



Serial No. N6378

NAFO/FC Doc. 14/13
(Adopted)

Proposed Changes to NAFO's Conservation and Enforcement Measures Editorial Drafting Group

Introduction

This working paper proposes revisions to Chapter II (vulnerable marine ecosystem (VME) measures) of the NAFO Conservation and Enforcement Measures (CEM). This is part of an ongoing effort by the Editorial Drafting Group (EDG) to revise the existing CEM to enhance article organization, structure, and format; eliminate redundancy; and clarify ambiguous or unclear measures to more accurately reflect the original intent of such measures.

This revised working paper includes revisions to the original EDG proposal (STACTIC WP 14/6 (rev)) based on comments provided by several Contracting Parties following the May 2014 STACTIC intersessional meeting.

A brief description of the proposed revisions to the existing CEMs is provided below. The proposed revisions to the CEMs are organized based on their current structure. Cross-references to the corresponding article and paragraph, based on the 2014 CEMs, and a brief description of any changes have been placed in the right column of the attached addendum for ease of reference.

Proposed Changes to Existing CEMs:

- Article 15 – Revised definitions for consistency and placed them in alphabetical order
- Article 16 – Renumbered Article 17 as Article 16 and inserted table/figure headings
- Article 17 – Switched Articles 16 and 17 and added subtitle and table/figure headings
- Article 18.2(c) – Replaced term “scientific observer” with “observer with sufficient scientific expertise”
- Article 18.2(d) – Replaced “fishing trip” with “exploratory bottom fishing activities”
- Article 19 – Reorganized, revised format, and incorporated Article 20.1
- Article 20 – Reorganized and revised format
- Article 21 – Reorganized and revised format
- Article 22 – Eliminated “interim” from title, reorganized format, and inserted subtitles
- Article 22.1(b) – Replaced term “scientific observer” with “observer with sufficient scientific expertise”
- Article 22.5 – Deleted last sentence, as encounter thresholds can be revised in any year
- Article 23 – Reorganized Article 23.1 into two sub-paragraphs

Paragraph	Text	Old reference/ comments
	PROTECTION OF VULNERABLE MARINE ECOSYSTEMS (VMEs) IN THE REGULATORY AREA FROM BOTTOM FISHING ACTIVITIES	Change title for clarity on the scope of this chapter
	Article 15 - Definitions	Revised subtitle for clarity because existing paragraph 1 was removed due to redundancy. Definitions rearranged into alphabetical order.
	In addition to the definitions listed in Article 1, the following definitions apply to this Chapter.	Added for clarity.
		Deleted term "Bottom fishing activities" because it is already defined in Article 1
1	"Encounter" means catch of a VME indicator species above threshold levels as set out in Article 22.1. Any encounter with a VME indicator species or merely detecting its presence is not sufficient to identify a VME. That identification should be made on a case-by-case basis through assessment by relevant bodies.	Revised reference to reflect reorganization.
2	"Exploratory bottom fishing activities" means bottom fishing activities conducted outside the footprint, or within the footprint with significant changes to the conduct or in the technology used in the fishery;	Revised for clarity and replaced "unfished bottom areas" with "outside the footprint" for consistency
3	"Footprint", otherwise known as "Existing bottom fishing areas", means that portion of the Regulatory Area where bottom fishing has historically occurred, and is defined by the coordinates shown in Table 4 and illustrated in Figure 2;	Revised for clarity and update table/figure references

		Removed definition of “unfished bottom area” and replaced throughout text with “outside the footprint”
4	"Significant adverse impacts" refers to paragraphs 17 to 20 of the FAO International Guidelines for the Management of Deep Sea Fisheries in the High Seas;	Revised for concision
5	"Vulnerable Marine Ecosystems (VME)" refers to paragraphs 42 and 43 of the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas;	Revised for concision
6	"VME indicator element" refers to topographical, hydrophysical or geological features which potentially support VMEs, as specified in Part VII of Annex I.E;	Revised for concision
7	"VME indicator species" refers to species that signal the occurrence of a vulnerable marine ecosystem, as specified in Part VI of Annex I.E;	Revised for concision
	Article 16 - Map of Footprint (Existing Bottom Fishing Areas)	Switched articles 16 and 17 to improve flow
	<p>The map of existing bottom fishing activities in the NAFO Regulatory Area illustrated in Figure 2 is delimited on the western side by the Canadian EEZ boundary and the eastern side by the coordinates shown in Table 4. The map shall be revised regularly to incorporate any new relevant information. Contracting Parties may propose revising the map on the basis of any information available, in particular on the haul by haul catch data .</p> <p>Table 4. Boundary Points Delineating the Eastern Side of the Footprint [insert current table of coordinates]</p> <p>Figure 2. NAFO Regulatory Area footprint map (shaded).</p>	Revised for clarity and consistency and to update table and figure references.
	Article 17 - Areas Restrictions for Bottom Fishing Activities	Article 16 renumbered, with new title for clarity
	<i>Seamount Closures</i>	New subtitle for clarity

