



Submission by the North-East Atlantic Fisheries Commission

Regarding the report of the Secretary-General of the United Nations on Oceans and the Law of the Sea, pursuant to General Assembly resolution 74/19

The following is the contribution by the North-East Atlantic Fisheries Commission (NEAFC) to the preparation of the report of the Secretary-General of the United Nations on Oceans and the Law of the Sea, pursuant to General Assembly resolution 74/19 of 10 December 2019, as requested in a letter from Miguel de Serpa Soares, Under Secretary-General for Legal Affairs, dated 15 April 2020.

In making this submission, account has been taken of the need to ensure that the document is as brief as possible. The submission therefore focuses on a few developments, activities and measures adopted in the key areas addressed in resolution 73/124, in particular since the last report by NEAFC in 2019.

The substantive part of the NEAFC submission is as follows:

Introduction/General

The North-East Atlantic Fisheries Commission (NEAFC) is the Regional Fisheries Management Organisation (RFMO) for the North-East Atlantic. The NEAFC Contracting Parties are Denmark (in respect of the Faroe Islands and Greenland), the European Union, Iceland, Norway and the Russian Federation. NEAFC's objective is to ensure the long-term conservation and optimum utilisation of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits. The area covered by the NEAFC Convention stretches from the southern tip of Greenland, east to the Barents Sea, and from the North Pole south to Portugal. Recommendations adopted by NEAFC are legally binding. NEAFC Port State Control procedures apply to the use of ports of NEAFC Contracting Parties by foreign fishing vessels (including fish processing vessels and vessels engaged in transshipment) with catch on board of fisheries resources that have either been caught in the NEAFC Convention Area by foreign fishing vessels or that have not been previously landed or transhipped at a port. These NEAFC Port State Control procedures have been aligned with those of the FAO Port State Measures Agreement.

The North-East Atlantic is one of the most abundant fishing areas in the world. NEAFC has adopted conservation and management measures for fisheries for tens of different fish stocks, although three major stocks constitute the bulk of the overall catches, these being blue whiting, herring and mackerel. NEAFC operates an efficient and effective monitoring and control system for its fisheries. This system, combined with NEAFC Port State Control measures, has ensured there have been no Illegal, Unreported and Unregulated fisheries for the last ten years. These control measures are continuing largely as before during the COVID

19 circumstances. A recent step forward for NEAFC is to be more transparent about compliance with its regulatory measures by both Contracting Parties and cooperating non-Contracting Parties. NEAFC now publishes an annual compliance report to be found at: <https://www.neafc.org/compliance> as well as, since 2020, publicly listing its notified and authorised fishing vessels.

While NEAFC adopts management and control measures for target fish stocks, it also adopts measures to protect other components of the marine ecosystem (including biodiversity) from potential negative impacts of fisheries. NEAFC thereby contributes to the ecosystem approach to fisheries and the protection of marine biodiversity. This includes preventing significant adverse impacts on vulnerable marine ecosystems through area-based conservation and management measures. In that context, NEAFC has closed large areas to bottom fisheries, and implements rigorous restrictions for other areas.

NEAFC's conservation and management measures, including those related to other parts of the marine ecosystem, do not depend on NEAFC undertaking any scientific work but rather rely on the International Council for the Exploration of the Sea (ICES) for scientific advice. While maintaining a clear separation between the management and policy role of NEAFC and the scientific role of ICES, NEAFC has improved its cooperation with ICES, including via regular bilateral meetings to discuss long-term developments, such as multispecies advice, possible climate effects and other ecosystem considerations. ICES develops appropriate research programmes to meet longer-term issues raised by NEAFC, and takes these issues into account in presenting its advice to NEAFC. NEAFC also continues to focus efforts on sustainability of deep sea fisheries, requesting ICES to ensure it reflects NEAFC stock categorisations in its advice on deep sea species. This is in particular with an aim to pay attention to (category 3) rapidly changing or increasing fisheries. NEAFC updated its Memorandum of Understanding with ICES at the end of 2019, ensuring the incorporation of the latest ecosystem considerations into the MOU.

NEAFC continues to integrate the broader aspects of the ecosystem in to its thinking, NEAFC has relied on ICES to do this in its fisheries advice for many years, for instance by taking into account its fisheries overviews and its (sub-regional) ecosystem overviews. Nevertheless, there remain major challenges in translating an understanding of wider ecosystem changes and other pressures (including their cumulative aspects) into practical and specific advice on the total allowable catch of a particular stock or mix of stocks. The most recent developments at ICES include a 2019 Science Plan, encompasses science priorities focused on delivering marine ecosystem and sustainability science for the 2020s and beyond. This science aims to underpin the ICES Advisory Plan which commits ICES to providing advice to NEAFC amongst others that supports ecosystem-based decision-making and contributes towards the effective application of an ecosystem approach. This plan includes a priority to develop an ecosystem advice framework which includes: management of human activities; consideration of collective pressures; sustainable use; optimization of benefits among diverse societal goals; regionalisation; trade-offs and; stewardship for future generations. NEAFC updated its Memorandum of Understanding with ICES at the end of 2019, ensuring the incorporation of the latest ecosystem considerations into the MOU.

