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Recommendations for the meeting of the North–East Atlantic Fisheries Commission 9–13 November 2009

This Annual Meeting of the NEAFC Commission is the first meeting after the 31st of December 2008 deadline set by the United Nations General Assembly Resolution 61/105 to adopt and implement measures to protect vulnerable marine ecosystems from significant adverse impact from bottom fishing. NEAFC is still in the process of implementing the Resolution’s obligations, and we acknowledge the difficult task this constitutes.

We welcome the very significant steps that have already been taken by NEAFC, particularly the large area closures which now constitute 7% of the NEAFC Regulatory Area.

At the same time we are deeply concerned about NEAFC stating that “[t]he conclusion of the preliminary assessment is that current bottom fisheries practices in the NEAFC Regulatory Area do not have significant adverse impacts on VMEs.”¹ We would respectfully disagree as there is no scientific basis for making this assertion.

Following are recommendations on how the North–East Atlantic Fisheries Commission can better implement UN GA Resolution 61/105 meaningfully and “ensure the long–term conservation and optimum utilisation of the fishery resources”².

We have identified three priority areas of focus for the Annual Meeting of NEAFC this year:

- Assessments of whether individual bottom fishing activities would have significant adverse impacts
- The determination of whether bottom fishing activities would cause significant adverse impacts to the long–term sustainability of deep sea fish stocks
- The requirement to cease bottom fishing activities in areas where, in the course of fishing operations, vulnerable marine ecosystems are encountered

¹ Response of the North East Atlantic Fisheries Commission, NEAFC, to the Secretary-General of the UN on actions taken pursuant to paragraphs 83-84 of resolution 61/105

²North East Atlantic Fisheries Commission “New” Convention.

1. THE ASSESSMENT OF WHETHER INDIVIDUAL BOTTOM FISHING ACTIVITIES WOULD HAVE SIGNIFICANT ADVERSE IMPACTS

Paragraph 83a of the UN GA resolution commits NEAFC Contracting Parties to the following actions by 31 December 2008:

“To assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts, or not authorized to proceed.”

In the submission by NEAFC to the Secretary General of the United Nations earlier this year in regard to the implementation of UN GA resolution 61/105, NEAFC stated that “Procedures for assessment have been brought into place and each Contracting Party is required to assess impacts for any proposed bottom fishing in 2009.”³ This is not the case.

It has been agreed at the 2008 Extraordinary Meeting⁴ that Environmental Impact Assessments would be required for bottom fisheries in new areas and for bottom fisheries on identified vulnerable marine ecosystems only.⁵ The underlying assumption is that within the existing footprint there would be no vulnerable marine ecosystem other than those identified, and therefore no EIA would be necessary. However, in the Norwegian proposal to the NEAFC March 2009 HODs meeting for area closures on the Mid Atlantic Ridge (HM 2009-03) it is stated that “the existence of fragile benthic macrofauna (corals, sponges etc.) on the MAR has been documented in several studies (Mortensen et al. 2008 and references therein), and it is a fair assumption that most hard-bottom areas of the hills and slopes have or are likely to have such fauna albeit in varying density.” The Norwegian proposal for area closures was based on ‘representativity’, rather than the occurrence of vulnerable marine ecosystems and significant impacts of bottom fisheries on these ecosystems as stipulated in UNGA resolution 61/105.

PECMAS has been requested to identify vulnerable marine ecosystems and map sites where these vulnerable marine ecosystem are known to occur or likely to occur. No systematic study on the occurrence or likelihood of occurrence of vulnerable marine ecosystems throughout the NEAFC Regulatory Area has been presented to NEAFC so far. NEAFC requests to ICES are restricted to the distribution of vulnerable marine ecosystems, not their likelihood. In the face of the current lack of data, this is inappropriate.

The protection of vulnerable marine ecosystems inside the existing bottom fishing areas would be granted through the Encounter provisions (EM 2008/20, Article 6.), which is not the case ⁶(see 2).