1	<p>Until December 31, 2014, no vessel shall engage in bottom fishing activities in the areas illustrated in Figure 3 and defined by connecting the coordinates specified in Table 5 in numerical order and back to coordinate 1, except to conduct exploratory bottom fishing activities, in accordance with Article 18 and the Exploratory Protocol in accordance with Annex I.E.</p> <p>Table 5. Boundary Points Delineating the Seamount Closures in the NAFO Regulatory Area Referenced in Article 17.1 [insert current table of coordinates]</p> <p>Figure 3: Polygons Delineating Seamount Closures Referenced in Article 17.1</p>	<p>Art. 16.1 with updated table and figure references and headings</p> <p>Revised reference to just Annex I.E to minimize confusion.</p>
2	<p>A request to conduct exploratory bottom fishing activities in any of the areas defined in paragraph 1 shall be in accordance with Article 18 and the Exploratory Protocol (Annex I.E).</p>	Article 16.2
3	<p>If a vessel fishing in the areas defined in paragraph 1 encounters a VME indicator species, as defined in Article 22.5, the encounter provisions set out in Article 22 shall apply.</p>	Art. 16.3 renumbered and revised for concision
	<p><i>30 Coral Area Closure</i></p>	New subtitle for clarity
4	<p>Until December 31, 2014, no vessel shall engage in bottom fishing activities in the area of Division 30 illustrated in Figure 4 and defined by connecting the coordinates specified in Table 6 in numerical order and back to coordinate 1:</p> <p>Table 6. Boundary Points Delineating the 30 Coral Area Closure in the NAFO Regulatory Area Referenced in Article 17.3 [insert current table of coordinates]</p> <p>Figure 4. Polygon Delineating Area of 30 Coral Closure Referenced in Article 17. 3</p>	Art. 16.4 renumbered and inserted table reference and heading and correct figure number.
	<p><i>High Sponge and Coral Concentration Area Closures</i></p>	New subtitle for clarity
5	<p>Until December 31, 2014, no vessel shall engage in bottom fishing activities in the areas illustrated in Figure 5 and defined by connecting the coordinates specified in Table 7 in numerical order and back to coordinate 1:</p> <p>Table 7. Boundary Points Delineating the High Sponge and Coral Concentration Area Closures in the NAFO Regulatory Area Referenced in Article 17.4 [insert current table of coordinates]</p>	Article 16.5 renumbered with inserted table reference and heading and correct figure number.

	Figure 5. Polygons Delineating Areas of High Sponge and Coral Concentrations Referenced in Article 17.4	
		Deleted existing 16.6 because redundant with Article 24
6	Contracting Parties are encouraged to the extent possible to record all catch of corals and sponges in their annual government and/or industry research programs and to consider non-destructive means for the long-term monitoring of corals and sponges in the closed areas.	Article 16.7 renumbered
	Article 18 - Exploratory Bottom Fishing Activities	
1	Exploratory bottom fishing activities shall be subject to a prior exploration conducted in accordance with the exploratory protocol set out in Annex I.E.	Article 18.1 revised to clarify application of Annex I.E
2	Contracting Parties whose vessels wish to engage in exploratory bottom fishing activities shall, for the purpose of the evaluation referred to in Article 20:	
	(a) communicate to the Executive Secretary the "Notice of Intent to Undertake Exploratory Bottom Fishing" in accordance with Annex I.E together with the assessment referred to in Article 19.1;	Article 18.2 revised to reflect revised references in Annex I.E and Article 19
	(b) require vessels flying their flag to start exploratory bottom fishing activities only after they have been authorized in accordance with Article 20;	Revised Article 18.3
	(c) have an observer with sufficient scientific expertise on board for the duration of the exploratory bottom fishing activity; and	Revised 18.4 Replaced "scientific observers" with "sufficient scientific expertise" to avoid using an undefined designation for an

