



SOUTH EAST ATLANTIC FISHERIES ORGANISATION

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REF: COMM/UN/2015/

DATE: 20 January 2015

TO: Division for Ocean Affairs and Law of the Sea
Office Legal Affairs
United Nations
New York

RE: FEEDBACK ON THE REPORT OF THE SECRETARY-GENERAL REGARDING DRAFT RESOLUTION A/70/L.22, "OCEANS AND THE LAW OF THE SEA"

Dear Sir

I acknowledged receipt of your said request. Below please find SEAFO response regarding developments in the implementation of the said resolution:

Executive Summary

The South East Atlantic Fisheries Organization (SEAFO) is actively implementing measures to ensuring the long-term conservation and sustainable use of all living marine resources in the South East Atlantic Ocean, and to safeguarding the environment and marine ecosystems in which the resources occur. SEAFO MCS System was adopted in 2012, to strengthen compliance and port State control. The Commission has a joint IUU Vessel listing agreement with several other RFMO's. A new Conservation Measure on Bottom Fishing Activities and Vulnerable Marine Ecosystems in the SEAFO Convention Area was adopted in 2015.

Furthermore, taking cognisance of document A/70/L.22, the Commission recognises the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982; the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995; and taking into account the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993 and the FAO Code of Conduct for Responsible Fisheries, 1995.

SEAFO recognising the duties of States to cooperate with each other in the conservation and management of living resources in the South East Atlantic Ocean and is dedicated to exercising and implementing the precautionary and eco-system approach in the management of fishery resources. The Scientific Committee's recommendations on resources conservation and management to the Commission are based on the best available scientific information. Eleven areas has been closed to fishing in order to protect vulnerable marine ecosystems.

Furthermore, the Commission has established a special requirements fund to assist developing States with the implementation of the Convention.

(i) Information regarding relevant activities of SEAFO

A/70/L.22

II Capacity-building

10. *Emphasizes* that capacity-building is essential to ensure that States, especially developing countries, in particular the least developed countries and small island developing States, as well as coastal African States, are able to fully implement the Convention, benefit from the sustainable development of the oceans and seas and participate fully in global and regional forums on ocean affairs and the law of the sea;

225. *Encourages* States and international organizations, including through bilateral, regional and global cooperation programmes and partnerships, to continue in a sustainable and comprehensive way to support, promote and strengthen capacity-building activities, in particular in developing countries, in the field of marine scientific research, taking into account, in particular, the need to create greater taxonomic capabilities;

Response:

The Commission recognizing the economic and geographical considerations and the special requirements of developing States, and their coastal communities, for equitable benefit from living marine resources as depicted in Article 21 of the Convention

ARTICLE 21. RECOGNITION OF THE SPECIAL REQUIREMENTS OF DEVELOPING STATES IN THE REGION

1. The Contracting Parties shall give full recognition to the special requirements of developing States in the region in relation to conservation and management of fishery resources and the development of such resources.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for stocks covered by this Convention, the Contracting Parties shall take into account the special requirements of such developing States, in particular:

(a) the vulnerability of developing States in the region which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States in the region.

3. The Contracting Parties shall cooperate through the Commission and other subregional or regional organisations involved in the management of fishery resources:

(a) to enhance the ability of developing States in the region to conserve and manage fishery resources and to develop their own fisheries for such resources; and

(b) to assist developing States in the region which may fish for fishery resources, to enable them to participate in fisheries for such resources, including facilitating access in accordance with this Convention.

4. Cooperation with developing States in the region for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, and activities directed specifically towards:

(a) improved conservation and management of the fishery resources covered by this Convention through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

The Commission has approved the establishment of a Special Requirements Fund (SRF) during the 2009 annual meeting. The principals, guidelines and operational procedures for the SRF are available on the SEAFO webpage www.seafo.org. Both Norway and the EU have contributed to the SRF. Colleagues from one developing State had already benefited from capacity building using funds from the SRF.

A/RES/69/245*

IX Marine environment and marine resources

163. Recalls that in "The future we want", States noted with concern that the health of oceans and marine biodiversity are negatively affected by marine pollution, including marine debris, especially plastic, persistent organic pollutants, heavy metals and nitrogen-based compounds, from a number of marine and landbased sources, including shipping and land run-off, and that States committed to take action to reduce the incidence and impacts of such pollution on marine ecosystems, including through the effective implementation of relevant conventions adopted in the framework of the International Maritime Organization, and the follow-up of relevant initiatives such as the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities,⁷⁵ as well as the adoption of

coordinated strategies to this end, and that they further committed to take action, by 2025, based on collected scientific data, to achieve significant reductions in marine debris to prevent harm to the coastal and marine environment;

164. *Encourages* States, in accordance with the commitment expressed in “The future we want” and based on collected scientific data, to take action by 2025 to achieve significant reductions in marine debris to prevent harm to the coastal and marine environment;

181. *Also notes with concern* that the health of the oceans and marine biodiversity are negatively affected by marine debris, especially plastic, from landbased and marine sources, and thus recognizes the need for better understanding of the sources, amounts, pathways, distribution trends, nature and impacts of marine debris, and in this regard invites States to implement resolution 1/6 on marine plastics debris and microplastics, adopted by the United Nations Environment Assembly of the United Nations Environment Programme at its first session in June 2014;

182. *Welcomes* the activities of relevant United Nations bodies and organizations, in particular the United Nations Environment Programme, the Food and Agriculture Organization of the United Nations and the International Maritime Organization and other intergovernmental organizations, to address the sources and impacts of marine debris, including through the Global Partnership on Marine Litter, as well as actions relating to marine debris taken under the Convention on the Conservation of Migratory Species of Wild Animals,⁸¹ in particular the adoption by the Conference of the Parties to that Convention at its tenth meeting of resolution 10.4 on marine debris, and notes the recent work of the International Whaling Commission on assessing the impacts of marine debris on cetaceans;

183. *Encourages* States to further develop partnerships with industry and civil society to raise awareness of the extent of the impact of marine debris on the health and productivity of the marine environment and consequent economic loss;

184. *Urges* States to integrate the issue of marine debris into national and, as appropriate, regional strategies dealing with waste management, especially in the coastal zone, ports and maritime industries, including recycling, reuse, reduction and disposal, to consider developing an integrated waste management infrastructure and to encourage the development of appropriate economic incentives with the aim of reducing marine debris to address this issue, including the development of cost recovery systems that provide an incentive to use port reception facilities and discourage ships from discharging marine debris at sea, and support for measures to prevent, reduce and control pollution from any source, including land-based sources, such as community-based coastal and waterway clean-up and monitoring activities, and encourages States to cooperate regionally and sub regionally to identify potential sources and coastal and oceanic locations where marine debris aggregates and to develop and implement joint prevention and recovery programmes for marine debris as well as to raise awareness of the issue of marine debris and the need to consider environmentally sound options for its removal;

