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Ecology Action Centre and Deep Sea Conservation Coalition Recommendations to NAFO Contracting Parties for the 39th Annual Meeting

Introduction

The Ecology Action Centre (EAC), individually and as an active member of the Deep Sea Conservation Coalition (DSCC) respectfully submit this position paper to the 38th Annual Meeting of the Northwest Atlantic Fisheries Organization (NAFO). Over the past year, several important discussions and reviews have taken place that should serve to inform and compel further action and responsible governance from NAFO's Contracting Parties this year.

- The United Nations Secretary General 2016 report noted that key recommendations from the 2006 and 2010 Review Conferences had yet to be fully implemented¹.
- The March 2016 resumed Review Conference of the United Nations Fish Stocks Agreement noted in particular that despite progress in implementing the Agreement that “neither the status of fish stocks nor the economic profitability of fleets was improving.”²
- The 2016 World Ocean Assessment concluded in part, that “the vast majority of deep-water fisheries have been carried out unsustainably, or at least without satisfactory assessments of impacts and sustainability.”³
- In June 2017, States adopted the “Our Ocean, Our Future: Call for Action under the Sustainable Development Goal 14, section 14.4 I of which states: “(I)
 - *Enhance sustainable fisheries management, including to restore fish stocks in the shortest time feasible at least to levels that can produce maximum sustainable yield as determined by their biological characteristics, through the implementation of science-based management measures, monitoring, control and enforcement, supporting the consumption of fish sourced from*

¹ Report submitted to the resumed Review Conference in accordance with paragraph 41 of General Assembly resolution 69/109 to assist it in discharging its mandate under article 36 (2) of the Agreement. Available at <http://undocs.org/A/Conf.210/2016/1>

² Report of the resumed Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Available at: <http://undocs.org/A/CONF.210/2016/5>

³ The First Global Integrated Marine Assessment: World Ocean Assessment 2016. Chapter 51, at page 15.

*sustainably managed fisheries, and through precautionary and ecosystem approaches as appropriate, as well as strengthening cooperation and coordination, including through, as appropriate, regional fisheries management organisations, bodies and arrangements.*⁴

- Following the conclusion of a final PrepComm regarding the conservation and sustainable use of biodiversity beyond national jurisdiction (BBNJ), States recommended that a decision be taken as soon as possible to begin negotiations on a new international legally binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.⁵

One of the primary concerns of the EAC and DSCC is the continued work that remains to be done, as per UNGA commitments in avoiding the impacts of bottom fishing and not allowing fishing to take place, unless management measures are in place. In July 2016, the DSCC released a comprehensive report on the implementation of UNGA Resolutions 61/105, 64/72 and 66/68 and concluded in part that despite some progress:

- RFMOS and their member States have failed to protect all known or likely to occur areas of vulnerable marine ecosystems,
- Impact assessments where complete show VME areas still at risk of bottom fishing impact,
- Cumulative impact assessments as called for in 66/68 have not been conducted in any region,
- Deep-sea stocks continued to be unregulated and overfished and data and information on these stocks is often lacking.⁶

Additional reports and initiatives, either through the Food and Agriculture Organization and the Convention on Biological Diversity, also add to the increasing importance of managing the high seas, with a view towards sustainable fisheries and biodiversity conservation. As such, this year's Annual Meeting of NAFO offers a continued opportunity to improve upon past efforts, fully meet commitments made at the UNGA and implement recommendations of the UNFSA Review conference. In addition to measures to improve fisheries management measures, adhere to science advice and implement an ecosystem approach, we also urge NAFO to continue its improvements in transparency and engagement of non-government organizations, particularly in the Performance Review Process.

⁴ [A/RES/71/312 - Our ocean, our future: call for action](https://oceanconference.un.org/callforaction) <https://oceanconference.un.org/callforaction>

⁵ Report of the Preparatory Committee established by General Assembly resolution 69/292: Development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction Available at: <http://www.un.org/depts/los/biodiversity/prepcom.htm>

⁶ Gianni et al. 2016 How Much Longer Will it Take? A ten-year review of the implementation of United Nations General Assembly resolutions 61/105, 64/72 and 66/68 on the management of bottom fisheries in areas beyond national jurisdiction. Available at: www.savethedeepsea.org

Recommendations for NAFO and its Contracting Parties for the 2017 Annual Meeting:.

1. Vulnerable Marine Ecosystems (VMEs)

- a.** At the 2016 Annual Meeting, and during the Joint Scientists and Managers Working Group on the Ecosystem Approach to Fisheries Management (WG-EAFM) in July 2017, additional seamount closures in the New England Seamount Chain and on Corner Rise was discussed.⁷ It is imperative that NAFO Contracting Parties agree this year to protect the remaining seamounts. NAFO has repeatedly made claims that it has protected seamounts and indeed, since 2004 significant progress has been made, however the job is not complete. We support efforts of States to bring proposals to the table in keeping with the WG-EAFM report, however we strongly recommend that NAFO take a decision this year to protect the remaining unprotected seamounts for the 2018 fishing year. Specifically we recommend that NAFO close all seamounts within the NAFO Regulatory Area above 2000m to all bottom fishing, in keeping with the UNGA Sustainable Fisheries Resolutions 61/105, 64/72 and 66/68/ In doing so, NAFO will be leading RFMOs responsible for straddling stocks and will set an important precedent for the protection of these unique and vulnerable VME elements. NAFO will have also completed this aspect of the UNGA Resolution commitments.
- b.** While the issue of continued trawl surveys within the VME closed areas has been raised by scientists since 2008, an analysis was finally completed in 2017 at the June Scientific Council meeting. Scientific surveys continue to pose the greatest risk of damage to the fragile seafloor communities of corals, sponges and seapens. The recent analysis shows that 87% of trawl surveys in the closed areas exceed the threshold catch of 75kg of sponges and in some cases, up to 10,000kg have been recorded.⁸ To date, only the Canadian RV data has been analysed and shows that there is a minimal risk to the long term data series for Greenland halibut should these areas be restricted from trawl surveys. This year, NAFO must make every effort to prohibit trawling in these closed areas, and ensure that all data is assessed including surveys by other contracting parties as per the recommendation from the WGEAFM, which states in part that “scientific trawl surveys in existing closed areas be avoided if possible”.

