

ANNEX 6
CONSERVATION MEASURE 12/08 ON BOTTOM FISHING
ACTIVITIES IN THE SEAFO CONVENTION AREA

This is an interim measure addressing the 2006 UN General Assembly Resolution on Sustainable Fisheries (A/RES/61/105).

This measure applies in all existing and new bottom fishing areas outside SEAFO closed areas, cf. Conservation Measure 06/06.

Article 1. Use of terms

1. The term 'bottom fishing activities' means fishing activities where the fishing gear is likely to contact the seafloor during the normal course of fishing operations.
2. The term "existing bottom fishing areas" initially means areas where VMS data and/or other available geo-reference data indicating bottom fishing activities have been conducted within a reference period of 1987 to 2007. This shall be revised regularly in accordance with Article 2.4.
3. The term "new bottom fishing areas" means all other areas within the Regulatory Area that are not defined as existing bottom fishing areas. Fisheries conducted in new bottom fishing areas are regarded as "exploratory fisheries".

Article 2. Identification of existing bottom fishing areas

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

Article 3. Bottom fishing activities in new bottom fishing areas

11. All bottom fishing activities in new bottom fishing areas or with bottom gear not previously used in the area concerned, shall be considered as exploratory fisheries and shall be conducted in accordance with an Exploratory Bottom Fisheries Protocol to be adopted by the Commission as

soon as possible. Until such a protocol is adopted the interim protocol set out in Annex 1 shall apply.

22. Before exploratory bottom fishing can take place, a detailed proposal shall be submitted by the Contracting Party to the Scientific Committee for scrutiny. The Committee will provide a recommendation to the Commission who will decide if the exploratory fishing may proceed. The exploratory bottom fishing activities shall be subject to the assessment procedure set forth in Article 4, with the understanding that particular care shall be taken in the evaluation of risks of the significant adverse impact on vulnerable marine ecosystems, in line with the precautionary approach.

13. Contracting Parties shall provide promptly a report of the results of such activities to the Secretary for circulation to all Contracting Parties.

4. Contracting Parties shall ensure that vessels flying their flag conducting exploratory fisheries have a scientific observer on board. Observers shall collect data in accordance with a Vulnerable Marine Ecosystem Data Collection Protocol to be adopted by the Commission as soon as possible. Until such a protocol is adopted, the interim protocol set out in Annex 2 shall apply.

Article 4. Assessment of bottom fishing activities

1. On the basis of best available scientific information, the Scientific Committee shall identify vulnerable marine ecosystems in the Convention Area and map sites where these vulnerable marine ecosystem are known to occur or likely to occur and provide such data and information to the Executive Secretary for circulation to all Contracting Parties

2 Proposed bottom fishing activities in the Convention Area shall be subject to assessment by the Scientific Committee, based on the best available scientific information, to determine if such activities, taking account of the history of bottom fishing in the areas proposed, would have significant adverse impacts on vulnerable marine ecosystems.

3. Assessments shall follow the procedures below:

(i) Each Contracting Party proposing to participate in bottom fishing shall submit to the Executive Secretary information and an initial assessment, where possible, of the known and anticipated impacts of its bottom fishing activities on vulnerable marine ecosystems, in advance of the next meeting of the Scientific Committee. These submissions shall also include the mitigation measures proposed by the Contracting Party to prevent such impacts. The Executive Secretary shall promptly forward these submissions to the Scientific Committee and the Commission.

(ii) The submission of such information 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.

(iii) The Scientific Committee shall undertake an 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 vulnerable marine ecosystems and, if so, whether mitigation measures would prevent such impacts. The Scientific Committee may use in its assessment additional information available to it, including information from other fisheries in the region or similar fisheries elsewhere.

4. The Commission shall, taking account of advice and recommendations provided by the Scientific Committee, concerning bottom fishing activities, including data and information arising from reports pursuant to Article 5 adopt conservation and management measures to prevent significant adverse impacts on vulnerable marine ecosystems, that may include:

- (a) allowing, prohibiting or restricting bottom fishing activities;
- (b) requiring specific mitigation measures for bottom fishing activities;
- (c) allowing, prohibiting or restricting bottom fishing with certain gear types, or changes in gear design and/or deployment; and/or
- (d) any other relevant requirements or restrictions to prevent significant adverse impacts to vulnerable marine ecosystems.

5. The Commission shall annually ask the Scientific Committee to provide advice to Commission on the timing and requirement for assessment of a previously assessed bottom fishery.

Article 5. Encounters with vulnerable marine ecosystems

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

The encounter protocol and operational procedures given as Annex 3 shall be followed.

Article 6. Review

The Commission shall review this Conservation Measure at its Annual Meeting in 2010. The Commission shall biannually thereafter examine the effectiveness of these provisions in protecting vulnerable marine ecosystems from significant adverse impacts.

Annex 1

Interim Exploratory Bottom Fishing Protocol for New Bottom Fishing Areas

Until the Commission adopts a new protocol in accordance with Article 3, paragraph 1 of this Recommendation, exploratory bottom fisheries shall not commence until the following information has been provided to the Executive Secretary by the relevant

Contracting Party:

- (a) A harvesting plan which outlines target species, dates and areas. Area and effort restrictions shall be considered to ensure fisheries occur on a gradual basis in a limited geographical area.
- (b) A mitigation plan including measures to prevent significant adverse impact to vulnerable marine ecosystems that may be encountered during the fishery.
- (c) A catch monitoring plan that includes recording/reporting of all species caught.