		observer and allow the SC to evaluate if an exploratory fishing proposal has sufficient scientific expertise aboard to record catch accurately.
	(d) provide to the Executive Secretary an “Exploratory Bottom Fishing Trip Report” in accordance with Annex I.E. within 3 months of the completion of the exploratory bottom fishing activities.	Article 18.5 revised to replace “fishing trip” with “exploratory bottom fishing activities” and include reference to Annex I.E
	<i>Duties of the Executive Secretary</i>	New Subtitle for clarity
3	The Executive Secretary:	
	(a) promptly forward the documents referred to in paragraph 2(a) of this Article to the Scientific Council and the Fisheries Commission; and	Article 19.1 (b) revised to insert reference to documents in paragraph 2(a).
	(b) circulates the “Exploratory Bottom Fishing Trip Reports” to the Scientific Council and to all Contracting Parties.	Article 18.5
	Article 19 - Preliminary Assessment of Proposed Exploratory Bottom Fishing Activities	Revised title
		Deleted chapeau as unnecessary

1	Any Contracting Party proposing to participate in exploratory bottom fishing activities shall submit, in support of their proposal, a preliminary assessment of the known and anticipated impacts of the bottom fishing activity which will be exercised by the vessels flying their flag on VMEs.	Article 19.1 reformatted
2	The preliminary assessment referred to in paragraph 1 of this Article shall:	
	(a) be sent to the Executive Secretary no less than two weeks in advance of the opening of the June meeting of the Scientific Council;	Article 19.1(a) Clarified reference to identify to whom the preliminary assessment should be submitted.
	(b) be in accordance with guidance developed by the Scientific Council, or, in the absence of such guidance, to the best ability of the Contracting Party; and	Article 19.2
	(c) address the elements in accordance with Annex I.E.	Article 19.1(a) Revised reference to just Annex I.E to minimize confusion.
3	The Scientific Council:	
	(a) shall undertake an analysis of the preliminary assessment submitted in accordance with Article 19.1 at its meeting immediately following the submission by the Contracting Parties, according to procedures and standards it develops, and taking into account the risks of significant adverse impacts on VMEs;	Article 19.3 Clarified reference to identify what documents will be reviewed by the SC.
	(b) may consider any available additional information, including information from other fisheries in the region or similar fisheries elsewhere; and	
	(c) in line with the precautionary approach, shall provide advice to the Fisheries Commission on possible significant adverse impacts on VMEs and on the mitigation measures to prevent them.	Article 19.4.
4	The Working Group on Ecosystem Approach Framework to Fisheries Management shall:	Article 20.1
	(a) examine the advice of the Scientific Council delivered in accordance with Article 19.3; and	
	(b) make recommendations to the Fisheries Commission in accordance with its mandate.	

	Article 20 – Management of Exploratory Bottom Fishing Activities	
1	The Fisheries Commission shall adopt conservation and management measures to prevent significant adverse impacts of the exploratory fishing activities on VMEs, taking account of advice and recommendations provided by the Scientific Council and the Working Group on Ecosystem Approach Framework to Fisheries Management, including data and information arising from reports pursuant to Article 22. These measures may include:	Article 20.2 Inserted reference to correct working group.
	(a) allowing, prohibiting or restricting bottom fishing activities;	Article 20.2.(a)
	(b) requiring specific mitigation measures for bottom fishing activities;	Article 20.2.(b)
	(c) allowing, prohibiting, or restricting bottom fishing with certain gear types, or changes in gear design and/or deployment; and	Article 20.2(c)
	(d) any other relevant requirements or restrictions to prevent significant adverse impacts to vulnerable marine ecosystems.	Article 20.2(d)
	Article 21 – Evaluation of Exploratory Bottom Fishing Activities	
1	The Scientific Council shall:	
	(a) evaluate the results of the exploratory bottom fishing activities at its meeting immediately following the reception of the ‘Exploratory Bottom Fishing Trip Report’ circulated in accordance with Article 18.2; and	Article 21.1
	(b) in line with the precautionary approach, provide advice to the Fisheries Commission on the decision to be taken in accordance with Article 21.3, taking into account the risks of significant adverse impacts on VMEs.	Revised reference.
2	The Working Group on Ecosystem Approach Framework to Fisheries Management shall examine the advice of the Scientific Council delivered in accordance with Article 21.1 and shall make recommendations to the Fisheries Commission in accordance with its mandate.	Article 21.2 Updated reference to correct renamed Working Group.
3	The Fisheries Commission shall, taking account of advice and recommendations provided by the Scientific Council and Working Group on Ecosystem Approach Framework to Fisheries Management either to:	Unchanged Updated reference to correct renamed Working Group.
	(a) authorize the bottom fishing activity for part or all of the area in which exploratory bottom fishing was carried out, and include this area in the footprint; or,	