RECOMMENDATION:

³ Response of the North East Atlantic Fisheries Commission, NEAFC, to the Secretary-General of the UN on actions taken pursuant to paragraphs 83-84 of resolution 61/105

⁴ Report of the Extraordinary Meeting of the North-East Atlantic Fisheries Commission, 1 and 2 July 2008

⁵ EM 2008/20 final, Proposal for a NEAFC Recommendation on Bottom Fishing Activities in the NEAFC Regulatory Area

⁶ 9.3.2.4 NEAFC request on vulnerable marine ecosystems (VMEs) concerning move-on provisions and threshold values for key indicator species.

- NEAFC should request advice from ICES on the areas where vulnerable marine ecosystems **do not occur or are not likely to occur**. EIAs should be **required for authorizing proposed bottom fishing activities in all other areas** of the NEAFC Regulatory.
- **If NEAFC decides not** to request such advice, or if ICES cannot provide conclusive advice in this regard, **EIAs should be required as a precondition for authorising proposed bottom fishing activities in all areas** of the NEAFC Regulatory Area, to be consistent with UN GA resolution 61/105 Paragraph 83a.
- EIAs should be conducted **according to the UN FAO International Guidelines** for Deep-Sea Fisheries in the High Seas, particularly paragraphs 47, 42, and 17-20.

2. THE REQUIREMENT TO CEASE BOTTOM FISHING ACTIVITIES IN AREAS WHERE, IN THE COURSE OF FISHING OPERATIONS, VULNERABLE MARINE ECOSYSTEMS ARE ENCOUNTERED

We do not agree with the approach taken by NAFO to revise the threshold levels at the Annual Meeting of NAFO as described in the report of the 28-29 September 2009 meeting of PECMAS (AM 2009/19). Specifically the PECMAS report states the following:

“The NAFO Scientific Council used information from research vessels, Canadian and Spanish, based on 30 min tows. Research trawl indicators of high concentrations were calculated. This was the basis for proposals for closing areas with high concentrations. It was obvious that these indicators could not be used in commercial fishing. The figures were combined and scaled up to the size of the commercial trawl (twice as wide and tow time eight times the research tows). This gave estimates of 60 kilo of corals and 1200 of sponges. To be precautionary, the threshold for sponges was reduced to 800. It is a common view that most vulnerable areas in NAFO have been closed and together with the thresholds and move-on rules will reduce the probability of fishing in VMEs to very low levels.”

If this is an accurate description of the approach taken by NAFO then it would appear that the math is inexplicably incorrect in the case of corals. Using the formula as described in the PECMAS report would have resulted in a threshold level of 3.2 – 32kg of corals, not 60kg of corals.

More broadly, this is not a scientifically defensible approach as:

- no analysis appears to have been done regarding the extent to which corals, sponges and other VME indicator species are retained in commercial gear.
- no studies have been conducted to correlate the extent of the physical impact to VMEs with the quantities of VME indicator species observed in fishing gear.

ICES note two further difficulties, “the first being the implicit assumption that all species that might indicate the presence of a VME are equally likely to be retained in a fishing net and the second that these example taxa are the sole indicators of structural habitat VMEs”.

In conclusion, “ICES is not able to advise on science-based threshold levels [...]”⁷.

The Bottom Fishery Impact Assessment submitted in December 2008 by New Zealand to the Science Working group of the South Pacific RFMO negotiations notes that commercial bottom trawl fishing gear is often not likely to retain much, if any, coral and/or other vulnerable bottom species impacted by bottom trawl gear and

⁷ 9.3.2.4 NEAFC request on vulnerable marine ecosystems (VMEs) concerning move-on provisions and threshold values for key indicator species.

thus likely to be of limited value in assessing whether significant adverse impacts have occurred to VMEs.⁸

Further, adopting threshold levels of more than 60 kg of live coral and/or 800 kg of live sponge as recommended by AM 2009/12 would mean that a hypothetical retention efficiency of 1–10 %⁹, the destruction of 8,000 to 80,000kg of sponges would not trigger any protective measures. This would not only result in significant further losses of habitat, but would also likely prevent these ecosystems from recovering.