The recording/reporting of catch shall be sufficiently detailed to conduct an assessment of activity, if required.

- (d) A data collection plan to facilitate the identification of vulnerable marine ecosystems/species in the area fished.

The Executive Secretary shall promptly forward this information to all Contracting Parties and the Scientific Committee.

Annex 2

Interim Vulnerable Marine Ecosystem (VME) Data Collection Protocol

Observers on fishing vessels in the SEAFO Convention Area who are deployed pursuant to Article 3, paragraph 6 of this Conservation Measure shall:

1. Monitor any set for evidence of VMEs and the presence of vulnerable marine species.
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, if possible.
3. Collect representative biological samples from the entire catch. (Biological samples shall be collected and frozen when requested by the scientific authority in a Contracting Party).
4. Collect samples to the scientific authority of a Contracting Party at the end of the fishing trip.

ANNEX 3

Interim operational procedures for fishing in existing and new bottom fishing areas

Pursuant to Article 5 of the SEAFO Conservation Measure on bottom fishing activities in the SEAFO Convention Area, the Commission has adopted the following interim measure:

1. Definition of encounter

An encounter is defined to be, above threshold levels as set out in Paragraph 4, with indicator species of coral identified as antipatharians, gorgonians, cerianthid anemone fields, lophelia, and sea pen fields or other VME elements. Any encounter with a VME indicator species or merely detecting the presence of an element itself is not sufficient to identify a VME. That identification shall be made on a case-by-case basis through assessment by relevant bodies.

2. Existing bottom fishing areas

2.1 Vessels shall quantify catch of VME indicator organisms, i.e. coral and sponge.

Observers deployed shall identify corals, sponges and other organisms to the lowest possible taxonomical level and apply the sampling protocol found in Annex 2 and SEAFO catch sampling forms. Observers shall submit SEAFO trip summary reports to Contracting Parties and the Secretariat.

2.2 If the quantity of VME elements or 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 4 below, the following shall apply:

- a. The vessel master shall report the incident to the Contracting Party, which without delay shall forward the information to the Executive Secretary.

The Executive Secretary shall archive the information and report it to all Contracting Parties. The Contracting Parties shall immediately alert all fishing vessels flying their flag.

b. The vessel master shall cease fishing, haul the gear, and move away at least 2 nautical miles from the endpoint of the tow/set in the direction least likely to result in further encounters. Any further tows or sets shall be parallel to the tow/set when the encounter was made. The master shall use his or her best judgment based on all available sources of information.

c. The Executive Secretary shall make an annual report on single and multiple encounters in discrete areas within existing fishing areas to the Scientific Committee. The Scientific Committee shall evaluate and, on a case-by-case basis the information and provide advice to the Commission on whether a VME exists. The advice shall be based on annually updated assessments of the accumulated information on encounters and the Scientific Committee's advice on the need for action, using FAO guidelines for management of deep-sea fisheries in the high seas as a basis.

3. New fishing areas

3.1 Vessels shall quantify catch of VME indicator organisms, i.e. coral and sponge.

Observers deployed shall identify corals, sponges and other organisms to the lowest possible taxonomical level and apply the sampling protocol found in Annex 2 and SEAFO catch sampling forms. Observers shall submit SEAFO trip summary report to Contracting Parties and the Secretariat.

3.2 If the quantity of VME element or 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 4 below, the following shall apply:

a. The vessel master shall report the incident without delay to its Contracting party, which shall forward the information to the Executive Secretary. The Executive Secretary shall archive the information and without delay transmit it to all Contracting Parties. The Contracting Parties shall issue an immediate alert to all vessels flying their flag.

b. The Executive Secretary shall at the same time request Contracting Parties to implement an interim closure of two miles radius around the reporting position.

The reporting position is that provided by the vessel, either the endpoint of the tow/set or another position that the evidence suggests is closest to the exact encounter location.

c. The Scientific Committee at its next meeting shall examine the interim closure.

If the Scientific Committee advises that the area consists of a VME, the Executive Secretary shall request Contracting Parties to maintain the closure until such time that the Commission has acted upon the advice from the Scientific Committee. If the Scientific Committee does not conclude that the proposed area is a VME, the Executive Secretary shall inform Contracting Parties which may re-open the area to their vessels.

2. The vessel shall cease fishing, haul the gear, and move away at least 2 nautical miles from the endpoint of the tow/set in the direction least likely to result in further encounters. Any further tows or sets shall be parallel to the

tow/set when the encounter was made. The master shall use his or her best judgment based on all available sources of information.

3. The Executive Secretary shall make an annual report on archived reports from encounters in new fishing areas to the Scientific Committee. This report shall also include reports from the exploratory fishing activities that were conducted in the last year. The Scientific Committee shall evaluate the information and provide advice to the Commission on the appropriateness of temporary closures and 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 Committee advice shall reflect provisions outlined in the FAO guidelines for management of deep-sea fisheries in the high seas.

4 Threshold levels

For both existing and new fishing areas, an encounter with primary VME indicator species is defined in the interim as a catch per set (e.g. trawl tow, longline set, or gillnet set) of more than 100 kg of live coral and/or 1000 kg of live sponge. These thresholds are set on a provisional basis and may be adjusted as experience is gained in the application of this measure.