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IX Marine environment and marine resources

170. *Recalls* that in “The future we want”, States noted with concern that the health of oceans and marine biodiversity are negatively affected by marine pollution, including marine debris, especially plastic, persistent organic pollutants, heavy metals and nitrogen-based compounds, from a number of marine and land-based sources, including shipping and land run-off, and that States committed to take action to reduce the incidence and impacts of such pollution on marine ecosystems, including through the effective implementation of relevant conventions adopted in the framework of the International Maritime

Organization, and the follow-up of relevant initiatives such as the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities,⁸² as well as the adoption of coordinated strategies to this end, and that they further committed to take action, by 2025, based on collected scientific data, to achieve significant reductions in marine debris to prevent harm to the coastal and marine environment;

171. *Encourages* States, in accordance with the commitment expressed in “The future we want” and based on collected scientific data, to take action by 2025 to achieve significant reductions in marine debris to prevent harm to the coastal and marine environment;

188. Also notes with concern that the health of the oceans and marine biodiversity are negatively affected by marine debris, especially plastic, from land-based and marine sources, and invites States to implement resolution 1/6 on marine plastic debris and microplastics, adopted by the United Nations Environment Assembly of the United Nations Environment Programme at its first session, held in Nairobi from 23 to 27 June 2014

189. Recognizes the need for better understanding of the sources, amounts, pathways, distribution, trends, nature and impacts of marine debris, especially plastic, and to examine possible measures and best available techniques and environmental practices to prevent its accumulation and minimize its levels in the marine environment, and welcomes in this regard the work conducted under the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection, led by the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organizations, and its report entitled “Sources, fate and effects of microplastics in the marine environment: a global assessment”;⁸⁸

190. Acknowledges the request addressed to the Executive Director of the United Nations Environment Programme by the United Nations Environment Assembly in its resolution 1/6, to undertake a study on marine plastic debris and marine microplastics, and to present the study for the consideration of that Assembly at its second session, in May 2016, recalls the invitation to States to share relevant information with the Executive Director pertinent to this study, and notes that the Informal Consultative Process will focus its discussions at its seventeenth meeting on the theme “Marine debris, plastics and microplastics”;

191. *Welcomes* the activities of relevant United Nations bodies and organizations, in particular the United Nations Environment Programme, the Food and Agriculture Organization of the United Nations and the International Maritime Organization and other intergovernmental organizations, to address the sources and impacts of marine debris, including through the Global Partnership on Marine Litter, as well as actions relating to marine debris taken under the Convention on the Conservation of Migratory Species of Wild Animals,⁸⁹ in particular the adoption by the Conference of the Parties to that Convention at its eleventh meeting of resolution 11.30 on marine debris, and notes the recent work of the International Whaling Commission on assessing the impacts of marine debris on cetaceans;

192. *Encourages* States to further develop partnerships with industry and civil society to raise awareness of the extent of the impact of marine debris on the biological diversity, health and productivity of the marine environment and consequent economic loss, and encourages States to cooperate, as appropriate, to address marine debris and microplastics in the marine environment;

193. *Urges* States to integrate the issue of marine debris into national and, as appropriate, regional strategies dealing with waste management, especially in the coastal zone, ports and maritime industries, including recycling, reuse, reduction and disposal, to consider developing an integrated waste management infrastructure and to encourage the development of appropriate economic incentives with the aim of reducing marine debris to address this issue, including the development of cost-recovery

systems that provide an incentive to use port reception facilities and discourage ships from discharging marine debris at sea, and support for measures to prevent, reduce and control pollution from any source, including land-based sources, such as community-based coastal and waterway clean-up and monitoring activities, and encourages States to cooperate regionally and subregionally to identify potential sources and coastal and oceanic locations where marine debris aggregates and to develop and implement joint prevention and recovery

246. Notes with concern that human-related threats, such as marine debris, ship strikes, underwater noise, persistent contaminants, coastal development activities, oil spills and discarded fishing gear, together may severely impact marine life, including its higher trophic levels, and calls upon States and competent international organizations to cooperate and coordinate their research efforts in this regard so as to reduce these impacts and preserve the integrity of the whole marine ecosystem while fully respecting the mandates of relevant international organizations

Response:

SAEFO currently does not have measures in-place to address marine litter as yet.

A/RES/69/109

VIII Fisheries by-catch and discards

108. *Urges* States, subregional and regional fisheries management organizations and arrangements and other relevant international organizations that have not done so to take action, including with consideration of the interests of developing coastal States and, as appropriate, subsistence fishing communities, to reduce or eliminate bycatch, catch by lost or abandoned gear, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring the confidentiality of such information, and support for studies and research that will reduce or eliminate by-catch of juvenile fish, and to ensure that these measures are implemented so as to optimize their effectiveness;

X Responsible fisheries in the marine ecosystem

168. *Acknowledges* the serious environmental impacts on the marine environment caused by abandoned, lost or otherwise discarded fishing gear, and encourages States to take action to reduce such gear, noting the recommendations of the 2009 report by the United Nations Environment Programme and the Food and Agriculture Organization of the United Nations;

169. *Reaffirms* the importance it attaches to paragraphs 77 to 81 of resolution 60/31 of 29 November 2005 concerning the issue of lost, abandoned or discarded fishing gear and related marine debris and the adverse impacts such debris and derelict fishing gear have on, inter alia, fish stocks, habitats and other marine species, and urges accelerated progress by States and regional fisheries management organizations and arrangements in implementing those paragraphs of the resolution;

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VIII Fisheries by-catch and discards

113. *Urges* States, subregional and regional fisheries management organizations and arrangements and other relevant international organizations that have not done so to take action, including with consideration of the interests of developing coastal States and, as appropriate, subsistence fishing communities, to minimize by-catch, as well as to reduce or eliminate catch by lost or abandoned gear, fish discards and post-harvest losses, including of juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring the confidentiality of such information, and support for studies and research that will minimize by-catch of juvenile fish, and to ensure that these measures are implemented so as to optimize their effectiveness;

174. *Acknowledges* the serious environmental impacts on the marine environment caused by abandoned, lost or otherwise discarded fishing gear, and encourages States and regional fisheries management organizations and arrangements, as appropriate, to take action to reduce such gear, noting therecommendations of the 2009 report by the United Nations Environment Programme and the Food and Agriculture Organization of the United Nations;

175. *Reaffirms* the importance it attaches to paragraphs 77 to 81 of resolution 60/31 of 29 November 2005 concerning the issue of lost, abandoned or discarded fishing gear and related marine debris and the adverse impacts such debris and derelict fishing gear have on, inter alia, fish stocks, habitats and other marine species, and urges accelerated progress by States and regional fisheries management organizations and arrangements in implementing those paragraphs of the resolution;

Response:

The Commission adopted the SYSTEM OF OBSERVATION, INSPECTION, and COMPLIANCE AND ENFORCEMENT in accordance with Article 16 of the Convention on observation inspection compliance and enforcement.

