

12 October 2016

Procedures and standards for the SEAFO Scientific Committee’s consideration of proposals for exploratory fishing pursuant to CM 30/2015

In the Articles 6 and 7 of the CM 30/2015 on **Bottom Fishing Activities and Vulnerable Marine Ecosystems in the SEAFO Convention Area** there are references to “procedures and standards developed by SC”. The following procedures and standards were adopted by the SC as of 12 October 2016.

SC OBLIGATIONS

In accordance with Art. 6.3 and 7.2 of the CM 30/2015 SC will receive from the Secretariat the ‘Notices of Intent’ and the CP’s preliminary assessment of a proposed exploratory fisheries. These documents are supposed to meet specified requirements in terms of content, i.e. as given in Art. 6.2, and 7.1 (Annex 3).

The task for SC is specified in Art. 7.3: ‘SC 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.’ And further that SC shall ‘use any other information required, including information from other fisheries in the region or similar fisheries elsewhere.’

And the overriding expectation is the following, given in Art. 7.4: ‘SC shall subsequently provide advice to the Commission as to whether the proposed exploratory bottom fishing should be approved, or would have significant adverse impacts on VMEs and, if so, on whether proposed mitigation measures would prevent such impacts.

PROCEDURES

An SC procedure for handling exploratory fishing proposals must ensure that the required assessment of the specified documentation and a recommendation to the Commission can be generated, by correspondence or in a meeting, within 30 days after the date of submission of the Notice of Intent.

Procedure:

1. The Chair, upon receiving from the Secretariat a Notice of Intent and the CP’s preliminary assessment, shall determine if the submitted documentation pertaining to the Notice of Intent contains the elements required in CM 30/2015 Art. 6.2. If elements are missing, requests should without delay be made to the relevant CP for supplementary material via the Executive Secretary.
2. When all the required documentation elements have been received, the documentation shall without delay be forwarded to SC members for evaluation. The date of submission of the Notice of Intent comprising all elements required in Art. 6.2 is the start date of the 30-day evaluation period in SC (CM 30/2015, Art. 7.3).
3. The Chair shall, via the Secretariat, without delay forward the complete submission to SC delegates from all CPs.

4. SC delegates shall carry out an independent evaluation of the submitted proposal in accordance with the SC standards.
5. SC delegate's evaluations and statements of opinions shall be forwarded to the Chair and other members of SC within 25 days after first receiving the completed Notice of Intent and the delegate's preliminary assessment.
6. In their responses to the Chair, SC delegates (one per CP) shall in writing comment on the submitted material and express whether the proposal should or should not be approved. Failure by delegates to respond within that 25 days deadline will be interpreted as meaning that the delegates assessment is that the exploratory fishing is unlikely to have significant adverse impacts (SAI) on VMEs.
7. If possible within the time-frame available, the evaluations shall be discussed in a SC meeting. Discussions in session shall complement rather than replace written evaluations by individual CPs. Decisions on recommendations to the Commission made in a meeting takes priority over decisions reached on the basis of statements received by correspondence.
8. Upon receiving the responses from SC members and comments received in session, the Chair shall summarise the evaluations and formulate a response to the Commission in accordance with Art. 7.3. If there are differing views on the recommendation, these views shall be reflected in the response.
9. The SC recommendation shall be forwarded to the Commission as soon as it is completed and at the latest within 30 days after the date of submission of the 'Notice of Intent'.

STANDARDS

Any standards used by SC should ensure that the requirements given in Art. 6.2. of the CM 30/2015 are satisfied and that a satisfactory preliminary assessment (Art. 7.1) has been conducted. Applying the precautionary approach, SC shall undertake an evaluation of all the submitted material ('Notice of Intent' and relevant accompanying documentation, and the CPs own preliminary assessment) in order to assess the risk of significant adverse impacts. If such risks exist, SC should propose mitigation measures, presumably if the CP proposing the fishing has not already done so. If risks of adverse impacts cannot be eliminated, the proposal should not be recommended for approval.

In its evaluation SC should use the following information:

- 1) The documentation submitted by the CP proposing the exploratory fishing.
- 2) Information from other fisheries in the region or similar fisheries elsewhere.

The submission from a CP should consist of two parts:

- 1) The Notice of Intent with documentation as specified in Art. 6.2. All the elements a) to g) are *required*.
- 2) The CPs preliminary assessment (Art. 7.1) with contents as requested in Annex 3. The annex contains a list of items that the assessment should *inter alia* address, i.e. expresses preferred content while recognising that not all items may be possible to provide.

The following standards reflect the above requirements and specifications, but also the instruction in CM 30/2015 for SC to adopt the precautionary approach. The SC interpretation of precaution in this regard is that if a shortage of information is recognised and hence that uncertainty of the assessment is high, then it is more precautionary to recommend rejection than approval the exploratory fishing. Without fully satisfactory documentation of either that the risk of SAI is low or nonexistent, or that mitigation measures are effective in reducing the risk, approval should not be expected.

Standards:

1. A Notice of Intent shall contain all elements specified in CM 30/2015 Art. 6.2, and SC shall determine if the documentation is sufficient to evaluate the risk of significant adverse impacts on VMEs. There are 5 mandatory elements:

- (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;

Furthermore, the CP should make every effort to also include the following information:

- (f) fine-scale data collection plan on the distribution of intended tows and sets (if appropriate, with reference to Annex 5), 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.

If SC finds that any of the 5 mandatory elements are missing, or found to be described in a manner not permitting evaluation, then the proposal should not be approved.

The harvesting plan needs to comprise effort and effort limitation, also area restrictions, to ensure that the fishing is conducted on a gradual basis. A proposed experiment without such restrictions should not be approved.

In view of the CM 30/2015 instruction to SC to consider mitigation measures (if a risk of SAI exists), the item b) on mitigation is especially important. These would be measures providing additional effectiveness in terms of protection beyond the adherence to the generally applicable mandatory encounter protocol (CM 30/2015, Article 8).

2. The CPs preliminary assessment shall as a minimum demonstrate that every effort has been made to provide the information requested in Art. 7.1, Annex 3. The CP should address individual request point by point in order to facilitate SC evaluation:
 - (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.

SC shall require that information provided is documented with references to published sources or other sources that SC can access/consult.

If SC deems the contents of the submitted assessment, including the proposed mitigation measures (g), insufficiently rigorous and balanced to assess the risk of SAI, then the proposal shall not be approved.

3. Additional elements to be considered prior to SC' final evaluation of SAI.

The final evaluation and decision by SC rest in its judgement of the risk of significant adverse impacts to VMEs, or its judgement of the effectiveness of mitigation measures.

In addition to the information provided by the CP proposing the fishing, SC should consider the following:

- a) Experience for other areas in the region or similar fishing elsewhere.
- b) Potentially cumulative effects of several exploratory fishing experiments in the same or overlapping areas.

Both a) and b) are relevant for evaluating SAI. If it can be documented that relevant experiences from the same experiments elsewhere did not cause SAI, then that would favour approval of the proposed exploratory fishing. On the contrary, if SAIs in other similar areas caused SAI, then approval would be less likely.

If several experiments are proposed for the same area or conducted in succession, then the total effort level of all experiments should be taken into account in the SC evaluation of the likelihood of SAI.

4. Transparency of decision-making process and documentation.

SC should keep stakeholders (CPs) fully informed of the process and discussions leading to its recommendation to the Commission.