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Ecology Action Centre

WWF and EAC Preliminary Questions and Recommendations to the WGFMS-VME

WGFMS (VME) meeting, 23-25 April, Halifax, Canada

For several years, the World Wildlife Fund (WWF) and the Ecology Action Centre (EAC) have engaged with the Northwest Atlantic Fisheries Organization (NAFO) to achieve NAFO's Convention objective to ensuring the long-term conservation and sustainable use of the fishery resources in the NAFO Convention Area and safeguarding the marine ecosystems in which these resources are found.

We were pleased with last year's decision that the Fisheries Commission (FC) Working Group of Fishery Managers and Scientists on Vulnerable Marine Ecosystems (WGFMS-VME) will become a *de facto* joint Working Group of the FC and the Scientific Council (SC), and that it will have its scope broadened so as to encompass the ecosystem approach to fisheries. This change is consistent with the 2007 Amendment of the NAFO Convention and a number of other international policy and legal instruments (e.g. UN Fish Stocks Agreement, UN General Assembly Resolutions on Sustainable Fisheries; Decisions of the Convention on Biological Diversity Conference of the Parties; Rio+20's The Future We Want, etc) which have been calling for the implementation of an ecosystem approach to fisheries management for at least the past 18 years.

The upcoming meeting of the WGFMS in April will address important points following up on 2012 NAFO's Annual Meeting with respect to, *inter alia*, closed areas for sea pens and gorgonians, encounter protocols, and the Terms of Reference for the new WGFMS-Ecosystem Approach to Fisheries Management.

In light of this, the EAC and WWF submit for your consideration the following questions, comments and recommendations.

1. Resolving VME closures

- a) Can the maps generated at the 2012 NAFO WGEAFM meeting be used to resolve issues related to the 2012 Annual Meeting discussion on additional proposed closures (e.g. small and large gorgonians)?
- b) Is fishing effort within those proposed closures being analyzed for evidence of encounters?

2. Encounter thresholds and move on rules' effectiveness, and enhancing ecosystem knowledge within the NRA:

- a) Is there a record of encounters reported to date?
- b) Is there a record of implementation of the move on rule based on reported encounters?
- c) If no reports, is there accuracy associated with the non-reporting?
- d) How is observer data used to inform potential for encounters? Are the NAFO Sponge and Coral guides being used effectively by observers?
- e) Given that from 2013 on, all catches need to be recorded on a tow/set by tow/set basis (NCEM, Art. 28 (1) (b)), for catches below the thresholds, we suggest the creation of database to keep track and facilitate information sharing with the Scientific Council of all reported VME indicator species incidentally caught.

3. Compliance reports:

- a) Where VMS data shows vessel traffic within a closed area, is this currently included in annual compliance reports?
- b) Is vessel speed reported/analyzed to ensure VMS data is reflecting transit rather than fishing?
- c) We recommend that annual compliance reports include closed area maps and vessel traffic identified by VMS data within these closed areas be accounted for, and vessel speed be used to determine any fishing within closed areas.

4. Transparency and accountability:

- a) As the Terms of Reference for this new established FC/SC Working Group will be discussed in the April meeting, we would like to take this opportunity to continue to advocate for NAFO WGFMS meetings to be open to observers, and where that may be objected to by some countries, that supporting countries open their delegations to NGOs for the reasons explained below. There is already precedent for this.

WWF and Ecology Action Centre have been observers at NAFO since 2006 and 2007 respectively.

NAFO has made significant progress in improving transparency and accountability since 2006 and has been a leader in implementing the UNGA Resolutions 61/105 (2006), 64/72 (2009) and 66/68 (2011) with respect to VME protection. NAFO has also amended its Convention and conducted its first performance review, as recommended by the UN Fish Stocks Agreement

Review Conference (2006) and Resumed Review Conference (2010). These efforts have served to modernize NAFO.

However, we are concerned that observers continue to be excluded from certain working groups, in particular the WGFMS. As we are observers to the Fisheries Commission and the Scientific Council and the WGFMS is a joint working group of these two bodies, we believe that our participation should not be a matter of contention.

Key international policy and legal instruments call for broad participation of observers in RFMO meetings as follows:

The 1995 UN Fish Stocks Agreement (UNFSA), in its Article 12 on transparency in activities of RFMOs, states that representatives from NGOs concerned with straddling and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of RFMOs as observers or otherwise. When referring to the organization's rules of procedures, UNFSA highlights that such procedures shall not be unduly restrictive in this respect. In fact, the Chatham House report on RFMO best practices makes the following comment on Article 12:

“Article 12 calls for ‘transparency in the decision-making process’ of RFMOs. Transparency is important because the condition of fish stocks, especially high seas stocks, is a matter of general interest: it extends beyond the member States. Clear rules are needed for the role of observers”¹

NAFO's 2007 amendment also provides for the participation of observers in FC and SC meetings in its Articles VI, (5) (g), and VII (7), respectively.

During the 2012 United Nations Conference on Sustainable Development (UNCSD or Rio + 20), world leaders reaffirmed the importance of engaging civil society (The Future We Want, Paras. 13, 43-45), and this is particularly important in high seas management as this area belongs to everyone. RFMOs play a key role in ensuring conservation and sustainable development of high seas fisheries. In this respect, in 'The Future We Want', States recognized the need for transparency and accountability in fisheries management by RFMOs (Para. 172).

UNGA Resolutions on Sustainable Fisheries have also been calling for increased transparency in RFMO decision-making processes (e.g. 61/105, 67/79). The above mentioned UNFSA Review Conference called for improvement in transparency of RFMOs both in terms of decision-making processes that incorporate the precautionary approach and best available scientific information, as well as by providing reasonable participation for NGOs (A/CONF.210/2006/15, Annex, Para. 32 (g)).

We believe that our request for participation as observers in the WGFMS meetings is reasonable and shouldn't be made unduly restrictive. Our approach to conservation has always been interactive with the respective delegations and fishing industry and solutions-oriented.

¹ Chatham House, *Recommended Best Practices for Regional Fisheries Management Organizations: Report of an independent panel to develop a model for improved governance by Regional Fisheries Management Organizations* (London: Chatham House/The Royal Institute of International Affairs, 2007), at 72.

Thank you very much for your time and interest, and please do not hesitate to contact the undersigned should you wish to discuss any aspect of this submission.

Handwritten signature of Daniela Diz in blue ink.

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World Wildlife Fund

Handwritten signature of Susanna Fuller in blue ink.

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