Article 8 – Retrieval of lost or abandoned fishing gear

Each Contracting Party shall ensure that:

- (a) vessels operating with any gear shall have equipment on board to retrieve lost or abandoned gear;
- (b) a vessel that has lost or abandoned gear shall make every reasonable attempt to retrieve it as soon as possible;
- (c) no vessel shall deliberately abandon fishing gear, except for safety reasons, notably vessels in distress and/or life in danger; and
- (d) if the lost gear cannot be retrieved the vessel shall notify the competent authorities of its flag State within 24 hours of the following:
 - i. the name and call sign of the vessel;
 - ii. the type of lost gear;

- iii. the quantity of gear lost;
- iv. the time when the gear was lost;
- v. the position where the gear was lost; and
- vi. measures taken by the vessel to retrieve lost gear.

(e) following retrieval of lost gear, the vessel shall notify the flag State Contracting Party within 24 hours of the following:

- i. the name and call sign of the vessel that has retrieved the gear;
- ii. the name and call sign of the vessel that lost the gear (if known);
- iii. the type of gear retrieved;

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209. Reaffirms paragraph 119 of resolution 61/222 of 20 December 2006 regarding ecosystem approaches and oceans, including the proposed elements of an ecosystem approach, means to achieve implementation of an ecosystem approach and requirements for improved application of an ecosystem approach, and in this regard:

(a) Notes that continued environmental degradation in many parts of the world and increasing competing demands require an urgent response and the setting of priorities for management actions aimed at conserving ecosystem integrity;

(b) Also notes that ecosystem approaches to ocean management should be focused on managing human activities in order to maintain and, where needed, restore ecosystem health to sustain goods and environmental services, provide social and economic benefits for food security, sustain livelihoods in support of international development goals, including those contained in the Millennium Declaration, and conserve marine biodiversity;

(c) Recalls that States should be guided in the application of ecosystem approaches by a number of existing instruments, in particular the Convention, which sets out the legal framework for all activities in the oceans and seas, and its implementing Agreements, as well as other commitments, such as those contained in the Convention on Biological Diversity and the World Summit on Sustainable Development call for the application of an ecosystem approach by 2010, and in this context encourages States to enhance their efforts towards applying such an approach;

(d) Encourages States to cooperate and coordinate their efforts and take, individually or jointly, as appropriate, all measures, in conformity with international law, including the Convention and other applicable instruments, to address impacts on marine ecosystems within and beyond areas of national jurisdiction, taking into account the integrity of the ecosystems concerned;

211. *Encourages* competent organizations and bodies that have not yet done so to incorporate an ecosystem approach into their mandates, as appropriate, in order to address impacts on marine ecosystems;

Response: Commission recognizing the importance of the application of the precautionary approach as reflected in the Convention:

ARTICLE 3. GENERAL PRINCIPLES

In giving effect to the objective of this Convention, the Contracting Parties, where appropriate through the Organisation, shall, in particular:

- (a) adopt measures, based on the best scientific evidence available, to ensure the long term conservation and sustainable use of the fishery resources to which this Convention applies;
- (b) apply the precautionary approach in accordance with article 7;

ARTICLE 6. THE COMMISSION

- 3. (g) manage stocks on the basis of the precautionary approach to be developed in accordance with article 7;

ARTICLE 7. APPLICATION OF THE PRECAUTIONARY APPROACH

- 1. The Commission shall apply the precautionary approach widely to conservation and management and exploitation of fishery resources in order to protect those resources and preserve the marine environment.
- 2. The Commission shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.
- 3. In implementing this article, the Commission shall take cognisance of best international practices regarding the application of the precautionary approach, including Annex II of the 1995 Agreement and the FAO Code of Conduct for Responsible Fisheries, 1995.

X Marine biodiversity

224. *Also recognizes* the importance of research on marine genetic resources for the purpose of enhancing the scientific understanding, potential use and application, and enhanced management of marine ecosystems;

Response:

A study was conducted to determine stock distribution and identity of the deep-sea red-crab in the SEAFO convention Area. One species of deep-sea red crab has been recorded in Division B1, namely *Chaceon erytheiae* (López-Abellán *et al.* 2008), and is thus considered the target species of this fishery. Aside from the areas recorded in catch records the overall distribution of *Chaceon erytheiae* within the SEAFO CA is still unknown. Further encounter records documented through video footage during the 2015 FAO-Nansen VME survey in the SEAFO CA indicate that deep-sea red crab are distributed across a major part of the Valdivia seamount range, as well as the Ewing and Vema seamounts (DOC/SC/22/2015).

Preliminary results from genetics studies, based on Mitochondrial DNA, indicate that the deep-sea red crab targeted by the pot fishery on the Valdivia Bank is confirmed as *C. erytheiae* (López-Abellán *pers. comm.*).

183. *Encourages* States, directly or through competent international organizations, to consider the further development and application, as appropriate and consistent with international law, including the Convention, of environmental impact assessment processes covering planned activities under their

jurisdiction or control that may cause substantial pollution of or significant and harmful changes to the marine environment, and also encourages the communication of the reports of the results of such assessments to the competent international organizations in accordance with the Convention;

228. *Calls upon* States and international organizations to urgently take further action to address, in accordance with international law, destructive practices that have adverse impacts on marine biodiversity and ecosystems, including seamounts, hydrothermal vents and cold water corals;

Response:

The Commission has adopted in 2015 a Conservation Measure on Bottom Fishing Activities and Vulnerable Marine Ecosystems in the SEAFO Convention Area



Conservation Measure 30/15 on Bottom Fishing Activities and Vulnerable Marine Ecosystems in the SEAFO Convention Area

The Commission hereby adopts the following conservation measure pursuant to articles 6 and 7 of the Convention:

Article 1. Objective

1. The objective of this Conservation Measure is to ensure the implementation by SEAFO of effective measures to prevent significant adverse impacts of bottom fishing activities on vulnerable marine ecosystems that, based on the best available scientific information, are known or likely to occur in the Convention Area.
2. This Conservation Measure takes into account SEAFO's responsibility as a regional fisheries management organization to adopt measures with regards to bottom fishing activities in the Convention Area which contribute to fulfill the key objectives of the UN General Assembly Resolutions on the protection of vulnerable marine ecosystems.
3. For the purpose of this Conservation Measure, SEAFO 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.

