

FC INTERSESSIONAL MEETING – APR-MAY 2008**New Chapter I bis of the NAFO Conservation and Enforcement Measures Bottom fisheries in the NAFO Regulatory Area****Article 1 - Purpose and definitions**

1. The purpose of this chapter is to ensure the implementation by NAFO of effective measures to prevent significant adverse impacts of bottom fishing activities on vulnerable marine ecosystems known to occur or likely to occur in the Regulatory Area based on the best available scientific information. For the purposes of this Chapter, NAFO will take into account the guidance provided by the FAO in the framework of the Code of Conduct for Responsible Fisheries and any other internationally agreed standards, as appropriate.
2. The term 'bottom fishing activities' means bottom fishing activities where the fishing gear is likely to contact the seafloor during the normal course of fishing operations.
3. The term "existing bottom fishing areas" initially means areas where VMS data and/or other available geo-reference data indicating bottom fishing activities have been conducted at least in two years within a reference period of 1987 to 2007. This shall be revised regularly in accordance with Article 2.4.
4. The term "new bottom fishing areas" means all other areas within the Regulatory Area which are not defined as existing bottom fishing areas, including waters deeper than 2000 metres.

Article 2 - Identification of existing bottom fishing areas (footprint)

1. In 2008, NAFO shall proceed to map existing bottom fishing areas within the Regulatory Area for bottom fishing activities. Mapping of trawling activity shall be given priority.
2. Contracting Parties with vessels involved in bottom fishing activities in the period of 1987-2007 shall, for the purpose of paragraph 1, submit during 2008 comprehensive maps of existing fishing areas to the Executive Secretary. Maps shall be based on VMS data and/or other available geo-reference data and expressed in as precise spatial and temporal resolution as possible. Contracting Parties may, in the future, consider the possibility of refining these maps on the basis of haul by haul information, if available.
3. The Executive Secretary shall compile maps submitted by Contracting Parties pursuant to paragraph 2. The Executive Secretary shall on that basis, as well as on any data available to it, produce a comprehensive map of existing fishing areas. The Executive Secretary shall forward this map to the Scientific Council for review and comment at its meeting in September 2008 and thereafter to the Fisheries Commission.
4. The comprehensive map of existing bottom fishing areas referred to in paragraph 3 shall be revised regularly to incorporate any new relevant information.

Article 3 - Bottom fishing activities in new fishing areas

1. From 1 January 2009, all bottom fishing activities in new fishing areas or with bottom gear not previously used in the area concerned, shall be considered as exploratory fisheries and shall be

conducted in accordance with an exploratory fisheries protocol to be adopted by the Fisheries Commission in 2008.

2. The exploratory bottom fishing shall be subject to the assessment procedure set forth in Article 4, with the understanding that particular care will be taken in the evaluation of risks of the significant adverse impact on vulnerable marine ecosystems, in line with the precautionary approach.
3. Contracting Parties shall communicate the exploratory fisheries protocol referred to in paragraph 1 to the Executive Secretary for forwarding to the Scientific Council for review and to all Contracting Parties for information, together with the information or preliminary impact assessment referred to in Article 4, paragraph 3 (i), below.
4. Contracting Parties shall provide promptly a report of the results of such activities to the Executive Secretary for circulation to the Scientific Council and all Contracting Parties.
5. Prior to commencing new bottom fishing activities based upon the results of exploratory fisheries conducted in the prior two years, the Fisheries Commission shall review the assessments undertaken in accordance with Article 4 below and the results of the fishing protocols implemented by the participating fleets, and shall:
 - i. establish conservation and management measures to prevent significant adverse impacts on vulnerable marine ecosystems from individual fishing activities and to ensure the long-term sustainability of deep sea fish stocks, or
 - ii. not authorize these fishing activities to proceed.
6. Contracting Parties shall ensure that vessels flying their flag conducting exploratory fisheries are equipped with a satellite monitoring device and have an observer on board.

Article 4 - Assessment of bottom fishing

1. The Scientific Council, with the co-operation of Contracting Parties, shall identify, on the basis of best available scientific information, vulnerable marine ecosystems in the Regulatory Area and map sites where these vulnerable marine ecosystem are known to occur or likely to occur and provide such data and information to the Executive Secretary for circulation to all Contracting Parties
2. Proposed bottom fishing activities in the Regulatory Area for 2009 shall be subject to assessment by the Scientific Council in 2008, based on the best available scientific information, to determine if such activities, taking account of the history of bottom fishing in the areas proposed, would have significant adverse impacts on vulnerable marine ecosystems.
3. Thereafter, assessments shall follow the procedures below:
 - i. Each Contracting Party proposing to participate in bottom fishing shall submit to the Executive Secretary information and an initial assessment, where possible, of the known and anticipated impacts of its bottom fishing activities on vulnerable marine ecosystems, in advance of the next meeting of the Scientific Council. These submissions shall also include the mitigation measures proposed by the Contracting Party to prevent such impacts. The Executive Secretary shall promptly forward these submissions to the Scientific Council and the Fisheries Commission.
 - ii. The submission of such information shall be carried out in accordance with guidance developed by the Scientific Council, or, in the absence of such guidance, to the best of the Contracting Party's ability.
 - iii. The Scientific Council shall undertake an assessment, according to procedures and standards it develops, and provide advice to the Fisheries Commission as to whether the proposed bottom fishing activity would have significant adverse impacts on vulnerable marine ecosystems and, if

so, whether mitigation measures would prevent such impacts. The Scientific Council may use in its assessment additional information available to it, including information from other fisheries in the region or similar fisheries elsewhere.

