



Heeding the UN's Call for Urgent Action on High Seas Bottom Trawling What Constitutes Effective Action?

The Deep Sea Conservation Coalition welcomes paragraphs 73 and 74 of the UN General Assembly Resolution on Sustainable Fisheries A/60/L.23 (to be issued as A/RES/60/31) which call for a review of progress on actions by States and Regional Fisheries Management Organizations (RFMOs) or arrangements to address the effect of destructive fishing practices, including bottom trawling, on vulnerable marine ecosystems. As the high seas bottom trawling review commences in 2006, the Deep Sea Conservation Coalition (DSCC) considers it imperative that clear benchmarks be laid down to illustrate what would constitute effective implementation of measures to give effect to these paragraphs.

Specifically, paragraphs 73 and 74 of the Resolution provide:

“73. Requests the Secretary-General, in cooperation with the Food and Agriculture Organization of the United Nations, to report to the General Assembly at its sixty-first session on the actions taken by States and regional fisheries management organizations and arrangements to give effect to paragraphs 66 to 69 of resolution 59/25, in order to facilitate the review referred to in paragraph 71 of resolution 59/25 of progress on action taken with a view to further recommendations, where necessary, in areas where arrangements are inadequate and further requests that an advance unedited version of the report be made available in accordance with past practice via the Division for Ocean Affairs and the Law of the Sea website as of 15 July 2006;

“74. Requests States and regional fisheries management organizations and arrangements to submit detailed information to the Secretary-General in a timely manner on actions taken pursuant to paragraphs 66 to 69 of General Assembly resolution 59/25 to facilitate a comprehensive review of such actions;”

Paragraphs 66 to 69 of resolution 59/25 read as follows:

“66. Calls upon States, either by themselves or through regional fisheries management organizations or arrangements, where these are competent to do so, to take action urgently, and consider on a case-by-case basis and on a scientific basis, including the application of the precautionary approach, the interim prohibition of destructive fishing practices, including bottom trawling that has adverse impacts on vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals located beyond national jurisdiction, until such time as appropriate conservation and management measures have been adopted in accordance with international law;

“67. Calls upon regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries urgently to adopt, in their regulatory areas, appropriate conservation and management measures, in accordance with international law, to address the impact of destructive fishing practices, including bottom trawling that has adverse impacts on vulnerable marine ecosystems, and to ensure compliance with such measures;

“68. Calls upon members of regional fisheries management organizations or arrangements without the competence to regulate bottom fisheries and the impacts of fishing on vulnerable marine ecosystems to expand the competence, where appropriate, of their organizations or arrangements in this regard;

“69. Calls upon States urgently to cooperate in the establishment of new regional fisheries management organizations or arrangements, where necessary and appropriate, with the competence to regulate bottom fisheries and the impacts of fishing on vulnerable marine ecosystems in areas where no such relevant organization or arrangement exists;”

In some respects it is easier to consider what clearly **DOES NOT** constitute effective implementation:

- A commitment to study / identify vulnerable areas WITHOUT the establishment of interim measures to prevent damage in currently unstudied or understudied areas;
- Bottom trawling prohibitions in certain vulnerable areas, while continuing to allow bottom trawling in other vulnerable and/or unstudied areas.
- A commitment to establish new RFMOs without simultaneously committing to an interim prohibition on bottom trawling until such time as the RFMO is established, vulnerable ecosystems have been identified and adequate measures are in place to protect them.

It should be noted that at the current time over half of all high seas bottom trawling takes place in areas of the high seas covered by RFMOs with legal competence over such fisheries. All but one of these RFMOs have failed thus far (including since the adoption of resolution 59/25 in 2004) to take adequate measures to regulate them.

The DSCC asserts that whether in unregulated high seas areas or in those areas covered by RFMOs with the competence to manage bottom fisheries, only the following examples meet the criteria laid out under paragraphs 66-69 of resolution 59/25:

1. That the burden of proof has been shifted such that no bottom trawling is allowed in any high seas area until/unless it is determined that there are no ecosystems vulnerable to the impact of bottom trawl fishing in the area;
2. That a moratorium on high seas bottom trawling has been put into place while studies are conducted to determine the nature and extent of deep-sea biodiversity in the area. These areas must be urgently evaluated to identify vulnerable deep-sea

ecosystems and effective measures implemented to ensure these ecosystems are adequately protected;

3. That the results of such evaluations or studies must be scientifically peer reviewed and published for public scrutiny and comment;

4. That following such studies, effective protection measures will be established and implemented. All permits / licenses / quotas issued, will then be allocated on the basis of the application of the ecosystem approach to fisheries management and the precautionary approach consistent with the relevant standards and obligations under international law and agreements (i.e. UN Fish Stocks Agreement); and

5. That effective monitoring, control, surveillance and enforcement measures are in place to ensure that the measures are properly implemented and adhered to.

Effective enforcement measures include:

- A commitment by States to establish national or regional regulations prohibiting fishing vessels flagged to their countries from fishing on the high seas in contravention of protection measures;
- Gear restrictions;
- The implementation of tamper-proof VMS systems with real-time reporting mechanisms on all vessels with a permit/license to fish for species targeted by high seas bottom trawlers;
- Denial of the authorisation to fish (by any method and for any species) by fishing vessels (and their owners/operators) that operate in contravention of measures in waters covered by the RFMO;
- Adoption of a blacklist of non-complying vessels and companies;
- A commitment by RFMO member states or coastal states to deny EEZ fishing permits to vessels that have engaged in prohibited high seas bottom trawl fishing;
- The closure of ports to non-complying fishing vessels and to fishing vessels flying the flag of non-complying states, and/or conducting intensive in-port inspections of fishing vessels suspected of non-compliance;
- Initiation of negotiations of multi-lateral port-state enforcement agreements;
- Prohibiting the transshipment at sea of any species caught by bottom trawl fishing on the high seas;
- A commitment to close markets to fish and fish products of the main deep-sea species caught by high seas bottom trawling in regions where effective measures have not been put into place except for those products that carry credible certification establishing that the fish/fish products were derived from licensed fishing operations in EEZ waters or by non-bottom trawl and sustainable methods on the high seas;
- A catch documentation scheme for deep-sea fish species caught on the high seas tracing the catch from ship to shelf;
- A commitment by states to adopt, as necessary, new laws and regulations to ensure effective control over nationals engaged in fishing, especially in areas beyond national jurisdiction; and
- Exchanging, pooling and publicizing information on vessels and companies involved in high seas bottom trawling (including the operators, captains and beneficial owners of such vessels, and those providing banking, insurance and other services to them) to allow appropriate action to be taken against them if they are found to have infringed conservation measures.

Conclusion:

In the event that the criteria listed above have not been fully complied with (in light of the fact that the UN General Assembly has called for urgent consideration of this issue since 2002), it is clear that a moratorium on all high seas bottom trawl fishing is the only solution for ensuring the protection of vulnerable deep sea ecosystems in the short term.