Article 2. Use of terms

For the purpose of this Conservation Measure:

- (a) 'bottom fishing activities' means fishing activities where the fishing gear is likely to contact the seafloor during the normal course of fishing operations;
- (b) "encounter" means an incidental catch of a VME indicator species above threshold levels as set out in Annex 6. (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 the Scientific Committee);
- (c) "existing bottom fishing areas" means the portion of the Convention Area where bottom fishing occurred in the period 1987-July 2011 and any areas added subsequently as set out in Article 4;
- (d) "exploratory bottom fishing" means all commercial bottom fishing activities outside area closures and existing bottom fishing areas, or fisheries within existing bottom fishing areas when a new fishing method and/or strategy are attempted to be used;
- (e) "significant adverse impact" has the same meaning and characteristics as those described in paragraphs 17-20 of the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas;
- (f) "VME indicators" are those species and indicator units included in Annex 6; and
- (g) "vulnerable marine ecosystems", hereafter VMEs, has the same meaning and characteristics as those contained in paragraph 42 with its Annex and paragraph 43 of the FAO Guidelines for the Management of Deep-Sea Fisheries in the High Seas.

Article 3. Regulation of bottom fishing activities

The Commission shall, taking account of the advice provided by the Scientific Committee, as well as data and information arising from reports pursuant to Article 8, adopt conservation and management measures to prevent significant adverse impacts on VMEs. Such measures 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 activities 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 on VMEs.

Article 4. Existing bottom fishing areas

Based on information concerning bottom fishing activities in the period of 1987 to July 2011, there are hereby established existing bottom fishing areas as set out in Annex 1. The Executive Secretary shall update Annex 1 following decisions by the Commission pursuant to Articles 6, paragraph 8.

Article 5. Area closures for the protection of VMEs

1. Notwithstanding the area closure to the south of Valdivia Bank, explicitly identified as being closed to all fishing except for pots and set longlines (Annex 2B), all fishing activities shall be prohibited in the areas set out and within the coordinates as defined in Annex 2.
2. Within the areas referred to in paragraph 1 Contracting Parties intending to conduct fisheries research and basic marine science activity, which shall exclude exploratory bottom fishing pursuant to Article 6, shall notify the Executive Secretary of their intended research programmes, taking account of Article 206 of the UN Convention on the Law of the Sea, The Executive Secretary shall forward such notifications to all Contracting Parties as well as to the Scientific Committee.
3. In the case where an existing bottom fishing area square overlaps with a closed area, the existing bottom fishing area square is deemed to be closed.

Article 6. Exploratory bottom fishing

1. Prior to undertaking exploratory bottom fishing, Contracting Parties shall gather relevant data to facilitate assessments of exploratory bottom fishing by the Scientific Committee. Such data should preferably include data from sea-bed mapping programmes, i.e. data from echo-sounders, if practicable multi-beam sounders, and/or other data relevant to the preliminary assessment of the risk of significant adverse impacts on VMEs.

2. The relevant Contracting Party shall forward to the Executive Secretary a Notice of Intent to undertake exploratory bottom fishing at least 60 days prior to the proposed start of the fishery. The Notice of Intent shall be accompanied by the following information:

- (a) harvesting plan, which outlines target species, proposed dates and areas and the type of bottom fishing gear to be used. Area and effort restrictions shall be considered to ensure that fishing occur on a gradual basis in a limited geographical area;
- (b) mitigation plan, including measures to prevent significant adverse impact to VMEs that may be encountered during the fishery;
- (c) catch monitoring plan, including recording/reporting of all species caught;
- (d) a sufficient system for recording/reporting of catch, detailed to conduct an assessment of activity, if required;
- (e) data collection plan to facilitate the identification of VMEs in the area fished;

And make every effort to also include the following information:

- (f) fine-scale data collection plan on the distribution of intended tows and sets, to the extent practicable on a tow-by-tow and set-by-set basis;
- (g) plans for monitoring of bottom fishing activities using gear monitoring technology, including cameras if practicable; and
- (h) monitoring data obtained pursuant to paragraph 1 of this Article .

3. The Notice of Intent along with the accompanying information shall be forwarded to the Executive Secretary. Then the Notice of Intent will be evaluated by the Scientific Committee and the Commission during their respective annual meetings. If need be, this process can be done by correspondence allowing Scientific Committee 30 days for scientific evaluation and an additional 30 days for the Commission to approve, withhold or reject the proposal.

4. Exploratory bottom fishing shall only commence after having been assessed by the Scientific Committee and approved by the Commission.

5. Preference shall be given by the relevant Contracting Party to exploratory bottom fishing using fishing gear and methods with the least bottom contact, in well-mapped areas and at times when impacts are likely to have the least adverse impacts on organisms other than the target species.

6. The relevant Contracting Party shall ensure that vessels flying their flag conducting exploratory fishing have a scientific observer on board. Observers shall collect data in accordance with a VME Data Collection Protocol set out in Annex 4.

7. The relevant Contracting Party shall provide promptly a report of the results of such activities to the Executive Secretary for circulation to all Contracting Parties. It shall ensure that the data, which derives from exploratory bottom fishing, will be made available to the Scientific Committee.

8. The Commission shall review the assessments undertaken in accordance with Article 7 and the results of the fishing protocols implemented by the participating fleets. The Commission may decide to authorise new bottom fishing activities based upon the results of exploratory bottom fishing, taking due account of the rules and procedures set out in Annex 5. Areas where such new bottom fishing activities are authorised shall be defined as "existing bottom fishing areas" pursuant to Article 4.

Article 7. Assessment of proposed exploratory bottom fishing activities

1. Each Contracting Party proposing to undertake exploratory bottom fishing shall submit to the Executive Secretary, in addition to the Notice of Intent, a preliminary assessment of the known and anticipated impacts of the proposed bottom fishing activity as described in Annex 3.

2. The Executive Secretary shall promptly forward the assessment to all Contracting Parties and the Scientific Committee. The elaboration of the assessment shall be carried out in accordance with guidance developed by the Scientific Committee, or, in the absence of such guidance, to the best of the Contracting Party's ability. The Scientific Committee shall, either at its next session or through correspondence, undertake an evaluation, in accordance with the precautionary approach, of the submitted documentation, taking account of the risks of significant adverse impact on VMEs. Such evaluation shall take place no later than 30 days following the date of submission of the Notice of Intent, including the preliminary assessment.

3. The Scientific Committee shall undertake an evaluation of the impact assessment, according to procedures and standards it develops, and provide advice to the Commission as to whether the proposed bottom fishing activity would have significant adverse impacts on VMEs and, if so, whether mitigation measures would prevent such impacts. The Scientific Committee may use in its evaluation additional information available to it, including information from other fisheries in the region or similar fisheries elsewhere. The Commission shall, within 30 days of receiving this advice approve, withhold or reject the proposed bottom fishing activities.