	(b) discontinue the exploratory bottom fishing activity and, if necessary, close part or all of the area where exploratory bottom fishing was carried out; or,	
	(c) authorize the continued conduct of exploratory bottom fishing activity, in line with Article 18, with a view to gather more information.	
	Article 22 – Provisions in Case of Encounter	Revised title to eliminate “interim”
	<i>Encounter Threshold</i>	New sub-title.
1	An encounter with VME indicator species is defined as catch per set (e.g. trawl tow, longline set, or gillnet set) of more than 7 kg of sea pens and/or 60 kg of other live coral and/or 300 kg of sponges.	Article 22.3.
2	Each Contracting Party shall:	
	<i>Duties of the Master</i>	New subtitle
	(a) require that masters of vessels flying their flag and conducting bottom fishing activities in the NAFO Regularatory Area abide by the following rules, where evidence of VME indicator species, in accordance with Annex I.E, are encountered during the course of fishing operations:	Revised chapeau to reference duties of masters instead of vessels Revised reference to just Annex I.E to minimize confusion.
	(1) quantify the catch of VME indicator species; and	Article 22.1(a) and 22.2(a) merged
	(2) if the quantity of VME indicator species caught in a fishing operation (such as trawl tow or set of a gillnet or longline) is beyond the threshold defined in paragraph 1 of this Article:	Article 22.1.(b) and 22.2.(b) merged
	(i) report the encounter without delay to the flag State Contracting Party, including the position that is provided by the vessel, either the end point of the tow or set or another position that is closest to the exact encounter location, the VME indicator species encountered, and the quantity (kg) of VME indicator species encountered; and	and revised to make the move-on requirement consistent with similar measures in Article 6.6(b)(i).
	(ii) cease fishing and move at least two nautical miles away from endpoint of the tow/set in the direction least likely to result in further encounters. The master shall use his best judgment based on all available sources of information.	STACTIC notes that the use of “endpoint” is

		inconsistent with the use of “any position” to reflect how vessels must move away from excessive bycatch events in Article 6.6(i).
	<i>Duties of the observer</i>	New subtitle
	(b) require that an observer with sufficient scientific expertise deployed in accordance with Article 18.2(c) for areas outside the footprint:	Article 22.2(a) revised to update reference and revise term for scientific observer to state “an observer with sufficient scientific expertise” to avoid using an undefined designation for an observer and allow the SC to evaluate if an exploratory fishing proposal has sufficient scientific expertise aboard to record catch accurately.
	(1) identifies corals, sponges and other organisms to the lowest possible taxonomical level, using the “Exploratory Fishery Data Collection Form” in accordance with Annex I.E (templates); and	Revised reference to just Annex I.E to minimize confusion.
	(2) delivers the results of such identification to the master of the vessel to facilitate quantification referenced in paragraph 1(a)(1) of this Article;	New paragraph to ensure accuracy of VME catch data and to provide a

