

REPORT *Summary*

Meeting: **Implementation of the Deep Sea access Regulation - stakeholder meeting**

Parties: **DG MARE, MS, stakeholders**

NSAC reps: **Peter Breckling, Tamara Talevska**

Date: **26 July 2022**

Location: **Zoom**

Rapporteur: **Tamara Talevska (w/ Peter Breckling)**

The meeting was organised by MARE-C1 to provide an opportunity for exchange of views on the recurring ICES advice on Vulnerable Marine Ecosystems (VMEs) in EU waters, including data collection in view of the upcoming ICES Advice and amended Regulation.

The basic references for this meeting were the two stakeholder workshop reports:

- [Stakeholder workshop report on EU regulatory area options for VME protection \(WKEUVME\)](#), 2020
- [Stakeholder workshop report](#) to disseminate the ICES deep-sea access regulation technical service and scope the required steps for regulatory purposes (WKREG), 2019

as well as the two ICES advices:

- [ICES. 2022](#). EU request for a Technical Service to provide data output of the ICES 2021 advice on the deep-sea access regulation (ref. (EU)2016/2336) as coordinates for EU waters area only.
- [ICES. 2021](#). EU Request to advise on the list of areas where VMEs are known to occur or are likely to occur and on the existing deep-sea fishing areas (ref. (EU)2016/2336).

Fabrizio Donatella (DG MARE) – Introductory statement

- Series of meetings since 2019, when scientists approached stakeholders to discuss ecosystem approach;
- challenging discussion and negotiation of Deep Sea Access (DSA) Regulation before 2019;
- Reasoning: with preparation of new advice, changes, modification of fishing patterns and info provided to ICES, and quality of data need to be taken into account;
- 2021 advice is only the first step to take into account this implementation;
- Important to have best possible quality of data in preparation of next advice;
- Important to ensure that the channel of communication between ICES, national administrations and stakeholders remain the priority for scientific community to perform their work both at national level and at ICES;

- EC obligation to review on an annual basis VMEs, planning more meetings between now and October-November;

ICES Advice on VMEs from January 2021 (Eugene Nixon, ICES ACOM):

- Result of recurrent request by EC to ICES for annual review of VMEs;
- Provides a list of areas where VMEs are known to occur or likely to occur, including list of habitats, indicators and physical elements used to define VMEs;
- Provides information on existing deep sea fishing areas – VMS and logbook data from 2009-2011: combined static and mobile bottom contacting gear footprint, static gear footprint;
- Result of 3-year iterative data-driven process;
- 2 data streams: VMS & logbook data and data on where VMEs occurrence or likely occurrence submitted by the MSs annually;
- Outcome: 2 scenarios, each with 2 options
- ICES consistent with relevant UNGA sustainable fisheries resolution and FAO guidelines on VMEs
- Best available information is considered the data sent by MS in an annual call;
- To prevent significant adverse impacts on VMEs (FAO Guidelines)
- Take into account areas where fisheries are well established and areas where fishing has not taken place or occurs only occasionally (FAO Guidelines)
- Assumption is that VMEs in areas that have been more intensely fished may already be damaged and further fishing would not cause significant adverse impacts (FAO Guidelines) - The principle “First cut is the deepest” is seen as valid for VME-protection against impact of MBCG.
- [ICES VME Portal](#): red, yellow, orange: indicators suggest presence of VMEs; blue definite evidence of VMEs (for further information see [ICES WGDEC](#))
- Fishing footprint considered in existing deep sea fishing areas at 400-800m (below 800m bottom trawling is banned altogether)
- In the North Sea there has been limited or no fishing activity.
- Assessment of significant adverse effects (FAO Guidelines): impacts that impair the ability of populations to rebuild themselves, impacts habitat, or causes significant loss of richness of biodiversity and habitats.
- Fishing activity in ICES advice is limited to mobile-bottom contacting gear (MBCG) as this is the only info on spatial intensity ICES has (ICES is trying to obtain info for static and vessels <12m);
- MBCG has far greater impact on VMEs compared to static gear;
- ICES advice: Any bottom contacting gear on VMEs using static MBCG will damage VMEs (for static gear it is not known to what extent);
- Evidence based threshold: significant adverse impacts occur with BT occurs at >0.5h/km²; swept ratio 43%;
- 0.05x0.05 degree C-square resolution (applied for confidentiality and pragmatism reasons) – size 17km² (threshold therefore: 9hrs/C-sqr/year – with 9hrs per year fishery would significantly affect VMEs) in North and 25km² in South (here it's 13 hrs) – *difference in size due to latitude grid applied to Earth map*

- More accurate data would help ICES to produce better advice;
 - Polygons with buffer of $\frac{1}{2}$ C-sqr, fill holes < 3 C-sqr because they are too small for bottom contacting gears;
 - Polygons include VME elements likely to contain VMEs (bank, mud volcano, seamount, cold seeps); buffers delineate where VMEs are *likely* to occur;
- Scenarios:
- S1 options 1 and 2 are without fishing activity
 - S2 options 1 and 2: include fishing activity – significant adverse impact threshold (SAR = 0.43)
 - ICES member countries (MC) can resubmit VMS data for all years including reference period 2009-2011, this may have implications for the fishing footprints provided in advice;
 - VME database contains quality-controlled data submitted by ICES MC and are regularly updated. There are new data but they haven't been quality checked.
 - ICES recommends that new data is incorporated into new advice;
 - C-sqr is good resolution for broad-scale assessments in ecoregions, but poses imitations for subgrid scale separation between VME occurrence and fishing

Spain's intervention:

- Spain is in favour of protecting VMEs;
- Spain not questioning ICES advice;
- Spain submitted all data and info requested by ICES;
- Spain believes there are technical problems in interpretation of ICES advice by COM, causing disproportionate damage to fishing industry;
- Spain proposes using better and more precise data and account for socio-economic variables;
- In view of Spain, conditions for mobile gears cannot be extrapolated to static gears;
- Co-existence between longliners and VMEs has been proven possible. There is a need to analyse impact of these gears;
- Current data is not up to date = need for updated and detailed data;
- Grid resolution is too rudimentary; higher resolution is needed with smaller grid;
- Consequences of current model: closed areas may be unnecessary large and/or areas not protected adequately.
- Calls for need for socio-economic impact assessment of the EC proposal on social and economic impacts to affected fleets and repercussions on dependent territories;
- Spain feels that EC proposal is going further than scientific recommendation, which should not be the case; *(this was later denied by EC)*
- Spain requests EC to adapt proposal with above considerations.