Article 8. Encounters with possible VMEs

1. Each Contracting Party shall ensure that fishing vessels flying their flag abide by the following rules, where, in the course of bottom fishing activities, evidence of VMEs is encountered:

(a) fishing vessels shall quantify catch of VME indicators;

(b) if the quantity of VME indicators caught in a fishing operation (such as trawl tow or set of a longline) is beyond the thresholds defined in Annex 6, the following shall apply:

(i) if an encounter is discovered the vessel master shall cease fishing and move away at least 2 nautical miles from the end point of the trawl tow in the direction least likely to result in further encounters, defining a buffer area with a 2 nautical mile radius;

(ii) if an encounter is discovered in connection with other bottom fishing gears the fishing vessel shall cease fishing and move away at least 1 nautical miles from the position that the evidence suggests is closest to the exact encounter location, defining a buffer area with a 1 nautical mile radius. The master shall use his or her best judgment based on all available sources of information; and

(iii) the master shall report the incident, including the track of the trawl or position determined under sub-paragraphs (i) and (ii), without delay to its flag State, which shall forward the information to the Executive Secretary immediately. Contracting Parties may if they so wish also require their vessels to report the incident directly to the Executive Secretary.

2. The Executive Secretary shall immediately inform all Contracting Parties, and archive the information received pursuant to paragraph 1, and shall, if the encounter happened outside existing fishing areas, at the same time implement a temporary closure. The temporary closure shall correspond to the buffer area defined pursuant to paragraph 1 (b) of this article.

3. In order to assess accurately the position and the extent of the possible VME encountered in terms of paragraph 1 of this article, sea bed mapping should be carried out using echo-sounders, and if practicable, multi-beam sounders. The result of any mapping shall be submitted to the Scientific Committee for its evaluation and advice. This advice shall be forwarded to the Commission and contribute to the basis for a decision by the Commission to reopen the temporary closure or add the temporary closure to the SEAFO fishing closures (Annex 2).

4. The Scientific Committee shall examine the temporary closure at its next meeting or by correspondence. If the Scientific Committee advises that the area has sufficient evidence of a VME, the Executive Secretary shall request Contracting Parties to maintain the temporary closure until such time that the Commission has acted upon the advice from the Scientific Committee. If the Scientific Committee evaluation does not conclude that the temporary closed area has sufficient evidence of a VME, the Executive Secretary shall inform Contracting Parties which may re-open the area to their fishing vessels.

Article 9. Repeals

Conservation Measure 29/14 is herewith repealed.

Annex 1 - Existing bottom fishing areas

A. All Gears Allowed

Latitude and longitude of the existing bottom fishing areas:

Division A0

| Coordinate | Lat | Long |
|------------|-----|------|
| 1 | -11 | -6 |
| 2 | -11 | -5 |
| 3 | -12 | -5 |
| 4 | -12 | -6 |

| | | |
|---|-----|----|
| 1 | -9 | -6 |
| 2 | -9 | -5 |
| 3 | -10 | -5 |
| 4 | -10 | -6 |

Division B1

| Coordinate | Lat | Long |
|------------|-----|------|
| 1 | -20 | 8 |
| 2 | -20 | 10 |
| 3 | -21 | 10 |
| 4 | -21 | 8 |

Division A1

| Coordinate | Lat | Long |
|------------|---------|---------|
| 1 | -11 | -1 |
| 2 | -11 | 0 |
| 3 | -12 | 0 |
| 4 | -12 | -1 |
| 5 | -11.9 | -1 |
| 6 | -11.58 | -0.6667 |
| 7 | -11.257 | -1 |

| | | |
|---|----|---|
| 1 | -7 | 1 |
| 2 | -8 | 1 |
| 3 | -8 | 0 |
| 4 | -6 | 0 |
| 5 | -6 | 2 |
| 6 | -7 | 2 |

Division C0

| Coordinate | Lat | Long |
|------------|-----|------|
|------------|-----|------|

| | | |
|----|-----|---|
| 1 | -27 | 5 |
| 2 | -25 | 5 |
| 3 | -25 | 6 |
| 4 | -24 | 6 |
| 5 | -24 | 8 |
| 6 | -23 | 8 |
| 7 | -23 | 9 |
| 8 | -24 | 9 |
| 9 | -24 | 8 |
| 10 | -25 | 8 |
| 11 | -25 | 7 |
| 12 | -27 | 7 |

Division D0

| Coordinate | Lat | Long |
|------------|-----|------|
| 1 | -48 | -14 |
| 2 | -47 | -14 |
| 3 | -47 | -12 |
| 4 | -48 | -12 |

| | | |
|---|-----|-----|
| 1 | -48 | -11 |
| 2 | -47 | -11 |
| 3 | -47 | -9 |
| 4 | -46 | -9 |
| 5 | -46 | -6 |

| | | |
|---|--------|----|
| 1 | -32 | -3 |
| 2 | -32 | -2 |
| 3 | -32.3 | -2 |
| 4 | -32.04 | -3 |

Division C1

| Coordinate | Lat | Long |
|------------|-----|------|
| 1 | -33 | 2 |
| 2 | -31 | 2 |
| 3 | -31 | 3 |
| 4 | -30 | 3 |
| 5 | -30 | 4 |
| 6 | -31 | 4 |
| 7 | -31 | 3 |
| 8 | -33 | 3 |

| | | |
|---|-----|---|
| 1 | -31 | 8 |
| 2 | -31 | 9 |
| 3 | -32 | 9 |
| 4 | -32 | 8 |

| | | |
|---|-----|----|
| 6 | -47 | -6 |
| 7 | -47 | -7 |
| 8 | -48 | -7 |
| 9 | -48 | -9 |

| | | |
|---|-----|----|
| 1 | -45 | -2 |
| 2 | -44 | -2 |
| 3 | -44 | -3 |
| 4 | -43 | -3 |
| 5 | -43 | -2 |
| 6 | -42 | -2 |
| 7 | -42 | -1 |
| 8 | -45 | -1 |

| | | |
|---|-----|---|
| 1 | -44 | 1 |
| 2 | -42 | 1 |
| 3 | -42 | 3 |
| 4 | -44 | 3 |

Division D1

| Coordinate | Lat | Long |
|------------|-----|------|
| 1 | -50 | 5 |
| 2 | -49 | 5 |
| 3 | -49 | 6 |
| 4 | -48 | 6 |
| 5 | -48 | 7 |
| 6 | -46 | 7 |
| 7 | -46 | 11 |
| 8 | -47 | 11 |
| 9 | -47 | 12 |
| 10 | -48 | 12 |
| 11 | -48 | 10 |
| 12 | -49 | 10 |
| 13 | -49 | 9 |
| 14 | -50 | 9 |