4. The *ad hoc* Working Group of managers and scientists on VMEs, the terms of reference of which are attached, shall examine the advice of the Scientific Council and shall make recommendations to the Fisheries Commission in accordance with its mandate.
5. The Fisheries Commission shall, taking account of advice and recommendations provided by the Scientific Council and the *ad hoc* Working Group of scientists and managers, concerning bottom fishing activities, including data and information arising from reports pursuant to Article 5 adopt conservation and management measures to prevent significant adverse impacts on vulnerable marine ecosystems, that may include:
 - (a) allowing, prohibiting or restricting bottom fishing activities;
 - (b) requiring specific mitigation measures for bottom fishing activities;
 - (c) allowing, prohibiting or restricting bottom fishing with certain gear types, or changes in gear design and/or deployment; and/or
 - (d) any other relevant requirements or restrictions to prevent significant adverse impacts to vulnerable marine ecosystems.
6. Fisheries Commission will periodically ask Scientific Council and the *ad hoc* working group of managers and scientists on vulnerable marine ecosystems to provide advice to Fisheries Commission on the timing and requirement for assessment of a previously assessed bottom fishery.

Article 5 - Encounters with vulnerable marine ecosystems

Contracting Parties shall require that vessels flying their flag cease bottom fishing activities in any site in the Regulatory Area where, in the course of fishing operations, evidence of vulnerable marine ecosystems is encountered, and report the encounter, including the location, and the type of ecosystem in question, to the Executive Secretary so that appropriate measures can be adopted in respect of the relevant site. Such sites will then be treated in accordance with Article 4, paragraph 5.

The *ad hoc* Working Group of managers and scientists shall develop, during 2008, operational procedures relating to these encounters, in accordance with its mandate.

Article 6 - Review

The provisions of this chapter shall be reviewed by the Fisheries Commission at its Annual Meeting in 2011. The Commission shall biannually thereafter examine the effectiveness of these provisions in protecting vulnerable marine ecosystems from significant adverse impacts.

Terms of Reference

Ad Hoc Working Group of Fishery Managers and Scientists on Vulnerable Marine Ecosystems

Structure:

An ad hoc Working Group of Fishery Managers and Scientists on Vulnerable Marine Ecosystems is established in 2008 which reports to the Fisheries Commission, consults with Scientific Council, and provides recommendations to Fisheries Commission.

The Working Group shall be comprised of fishery managers and scientists from Contracting Parties supported by advisors, as required, up to a maximum of three participants per Contracting Party. The Chair/Vice-chair shall be selected from participating fishery managers and scientists with both a fishery manager and a scientist represented in the two positions.

Consideration shall be given by the Fisheries Commission in 2010 to the continuation or dissolution of the working group.

Objective:

The main objective of the Working Group is to make recommendations to Fisheries Commission on the effective implementation of measures to prevent significant adverse impacts on vulnerable marine ecosystems.

Specific Duties:

The Working Group shall:

1. In examining the advice of Scientific Council to Fisheries Commission, evaluate risk and make recommendations on mitigation strategies and measures to avoid significant adverse impacts on vulnerable marine ecosystems, drawing on relevant international information¹.
2. Develop operational procedures in 2008 in relation to encounters of vulnerable marine ecosystems to prevent significant adverse impacts.
3. Review and finalize the attached Exploratory Fishery Protocol for new fishing areas including the development of templates for elements of the protocol for adoption by the Fisheries Commission in 2008.

Meetings:

The Working Group will meet at least once annually between the Meeting of Scientific Council and the Annual Meeting of NAFO and shall communicate regularly through teleconferences and electronically, as required.

¹ Including but not limited to the pending FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas

Exploratory Protocol for New Fishing Areas

The Working Group of Fishery Managers and Scientists on Vulnerable Marine Ecosystems will make recommendations on an Exploratory Fishery Protocol for New Fishing Areas. Until Fisheries Commission adopts a new protocol, the following protocol will apply.

The Exploratory Fishery Protocol for New Fishing Areas shall include:

- A harvesting plan which outlines target species, dates and areas. Area and effort restrictions should be considered to ensure fisheries occur on a gradual basis in a limited geographical area.
- A mitigation plan including measures to prevent significant adverse impact to vulnerable marine ecosystems that may be encountered during the fishery.
- A catch monitoring plan that includes recording/reporting of all species caught, 100% satellite tracking and 100% observer coverage. The recording/reporting of catch should be sufficiently detailed to conduct an assessment of activity, if required.
- A data collection plan to facilitate the identification of vulnerable marine ecosystems/species in the area fished.

Exploratory fisheries shall not commence until this information has been provided to the Executive Secretary and forwarded to all Contracting Parties and the Scientific Council for information.