2. Protection and Rebuilding of Deep Sea Fisheries

While we applaud NAFO for adopting a Byatch Action Plan, we are disappointed that only the top five species are currently being analysed. While we understand that this is additional work to be undertaken, we urge NAFO to move forward on the analysis of all data submitted on a haul by haul basis and begin to use this information to regulate deep sea fisheries, particularly those that are already considered to be vulnerable and those on the IUCN Redlist as well as deep sea shark species. We remind States of UNGA Resolution 64/72 and in particular paragraphs 119(d) and 120 which makes clear the commitments regarding stock assessments, data collection and monitoring and control and surveillance

⁷ Report of the NAFO Joint Commission-Scientific Council Working Group on Ecosystem Approach Framework to Fisheries Management (WG-EAFFM) Meeting 14 July 2017 Dartmouth, Nova Scotia, Canada Available at: <https://www.nafo.int/report-of-the-nafo-joint-commission-scientific-council-working-group-on-ecosystem-approach-framework-to-fisheries-management-wg-eaffm-meeting>

⁸ Presentation at the NAFO WG-EAFM report, and draft report of the NAFO Scientific Council 2017 meeting.

to ensure long term sustainability of deep sea fish stocks and **non-target species** (emphasis added), and to not allow fishing to occur unless these measures are in place.⁹

3. Adherence to Scientific Advice

- a. It is of utmost importance that NAFO adhere to scientific advice on all quota recommendations for all NAFO managed stocks.
- b. We urge NAFO Contracting Parties to come to agreement on the next steps for Greenland halibut following the review of the Management Strategy Evaluation and ensure that quotas are set based on scientific advice and adhered to by all Parties.

4. Ecosystem Road Map

- a. NAFO's ongoing work on an ecosystem road map and efforts to identify total productive capacity of the ecosystem represent the leading edge of RFMO efforts to move towards an ecosystem approach to management. However, there is no indication that this research and advice is being incorporated into stock assessments. Given the decline of the primary zooplankton species and the nutrient standing stock, by 40% since 2011 – it is imperative that NAFO take into consideration this ecosystem change in its quota decisions throughout the NAFO managed stocks. NAFO has an opportunity to lead on this important aspect of progress for modern fisheries management as few RFMOs have begun to truly implement an ecosystem approach. As cumulative impacts on NAFO fisheries, as a result of activities other than fisheries increase and as our oceans respond to global warming induced changes, the failure to take into account an ecosystem approach leaves NAFO Contracting Parties, and their economic interests in fishing activities in the NRA vulnerable.
- b. NAFO has yet to fully incorporate climate change vulnerability indices into its decision-making process and stock status projections. We recommend that as of 2018, climate change be integrated into all decision making and as part of a comprehensive ecosystem based management approach.

5. Commitment to Science Capacity

- a. At the 2016 Annual Meeting, it was made clear by Scientific Council that additional requests over the past several years, outside of stock assessment are placing increasing strain on existing science capacity. As well, many of the issues NAFO will have to address in the coming years will require additional expertise to stock assessments and traditional single species fisheries

⁹ UNGA 64/72 paras 119(d) and 120 119. (d) Adopt conservation and management measures, including monitoring, control and surveillance measures, on the basis of stock assessments and the best available scientific information, to ensure the long-term sustainability of deep sea fish stocks and non-target species, and the rebuilding of depleted stocks, consistent with the Guidelines; and, where scientific information is uncertain, unreliable, or inadequate, ensure that conservation and management measures are established consistent with the precautionary approach, including measures to ensure that fishing effort, fishing capacity and catch limits, as appropriate, are at levels commensurate with the long-term sustainability of such stocks;

120. Calls upon flag States, members of regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries and States participating in negotiations to establish such organizations or arrangements to adopt and implement measures in accordance with paragraphs 83, 85 and 86 of resolution 61/105, paragraph 119 of the present resolution, and international law, and consistent with the Guidelines, and not to authorize bottom fishing activities until such measures have been adopted and implemented;

management requests. We urge NAFO Contracting Parties to consider this capacity, and make investments that will allow NAFO to receive timely and sufficient scientific advice on a range of issues, including ecosystem based management, multi-species assessments, cumulative impacts and impacts of climate change.

6. Performance Review

NAFO has made progress in transparency over the years, however NAFO's Performance Review process does not engage with observers and is not open to observers at this time. This is behind other RFMOs such as NEAFC and ICCAT where observers are invited to contribute submissions on RFMO performance and can attend key meetings. We recommend that NAFO move quickly to improve this situation during its current performance review process, revise its Terms of Reference for the Performance Review process to allow for participation by non-government organizations and observers to NAFO.

Respectfully Submitted,

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