B. Set Longlines Allowed Only

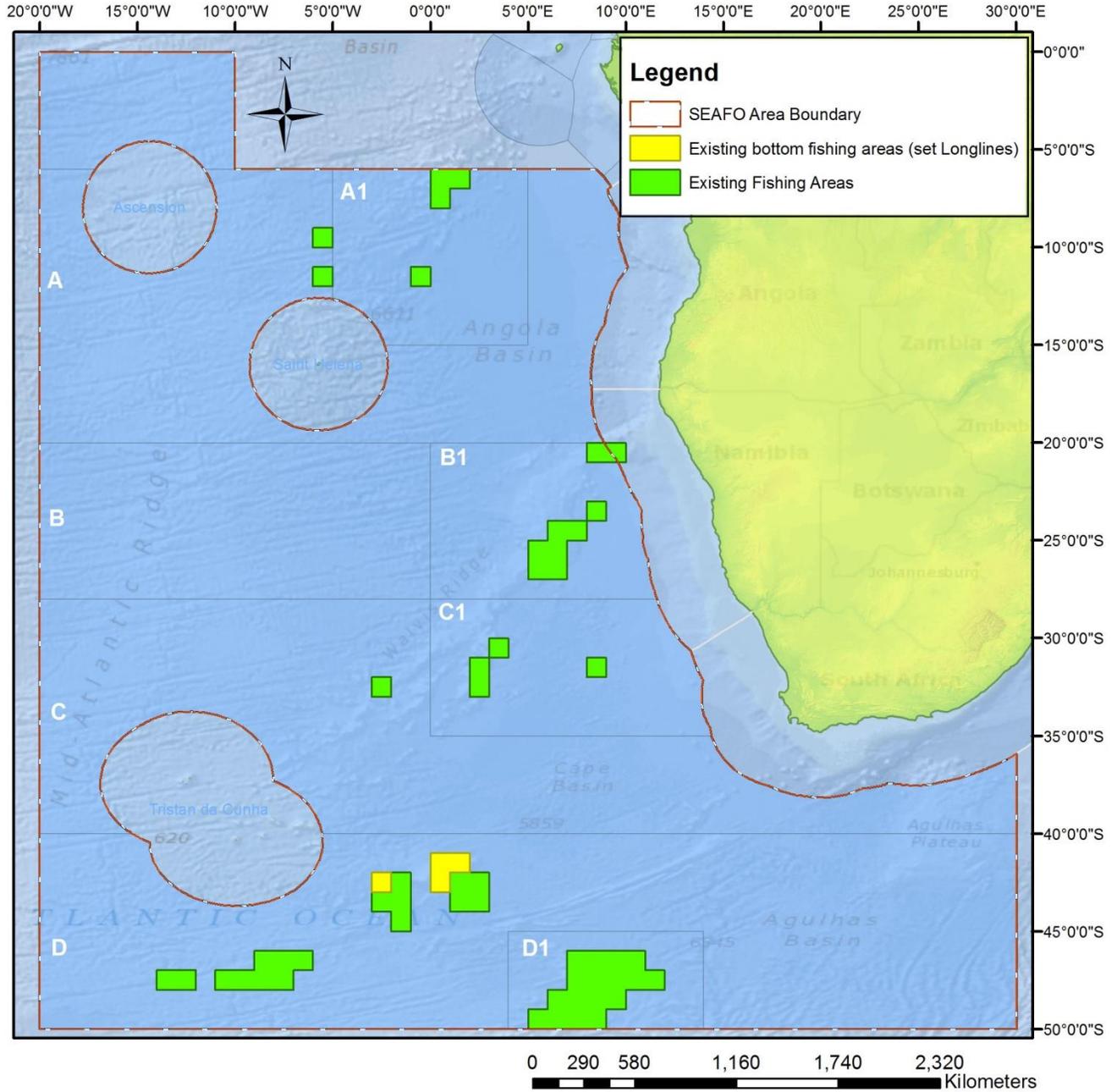
Latitude and longitude of the existing bottom fishing areas for set longlines:

Division D0

| Coordinate | Lat | Long |
|------------|-----|------|
| 1 | -42 | -3 |
| 2 | -42 | -2 |
| 3 | -43 | -2 |
| 4 | -43 | -3 |

| | | |
|---|-----|---|
| 1 | -43 | 1 |
| 2 | -43 | 0 |
| 3 | -42 | 0 |
| 4 | -41 | 0 |
| 5 | -41 | 2 |
| 6 | -42 | 2 |
| 7 | -42 | 1 |

Figure 1 – Composite map of existing bottom fishing areas



Annex 2 - Closed areas and their coordinates

A. Closed to All Fishing Gears

SUB-AREA A

- Area: (Unnamed seamount), Closure 10 on the attached map (Figure 3) – considered to be unexploited.

Coordinates: 01°00'S 13°15'W

01°00'S 12°30'W

05°25'S 11°30'W

04°52'S 12°51'W

04°00'S 12°33'W

- Area: (Kreps seamount), Closure 9 on the attached map (Figure 3) – considered to be unexploited.

Coordinates: 13°00'S 15°05'W

12°44'S 14°10'W

15°43'S 12°40'W

16°34'S 13°13'W

18°32'S 12°10'W

18°46'S 13°18'W

17°10'S 14°46'W

16°20'S 14°46'W

16°05'S 13°50'W

DIVISION A1

- Area: (Malachit Guyot Seamount), Closure 1 on attached map (Figure 3) – considered to be unexploited.

Coordinates: 10°51'S 01°25'W

11°35'S 00°40'W

13°44'S 02°57'W

13°03'S 03°45'W

SUB-AREA C

- Area: (Wüst seamount), Closure 3 on the attached map (Figure 3) – considered to be slightly exploited.

Coordinates: 32°57'S 06°50'W

31°51'S 03°39'W

32°28'S 01°30'W

34°34'S 00°40'W

36°17'S 00°40'W

36°17'S 01°23'W

34°10'S 02°23'W

36°20'S 06°16'W

34°53'S 07°43'W

- Area: (Africana seamount), Closure 4 on the attached map (Figure 3) – considered to be unexploited.

Coordinates: 37°00'S 28°45'E

37°00'S 29°21'E

37°25'S 29°21'E

37°25'S 28°45'E

- Area: (Schmidt-Ott Seamount), Closure 5 on the attached map (Figure 3) - considered to be slightly exploited.

Coordinates: 38°20'S 13°00'E

38°20'S 14°24'E

39°32'S 14°24'E

39°32'S 13°00'E

- Area: (Unnamed), Closure 8 on the attached map (Figure 3) - considered to be unexploited.

Coordinates: 29°19'S 14°22'W

29°17'S 12°54'W

31°57'S 12°47'W

32°08'S 14°18'W

DIVISION C1

- Area: (Vema Seamount), Closure 2 on the attached map (Figure 3) – considered to be slightly exploited.