France's intervention:

- Stakeholder involvement and dialogue remain important for consensus solutions;
- Need to review period of fishing effort, since Brexit there have been important developments that are not reflected in the current model;

- Important to consider socio-economic considerations;
- Questions on the approach regarding inclusion of buffer areas, more transparency and clear coordinates differentiating the VMEs areas and the buffer ones needed.

Commission's intervention:

- Legally speaking the Regulation can only be applied for areas below 400m;
- Regulation of longliners has not been the choice of EC, it is instead stemming from regulation of 2016 which refers to applying the implementing act to all bottom gears – no scope for differentiating bottom gears;
- Annual review is planned; science will evolve, more data will be delivered for a more accurate picture of the situation;
- Initial legal deadline was 2018; current implementing act should not come as a surprise.
- EC follows science – if/when this changes, EC proposal will change to align with scientific advice.

ICES' intervention:

- Took note of the uncertainties around depths and c-square application;
- ICES is aware that better data is available; higher resolution data on 0.005 C-sqr could be brought in in future advice;
- New data obtained in spring 2022 will be included in ICES advice; however better resolution will probably not be applied in 2022 advice yet;
- Data is not always available to ICES, even when national institutes have access to such data.

Further sector's intervention (Spain, France, Ireland):

- Consultation process has not been transparent and this meeting should have taken place earlier;
- Spanish industry has been particularly affected by the proposal, entailing many different types of fishing arts;
- Upcoming advice should consider questions and considerations raised today;
- Legal doubts about the application of this regulation;
- Uncertainty about how >400m depth provision is going to be played out (*EC response: EFCA responsible for control and enforcement, but legally provisions cannot apply beyond 400m*);
- Impact assessments are important (e.g. bottom longliners) (*EC response: presence of fishing intensity inside advice must ensure balancing socio-economic objectives with nature protection objectives. Advice not perfect, but need to start somewhere.*)
- Questioned implementing one regulation in September and one (amendment) later on – should not there just be one and final?
- Precautionary approach should also be applied to socio-economic considerations;

- European bottom fishing alliance (EBFA) concerned about the methods not about the intent to protect VMEs;
- No studies on (unintended) consequences of displacement.
- Co-existence of VMEs protection and some fisheries should be explored.
- Importance of taking into account the principle of proportionality, taking into account environmental, economic and social sustainability principles to ensure, among others, food security;
- How can the the fishing sector participate in the provision of data? Not talking about a person in a workshop, but analyzing the data sent by the Member States to ICES.
- Quality assurance process in ICES is important: it is critical to ensure full quality assurance system behind the advice.

ICES' reaction:

- Importance of advice being as close to reality as possible;
- New data will help with a more tailored advice;
- New advice will contain new data; This meeting will feed into 2022 advice;
- In 2020 there was a consultation process in ICES;
- Re longliners – need to consider the number of hooks to be able to estimate their impact;
- There is no plan for consultation on advice in 2022, but advisory process are transparent and inclusive;
- Displacement hasn't been taken into consideration so far;
- Finer resolution data will be needed – this is the way ICES will go where possible.

NGOs' intervention:

- Spanish NGO was surprised at Spanish Administration's position (questioning ICES Advice), which has not been known to NGOs before;
- Called for implementation of Regulation as soon as possible, saying that has been initially planned for 2018;
- Did not share the view that Regulation has been rushed and believed stakeholders had ample opportunities for feedback;
- Called for importance to keep in line with objectives and strategies of MSFD, Biodiversity Strategy, upcoming restoration law for trawled areas;
- Said that static gears do have an impact on habitats, such as sponges and corals that should be taken into account, despite it being less severe than from trawling.
- Supported inclusion of new data, but reminded that precautionary approach in cases of lacking data is enshrined in the CFP.
- Mentioned that ICES advice is not precautionary enough, giving no advice in areas where there is no data, but that does not mean there is no VMEs;
- Proposed scenario 1 option 2 together with scenario 2 option 1.
- Disagreed that if a VME is damaged, there is no chance of recovery and is disregarded in restoration legislation (UN FAO decade of ecosystem restoration), there should be room for restoring previously degraded VMEs in the new advice;

- Believed that buffer zones are important to protect soft corals;
- Supported inclusion of more data, species distribution model mentioned to be included was supported.
- Believed that it was possible to be much more precise in where the longlines were located in the context of VMEs because of their static condition;
- Were pleased to hear that the industry is in favour of protecting VMEs and welcomed work carried out in ACs.
- Called for protection of sharks in Deep Sea areas, not only VMEs.

Conclusion:

- Meetings was deemed a helpful exchange of information and views.
- All agree on urgency to protect VMEs and at the same time ensure fishing activity.
- Integrate outcomes of this meeting in next ICES advice, particularly updated data from MS.
- Future data calls ICES might call for more precise data at a finer scale.
- Take into account any single reach out from EC and ICES regarding stakeholder involvement. All meetings are crucial to understand the picture.
- Meetings with MS to continue in September.