In summary, independent scientific advice which is firmly ecosystem based, is fundamental to management decisions that NEAFC takes in all aspects of fisheries and conservation.

Broader Oceans Governance.

A major initiative taken by the 2019 NEAFC Annual Meeting was to revitalise the Working Group on the Future of NEAFC, which had not met since 2013. The aim of the group is to further strengthen NEAFC, including strategic thinking, to ensure that it remains a modern and effective Regional Fisheries Management Organisation. This is in the context of the many developments on a more integrated ocean governance that are ongoing internationally. The updated Terms of Reference for the group include to identify challenges and relevant international developments in order for the Commission to respond and fulfil NEAFC's objectives. This includes examining developments related to the 2019 UNGA sustainable fisheries resolution; the draft UN 'BBNJ' instrument – future roles of NEAFC and ICES; the Informal Consultations of State Parties to UNFSA (in 2021) on the ecosystem approach to fisheries management); the preparations for the [2020] UN Workshop on bottom fishing; and other international developments. Other organisational aspects such as increasing transparency and NGO observership in meetings are also being considered by the working group.

Part II Capacity Building

None of NEAFC's Contracting Parties are developing countries, and NEAFC's core activities do not include capacity building in developing countries or other types of development cooperation. Nevertheless, NEAFC does take part in various projects aimed at capacity building in developing countries. This is primarily done by sharing NEAFC's knowledge and experience regarding fisheries management; fisheries monitoring, control and surveillance (MCS), Electronic Port State Control, Electronic Reporting Systems, and related fields. The NEAFC Secretariat also continues to share experience in other regions in support of capacity building and cross-sectoral engagement at the level of regional intergovernmental organisations and bodies.

Within the last year NEAFC has continued to be an active participant in the deep seas and biodiversity element of the now concluded Global sustainable fisheries management and biodiversity conservation in the Areas Beyond National Jurisdiction Program (the Common Oceans ABNJ Program). This programme was funded by the Global Environment Facility and coordinated by the UN Food and Agriculture Organization in close collaboration with two other GEF agencies, the United Nations Environment Programme and the World Bank.

Part X Marine biodiversity

Vulnerable Marine Ecosystems (VME)

A comprehensive binding Recommendation on the protection of VMEs from bottom fisheries is in place in NEAFC. This entered into force in 2014, consolidating earlier recommendations

on closed areas from 2004 onwards. This Recommendation has been updated several times since then, including following the annual recurrent advice requests to ICES for all available information on distribution of vulnerable habitats and fisheries activities relevant to the Regulatory Area. The measures ensure that the only areas where bottom fisheries can legally take place in the Regulatory Area, apart from the potential (as yet unused) for restricted exploratory fisheries, are in areas that are established bottom fishing areas where the best available scientific advice has suggested that VMEs do not, or are unlikely to, occur. The parts of 'existing' bottom fishing areas that are not closed are subject to various measures, including reporting duties and encounter protocols. A reported encounter with a VME results in a temporary closure of the relevant area.

These measures mean that the majority (98%) of the NEAFC Regulatory Area is in practice closed to bottom fishing through either VME closures, or areas that require strictly regulated exploratory fisheries to be undertaken before bottom fishing is allowed. The areas open to commercial bottom fishing (and which add up to only around 2% of the total Regulatory Area) are therefore those areas where the best available scientific information indicates that there are unlikely to be significant adverse impacts by bottom fishing on VMEs.

In 2019, NEAFC reviewed its binding Recommendation 19:2014 on the protection of Vulnerable Marine Ecosystems, as required every 5 years by the recommendation itself. The scope of the review was on the effectiveness of the Recommendation in protecting VMEs from bottom fisheries activities. This question was explored in detail in the 2019 review by examining what bottom fisheries had occurred in the closed areas since 2014 and, if any activities had occurred, whether NEAFC had any information on likely/actual damage.

From a combination of information from Contracting Parties on national enforcement activities, from the NEAFC Secretariat on alerts on potential bottom fisheries activities, and from ICES analysis of fishing activity, NEAFC's Permanent Committee on Management and Science (PECMAS) assessed that compliance with the closures had been effective. A few records of fishing in the new fishing areas indicated that some unauthorised fishing had occurred, but the scale was very limited; some of this activity related to relatively recent changes to coordinates of national/international borders. The vast majority of bottom fishing activity had been carried out inside existing bottom fishing areas. PECMAS believed the review of the information presented to it indicated the Recommendation was effective in its aim to protect VMEs, as well as areas outside defined existing fishing areas in the Regulatory Area, from bottom fisheries. Nevertheless, the performance of the Recommendation could be improved and therefore several actions (below) were suggested to improve performance of the Recommendation.