Coordinates: 31°27'S 08°06'E

31°27'S 08°35'E

31°53'S 08°35'E

31°53'S 08°06'E

SUB-AREA D

- Area: (Herdman Seamounts), Closure 6 on the attached map (Figure 3) – considered to be unexploited.

Coordinates: 45°10'S 00°05'E

45°10'S 00°42'E

45°50'S 00°42'E

45°50'S 00°05'E

- Area: (Unnamed Seamounts), Closure 7 on the attached map (Figure 3) – considered to be unexploited.

Coordinates: 47°54'S 10°57'W

47°54'S 09°07'W

49°15'S 08°03'W

49°34'S 08°24'W

49°10'S 10°31'W

- Area: (Unnamed Seamounts), Closure 11 on the attached map (Figure 3) – considered to be slightly exploited.

Coordinates: 40°35'S 17°32'W

40°18'S 16°15'W

43°04'S 15°12'W

43°20'S 16°30'W

B. Closed to All Fishing Gears Except for Pots and Longlines

Division B1

- Area: (Valdivia Bank South), Closure 12 on the attached map (Figure 2).

| ID | Latitude | Longitude | ID | Latitude | Longitude |
|----|---------------|--------------|----|---------------|--------------|
| 1 | 26° 15.202' S | 6° 16.677' E | 13 | 26° 14.126' S | 6° 23.841' E |
| 2 | 26° 14.831' S | 6° 17.175' E | 14 | 26° 18.625' S | 6° 12.502' E |
| 3 | 26° 14.328' S | 6° 17.525' E | 15 | 26° 16.137' S | 6° 10.981' E |
| 4 | 26° 13.417' S | 6° 18.037' E | 16 | 26° 14.044' S | 6° 12.564' E |
| 5 | 26° 12.743' S | 6° 18.742' E | 17 | 26° 14.439' S | 6° 13.425' E |
| 6 | 26° 12.285' S | 6° 19.369' E | 18 | 26° 14.595' S | 6° 13.954' E |
| 7 | 26° 11.795' S | 6° 20.553' E | 19 | 26° 14.605' S | 6° 14.486' E |
| 8 | 26° 10.883' S | 6° 21.421' E | 20 | 26° 14.379' S | 6° 14.846' E |
| 9 | 26° 10.763' S | 6° 21.822' E | 21 | 26° 14.431' S | 6° 15.146' E |
| 10 | 26° 10.470' S | 6° 22.000' E | 22 | 26° 14.760' S | 6° 15.475' E |
| 11 | 26° 8.071' S | 6° 22.102' E | 23 | 26° 15.485' S | 6° 15.611' E |
| 12 | 26° 10.106' S | 6° 26.080' E | 24 | 26° 15.511' S | 6° 16.207' E |

Figure 2 – Valdivia Bank South Area Closure (Closed to All Fishing Gears except pots and longlines)

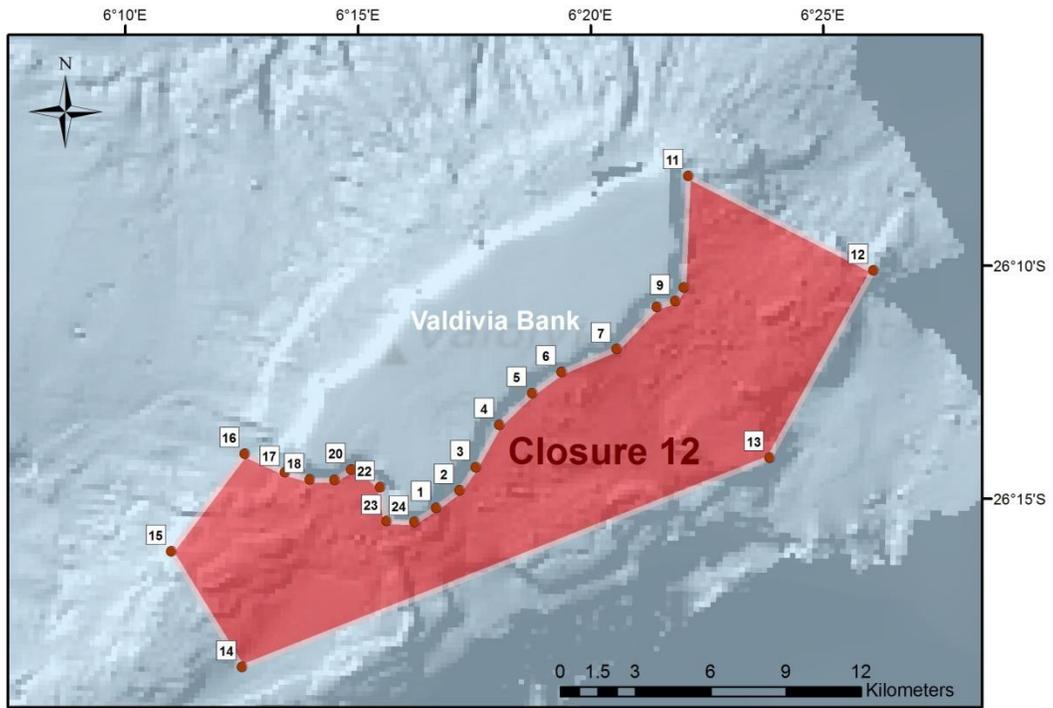
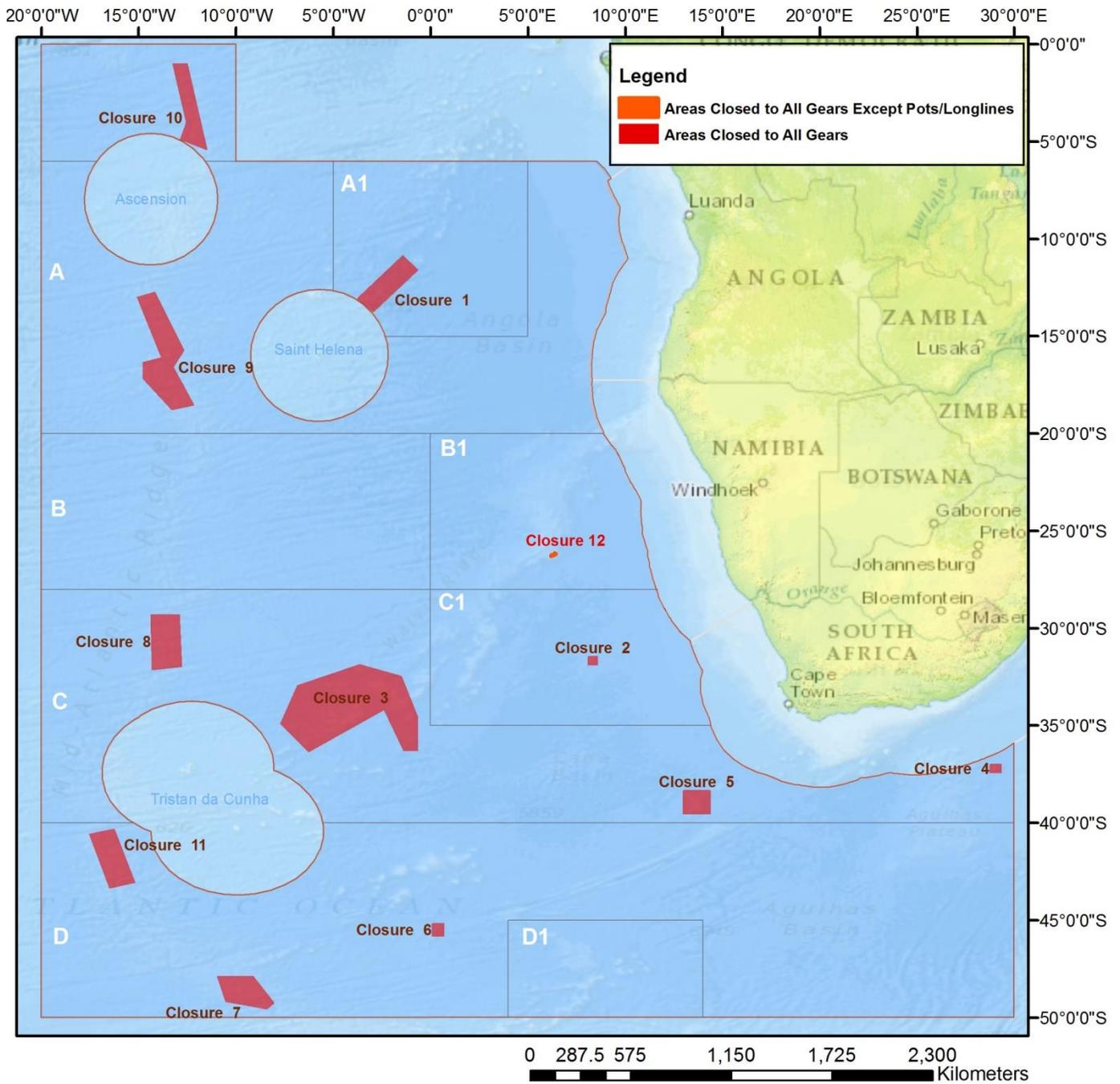


