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EXECUTIVE SUMMARY OF THE EVALUATION

of the

Regulation (EU)2016/2336 of the European Parliament and of the Council of 14 December 2016

establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002

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Executive Summary

Fishing for deep-sea species occur on deep-water slopes, ridges and seamounts with gears that can scrape the bottom of the seabed. This leads to important impacts on the deep-sea fauna, which is made of slow-growing and long-lived species, such as coral reefs and garden, sponges, anemones and sea pens, which compose the so-called "vulnerable marine ecosystems" (VMEs).

In 2016, the EU adopted **Regulation (EU) 2016/2336**[1], called the **"Deep-sea Access Regulation" (DSAR)**, governing access to deep-sea fishing and setting conditions for protecting VMEs in international and EU waters[2]. The DSAR aims to establish **a sustainable exploitation of deep-sea stocks while reducing the environmental impact of these fisheries and preventing significant adverse impacts on VMEs**, and to **improve the information base for scientific assessment**, through data collection.

The main provisions foreseen by the DSAR to contribute to these objectives include:

- a fishing authorisation scheme for vessels targeting deep-sea species and for vessels catching deep-sea species as by-catch,
- fishing capacity limits for fishing vessels engaged in deep-sea fisheries,
- spatial measures limiting deep-sea fishing areas, protecting VMEs and prohibiting bottom trawling below 800 meters,
- a VME encounter protocol to report and cease fishing in vulnerable areas,
- stringent control and monitoring provisions, and
- a specific observer coverage (20% for fishing vessels targeting deep-sea species with bottom trawls or bottom set gillnets, 10% for all other vessels catching deep-sea species as target or by-catch).

[1] Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002.

[2] International waters of the Fishery Committee for the Eastern Central Atlantic (CECAF areas 34.1.1, 34.1.2 and 34.2) and EU waters of the Atlantic Ocean.

This evaluation examines, following the European Commission's Better Regulation guidelines, the relevance, effectiveness, efficiency, coherence and EU added-value of the DSAR since its entry into force in 2017. However two spatial measures are still pending for adoption: the definition of existing areas delimitating where vessels with a targeting fishing authorisation may operate ("*the footprint*") and the list of areas where VMEs are known to occur or likely to occur in which fishing vessels using bottom gears will be prohibited to operate below 400 meters ("*the VMEs closures*"). The evaluation therefore outlines conclusions proportionate to this scope covering the implementation period from 2017 to 2020.

The evaluation of the Deep-sea Access Regulation is based on the following sources:

- an external study supporting the evaluation of the DSAR completed in 2020[3];
- a series of targeted consultations with stakeholders, including Member States' authorities, fishermen associations, research institutions and NGOs; and
- a public consultation, open online between 13 May 2020 and 5 August 2020[4].

Regarding the **relevance** of the DSAR, it was necessary to reform[5] the deep-sea access management regime of Regulation (EC) 2347/2002[6] to ensure better alignment with the United Nations General Assembly Resolutions[7] and to include the ecosystem-based approach of the Common Fisheries Policy Regulation adopted in 2013. The design of the DSAR is appropriate to address the need for an improved scientific knowledge on deep-sea species and their habitats and for the prevention of significant adverse impacts on VMEs and long-term conservation of deep-sea fish stocks. The evaluation did not identify any gap in the measures in place, but showed that the capacity management regime has become less relevant in view of the decreasing levels of fishing activities on deep-sea stocks since 2017.

The DSAR has proven its **effectiveness** in contributing to the preservation of deep-sea fish stocks through the prohibition to fish below 800 meters with bottom trawls. The prohibition decreased accessibility of some key commercial deep-sea species to bottom trawlers, such as grenadiers, orange roughy and black scabbardfish. This contributed to a decrease in catches of other deep-sea species caught as by-catches, in particular deep-sea sharks. The DSAR, with the Data Collection Regulation (EU) 2017/1004[8], has been effective in improving scientific knowledge for three stocks of greater silver smelt and black scabbardfish. The uneven application of the observer programme coverage by Member States and the lack of VME encounter records have led to a reduced effectiveness in improving scientific knowledge on deep-sea habitats. Due to the delayed adoption of the VMEs closures, the DSAR has not been effective so far to ensure VMEs protection in EU waters.

[3] European Commission, "*Study supporting the Evaluation of the Deep-sea Access Regulation"* (2020).
[4] EU – Have your say: Public Consultation on the Evaluation of deep-sea fishing in the NE Atlantic.
[5] Staff Working Document (SWD/2012/0202) of 19 July 2012 - Impact Assessment accompanying the Proposal for a Regulation 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.
[6] Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks.
[7] Resolutions 61/105 and 64/72 of the United Nations General Assembly.
[8] Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008.

The DSAR management regime for fishing authorisation appears to be **efficient**. The fishing authorisation regime is the main driver for administrative cost for Member States, notably for Portugal, Spain and France issuing most fishing authorisations. Other costs are a relatively small part of the monitoring, control and surveillance of fishing vessels under Member States competence or of the collection of scientific data under the EU Data Collection Framework.

The **coherence** of the DSAR with Resolutions 61/105 and 64/72 of the United Nations General Assembly on the protection of deep-sea ecosystems is broadly acknowledged, despite the delay in defining VMEs closures. The DSAR is aligned to NEAFC Recommendation 19.2014 with even more stringent measures on harmful gears. The DSAR is coherent with EU's Marine Strategy Framework Directive and Habitats Directive, with synergies on habitats protection and impact mitigation. The DSAR goes further than the TAC and quota Regulations and the Technical Measures Regulation on the protection of deep-sea shark species, by listing many sharks as 'Most Vulnerable'. The DSAR and Regulation (EC) 734/2008 on the protection of VMEs in the high seas have complementary provisions for VMEs protection against bottom fishing gears.

The **added-value of the EU** intervention through the DSAR is to ensure application of its measures to any EU or third country fishing vessel exploiting deep-sea species in EU waters, guaranteeing a level playing field for fishing operators. The added-value results from the alignment of the EU management of deep-sea fisheries with UN standards, from the transparent and science-based identification of VMEs areas, from the haul-by-haul reporting of deep-sea fishing activities and from the compulsory observer coverage whose coverage is significantly higher than the one implemented by Member States under the EU Data Collection Framework.

The overarching conclusion of this evaluation is that the Deep-sea Access Regulation **is fit for purpose in its contributions to the three objectives** of i) improving scientific knowledge on deep-sea species and their habitats, ii) preventing significant impacts on VMEs within the framework of deep-sea fishing and ensuring long-term conservation of deep-sea fish stocks, and iii) ensuring consistency of EU deep-sea conservation scheme with resolutions of the United Nations General Assembly.