The 2019 NEAFC Commission meeting agreed the following actions:

1. NEAFC's Management and Science Committee would consider the outcomes of the UNGA [2020] review of the implementation of Resolution 61/105 and subsequent resolutions (bottom fisheries/VME protection). It would furthermore consider UNGA resolution 71/123 on further actions on management of bottom fisheries impacts on VMEs. In addition, PECMAS would revisit earlier ICES advice on any closures which had not been acted on by NEAFC. PECMAS would report back on the progress to the 2020

NEAFC Annual Meeting.

2. NEAFC's Monitoring and Compliance Committee (PECMAC) would consider further options for Contracting Parties to improve transparency of investigations into the (mostly false positive) alerts on bottom fishing outside existing bottom fishing areas and also to address more effective gear identification. In addition, it would assess if reporting on encounters with VMEs is functioning effectively. PECMAC would report back on the progress to the 2020 NEAFC Annual Meeting. Following the implementation in due course of the new NEAFC Electronic Reporting Systems across all of the Contracting Parties, PECMAC would investigate all opportunities to enhance monitoring of compliance with Recommendation 19:2014.
3. The NEAFC Secretariat is continuing to work on reducing the number of false positive bottom fisheries alerts. It is also continuing to monitor and analyse bottom fishing activity in the Regulatory Area to support Contracting Parties, as requested following NEAFC's performance review in 2014. The Secretariat is also working with the ICES Secretariat to address data issues to ensure common understanding of bottom fishing activity.
4. In terms of scientific advice, ICES will be informing NEAFC on progress on improving the use of VME indicators to develop management advice. ICES is also being invited to consider completeness of VME habitats and indicators in the ICES database. ICES would also be giving advice on the likely effect if changes were ever made to existing closures created for other reasons (such as protection of juvenile fish) which had also been useful protecting VMEs.

Deep Sea Species and Sharks.

NEAFC continues to take into account the effect of its fishing activities on other biodiversity. The NEAFC joint request with OSPAR (The Convention for the Protection of the Marine Environment of the North-East Atlantic) to ICES for scientific advice on deep sea sharks, rays and chimaeras is expected to be delivered this year. This request for scientific advice was an outcome of the collaboration between OSPAR and NEAFC under the collective arrangement(see below), with the ultimate aim of improving conservation measures for these species, each under the respective competence of each organisation.

While awaiting the further advice, NEAFC continues nevertheless to apply its existing protections. The 2019 NEAFC Annual Meeting extended the current NEAFC ban on targeted fisheries for on certain sharks and other chondrichthyans. These bans are under binding Recommendations for conservation and management measures for porbeagle, basking shark, deep sea sharks, rays and chimaeras, all were extended for 4 years to the end of 2023.

Part XIII Regional Cooperation

Applying an ecosystem based management approach to oceans implies that all organisations involved in regulation/management of human activities in the marine environment are cooperating and coordinating actions under their different legal mandates. While NEAFC has become involved in considering the effects of fisheries on the other parts of the marine ecosystem and on biodiversity, NEAFC's legal competence remains limited to managing fisheries. The fact that the vulnerable marine ecosystems that NEAFC is making efforts to protect can be affected by human activities other than fishing has led NEAFC to work with other organisations, with complementary legal competences, such as OSPAR. NEAFC and OSPAR have continued in their cooperation, for instance through a May 2019 meeting in Gothenburg, Sweden, under the 'collective arrangement between competent international organisations on cooperation and coordination regarding selected areas in areas beyond national jurisdiction in the North-East Atlantic'. The collective arrangement meeting continues to include observers from the Secretariats of other regional environment and fisheries bodies. The 2020 collective arrangement meeting is now delayed until 2021. This meeting will then be able to include reflection on the ICES scientific advice on deep sea sharks, rays and chimaeras which is due in October 2020 and can be considered by NEAFC's Permanent Committee on Science and Management and OSPAR's Working Group on Protection and Conservation of Species and Habitats in the first instance.

NEAFC also cooperates with other regional organisations, thereby contributing to increased cooperation and coordination. In 2020, the NEAFC Scheme of Control and Enforcement was amended to allow for an automatic inclusion to the NEAFC list of IUU vessels a large number of other RFMO vessel listings. Cooperation with other RFMOs also includes the continuing work of Joint Advisory Group on Data Management (JAGDM) held with the Northwest Atlantic Fisheries Organization (NAFO). The joint group is open to other regional fisheries management organisations and among its primary objectives is to increase harmonisation in the technical solutions applied in different areas to enhance cooperation in particular on monitoring control and surveillance. This type of coordination is important also in the context of NEAFC's recent adoption of a Recommendation to implement an Electronic Reporting System (ERS); a significant enhancement of the existing monitoring and control system ([https://www.neafc.org/system/files/Recommendation%2019 Introducing-ERS-based-on-FLUX-UN-CEFACT.pdf](https://www.neafc.org/system/files/Recommendation%2019%20Introducing-ERS-based-on-FLUX-UN-CEFACT.pdf)). When the new ERS becomes operational, recordings in electronic fishing logbooks will be transmitted to the NEAFC Secretariat. The ERS will enable detailed 'live' information of fishing activities to be made available to fisheries inspectors and should also lead to an improvement of other data such as haul by haul catches and bycatch (for instance, offering benefits to scientific advice).

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