Figure 3 – All Area closures



Annex 3

Assessment of Exploratory Bottom Fishing Activities

Assessments should address, *inter alia*:

- (a) type(s) of fishing conducted or contemplated, including vessels and gear types, fishing areas, target and potential by catch species, fishing effort levels and duration of fishing (harvesting plan);
- (b) best available scientific and technical information on the current state of fishery resources and baseline information on the ecosystems, habitats and communities in the fishing area, against which future changes are to be compared;
- (c) identification, description and mapping (geographical location and extent) of VMEs known or likely to occur in the fishing area;
- (d) identification, description and evaluation of the occurrence, character, scale and duration of likely impacts, including cumulative impacts of the proposed fishery on VMEs in the fishing area;
- (e) data and methods used to identify, describe and assess the impacts of the activity, the identification of gaps in knowledge, and an evaluation of uncertainties in the information presented in the assessment;
- (f) risk assessment of likely impacts by the fishing operations to determine which impacts on VMEs are likely to be significant adverse impacts; and
- (g) mitigation and management measures to be used to prevent significant adverse impacts on VMEs and the measures to be used to monitor effects of the fishing operations.

Annex 4

VME Data Collection Protocol

Observers on fishing vessels in the SEAFO Convention Area who are deployed pursuant to Article 6, paragraph 7 of this Conservation Measure shall:

1. Monitor any set for evidence of presence of VMEs and the identify coral, sponges and other organisms to the lowest level possible.
2. Record the following information for identification of VMEs: vessel name, gear type, date, position (latitude/longitude), depth, species code, trip-number, set-number, and name of the observer on datasheets.
3. Collect representative biological samples from the entire VME catch. (Biological samples shall be collected and frozen when requested by the scientific authority in a Contracting Party). For some coral species that are under the CITES list this will not be possible and for these species photographs should be taken.
4. Provide samples to the scientific authority of a Contracting Party at the end of the fishing trip.

Annex 5

Rules and procedures for opening of new fishing areas

1. It is required to have exploratory fishing data within a specified area without reaching the VME threshold to open that area for fishing:
 - (a) two years of data within 5 year period for an area (<2000m) adjacent to an existing fishing area;
 - (b) and three-years of data within 5 years for areas (<2000m) not adjacent to an existing fishing area; and
 - (c) archived fishing records/data collected prior to exploratory fishing that contain VME data may be counted as a first year data set.
2. All 1x1° areas within the exploratory area that contain a VME encounter should be excluded from the proposed new fishing area.
3. Exploratory data stations should be set in such a way that it covers the exploratory area representatively above the 2000m depth isobar.

Annex 6

VME indicators and threshold levels

1. Definition of encounter -

An encounter is defined to be an incidental catch, above threshold levels as set out in paragraph 2, of corals and sponges comprising taxa listed as VME indicators by the SEAFO SC. The selected indicators constitute a regionally relevant subset of VME indicator organisms exemplified in the Annex of the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas (2009).

2. Threshold levels

An encounter with VME indicator species is defined for each of the following fishing gears as follows:

Trawl tow – more than 600 kg of live sponges and/or 60 kg of live coral in existing fishing areas and more than 400 kg of live sponges and/or 60 kg of live coral in new fishing areas.

Longline set – at least 10 VME-indicator units (1 unit = 1kg or 1 litre of live coral and/or live sponge) in one 1200m section of line or 1000 hooks, whichever is the shorter, in both existing and new fishing areas;

Pot set – at least 10 VME-indicator units (1 unit = 1kg or 1 litre of live coral and/or live sponge) in one 1200m section of line in both existing and new fishing areas.

The definition of VME indicator units for bottom longlines and pots is as follows:

The quantity of VME-indicator organisms (i.e. live corals and/or live sponges) recovered during hauling should be reported for each 1200m section of the longline or potline (in the case of longlines - or 1000 hooks whichever is the shorter) as:

- (a) Volume (litre) for VME-indicator organisms which fit into 10-litre container;
- (b) Weight (kg) for VME-indicator organisms which do not fit 10-litre container (e.g. branching species); and
- (c) VME-indicator units which is the combined total of volume of VME-indicator organisms which fit into 10-litre and weight of VME-indicator organisms which do not fit into containers of 10-litre (i.e. unit = volume + weight).