RECOMMENDATION:

For all of these reasons, we recommend that **any presence of VME species in fishing gear** should trigger an immediate closure of an area until an Environmental Impact Assessment is conducted

3. THE DETERMINATION WHETHER BOTTOM FISHING ACTIVITIES WOULD CAUSE SIGNIFICANT ADVERSE IMPACTS TO THE LONG-TERM SUSTAINABILITY OF DEEP SEA FISH STOCKS

Paragraph 83b of the UN GA resolution commits NEAFC Contracting Parties to the following measure:

“To...determine whether bottom fishing activities would cause significant adverse impacts to ... the long-term sustainability of deep sea fish stocks...”

The status of most species taken in deep-sea fisheries in the NEAFC Regulatory Area is not well known but generally recognized to be overexploited or depleted.¹⁰

We would further note that a number of species taken in deep-sea fisheries in the area are recognized as vulnerable, endangered, or critically endangered by IUCN. These include the Leafscale gulper shark (*Centrophorus squamosus*) and the Portuguese dogfish (*Centroscymnus coelolepis*) both of which are targeted or taken as bycatch in a number of deep-sea fisheries in the NEAFC Regulatory Area. Both species are listed by IUCN as endangered in the Northeast Atlantic. ICES in 2006 advised that no target fisheries should be permitted for these species in the Northeast Atlantic until there are reliable estimates of stock productivity and that bycatch of these species in other fisheries should be prevented. ICES advised a similar approach to the deep-sea kitefin shark (*Dalatius licha*). ICES also recommended that commercial fisheries taking deep-sea elasmobranchs along the Mid-Atlantic Ridge should not be allowed to proceed until a determination can be made as to the rate of exploitation that populations of these species in the area can sustain.¹¹

RECOMMENDATION:

Fisheries for deep-sea stocks should be prohibited until

⁸ <http://www.southpacificrfmo.org/science-working-group/benthic-impact-assessments/new-zealand2/> page 74

⁹ 9.3.2.4 NEAFC request on vulnerable marine ecosystems (VMEs) concerning move-on provisions and threshold values for key indicator species.

¹⁰ See Maguire, J-J.; Sissenwine, M.; Csirke, J.; Grainger, R.; Garcia, S. The state of world highly migratory, straddling and other high seas fishery resources and associated species. *FAO Fisheries Technical Paper*. No. 495. Rome: FAO. 2006.

¹¹ ICES. 2007. Report of the Working Group on Elasmobranch Fishes (WGEF), 22-28 June 2007, Galway, Ireland. ICES CM 2007/ACFM:27.

- an assessment of **the impact of fishing on the fish stocks**, including stocks of bycatch species, be conducted **according to the UN FAO International Guidelines** for Deep-Sea Fisheries in the High Seas, particularly paragraphs 47, 42, and 17-20, and
- a determination made as to what level of fishing, if any, on these stocks is sustainable in the long-term and appropriate and enforceable catch limits are established accordingly.

FURTHER RECOMMENDATIONS

- We are pleased to see the recommendation from PECMAS to close the additional areas of the Hatton Bank to fishing gear which is likely to contact the seafloor, consistent with the advice from ICES¹².
- In light of the demonstrated immediate threat to the *Lophelia pertusa* communities in the western portion of Rockall Bank, we recommend that the area be closed according to ICES' 2007 advice, and be revised after new data have been published¹³
- We are further pleased to see PECMAS proposing that OSPAR is offered observer status in PECMAS. We welcome the development of cooperation between NEAFC and OSPAR.
- We recommend that to avoid misunderstanding about the nature of 'scientific' fishing NEAFC adopts a protocol that complies with the intent of EM 2008/20.

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¹² 9.3.2.2 NEAFC request regarding vulnerable habitats and deep-water species Vulnerable deep-water habitats in the NEAFC Regulatory Area. *ICES Advice 2008, Book 9*

¹³ 9.3.2.1 NEAFC request to continue to provide all available new information on distribution of vulnerable habitats in the NEAFC Convention Area and fisheries activities in and in the vicinity of such habitats