, **Uruguay** said "Despite the fact that we are optimistic about the [bottom trawling] Review Conference of 2006, what relates to the provisions adopted in resolution 59/25 with regards to the impact of deep sea bottom trawling on the vulnerable marine ecosystems, we must emphasize that the irreversible damage caused to the marine environment leaves little margin of action, reason why we urge strengthening provision to counteract on such undesirable effects."

The Statement of the Pacific Islands Forum (PIF) as presented by the Ambassador from **Papua New Guinea** reflects a united view amongst Pacific Island States that urgent action is needed by the UN. Caribbean and Central American States have expressed their concerns in previous debates. The UN is poised to take more serious action of some kind in 2006: many delegates believe that this will be one of the highest priorities for discussion and agreement in the coming year.

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<sup>8</sup> <http://www.doc.govt.nz/Conservation/Marine-and-Coastal/Fishing/120~Bottom-trawling-strategy.asp>