		gender-neutral reference.
	<i>Duties of the Contracting Party</i>	New subtitle
	(c) forward, without delay, the encounter information reported by the master to the Executive Secretary if the quantity of the VME indicator species caught in a fishing operation (such as trawl, tow, set, of a gillnet or longline) is beyond the threshold defined in paragraph 1 of this article. The Contracting Party may allow the master of their vessels to also report the encounter directly to the Executive Secretary;	Article 22.1(b) and 22.2(b)
	(d) issue an immediate alert of the encounter to all fishing vessels flying their flag; and	
	(e) consider temporarily closing a two mile radius around any reported VME encounter location outside of footprint upon notification by the Executive Secretary in accordance with Article 23.2(c). Contracting Parties may reopen temporarily closed areas upon notification from the Executive Secretariat in accordance with Article 22.3(e).	New paragraph added for clarity
	<i>Duties of the Executive Secretary</i>	
3	The Executive Secretary:	
	(a) archives the information on incident information reported by masters and without delay transmits it to all Contracting Parties;	Article 22.1(b) and 22.2(b) merged
	(b) makes an annual report to the Scientific Council on single and multiple encounters in discrete areas within the footprint. This report should also include reports from the exploratory bottom fishing activities conducted in the last year;	
	(c) requests all Contracting Parties to implement a temporary closure of a two mile radius around the reporting position of an encounter with VME indicator species outside the footprint, as identified in accordance with paragraph 2(c) of this Article. The reporting position is that provided by the master;	Article 22.2(b) and revised for clarity
	(d) requests Contracting Parties to maintain the temporary closure until such time that the Fisheries Commission has adopted conservation and management measures in accordance with paragraph 5 of this Article if the Scientific Council concludes that the area covered by a temporary closure consists of a VME;	
	(e) inform the Contracting Parties that they may reopen the area to their vessels if the Scientific Council does not conclude that the area covered by a temporary closure consists of a VME; and	
	(f) makes an annual report to the Scientific Council on archived reports from encounters in areas outside the footprint. This report shall also include reports from the exploratory bottom fishing activities that were conducted in the last year.	
	<i>Duties of the Scientific Council</i>	
4	The Scientific Council shall:	
	(a) analyze the information received from the Executive Secretary pursuant to paragraph 3(b) and (f) of this Article;	Article 22.1(b) and 22.2(b)

	(b) examine any temporary closures implemented in accordance with paragraph 3(c) of this Article at the meeting immediately following the implementation of such closures; and	Article 22.2(b) revised for clarity
	(c) provide advice to the Fisheries Commission on whether a VME exists following encounters with VME indicator species on a case-by-case basis and on the appropriateness of the temporary closures or other measures. The advice shall be based on annually updated assessments of the accumulated information on encounters as well as other scientific information. The Scientific Council's advice on the need for action, using FAO guidelines as a basis.	Article 22.1(b) and 22(b) merged and clarified.
	<i>Duties of the Fisheries Commission</i>	
5	The Fisheries Commission shall:	Article 22.1(b) and 22(b)
	(a) consider the advice provided by the Scientific Council pursuant to paragraph 4(c) of this Article; and	
	(b) adopt conservation and management measures in accordance with Article 21;	
		Paragraph moved to paragraph 1.
	Article 23 - Reassessment of bottom fishing activities	Article 23.1 reformatted
1	The Scientific Council shall:	Text clarified to reference updated name of Working Group.
	(a) identify VMEs, on the basis of best available scientific information and with the co-operation of Contracting Parties;	
	(b) map sites where these VMEs are known to occur or likely to occur; and	
	(c) provide such data and information to the Executive Secretary for circulation to all Contracting Parties.	
2	The Fisheries Commission shall:	
	(a) conduct a reassessment of bottom fishing activities in 2016 and every 5 years thereafter, or when there is new scientific information indicating a VME in a given area, in collaboration with the Scientific Council and the Working Group on Ecosystem Approach Framework to Fisheries Management; and	
	(b) take the necessary actions to protect VMEs following the reassessment specified in paragraph 2(a) of this article.	
	Article 24 - Review	
	The provisions of this Chapter shall be reviewed by the Fisheries Commission at its Annual Meeting in 2014.	

Annex I.E

Templates for the conduct of exploratory bottom fishing activities

I. Exploratory Protocol for New Fishing Areas

[INSERT EXISTING TEXT FROM PART IV]

II. Notice of Intent to Undertake Exploratory Fishing

[INSERT EXISTING TEXT FROM PART I]

III. Exploratory Fishing Trip Report

[INSERT EXISTING TEXT AND FOOTNOTES FROM PART II]

IV. Exploratory Fishery Data Collection Form

[INSERT EXISTING TABLE FROM PART III]

V. Assessment of Bottom Fishing Activities

[INSERT EXISTING TEXT]

VI. List of VME indicator species

[INSERT EXISTING LIST]

VII. List of Physical VME Indicator Elements

[INSERT EXISTING LIST]