4 March 2016

TO:
President
Vice President
Heads of Delegation
All Contracting Parties

Reference: HOD 16/15

PROCEDURES AND STANDARDS DEVELOPED BY PECMAS

Please find attached a letter from the Evgeny Shamray the Chair of PECMAS, which I am sure you will find self-explanatory.

Yours sincerely

Stefán Ásmundsson
Secretary
4 March 2016

To:
President
Vice President
Heads of Delegation
All Contracting Parties

Dear Heads of Delegation

As you will know, in Article 7.3 of the Recommendation on the protection of VMEs (Recommendation 19:2014, as amended), there is a reference to “procedures and standards developed by PECMAS”.

PECMAS developed such procedures and standards last year, finalising them at the informal PECMAS meeting that was held in the margins of the 2015 Annual Meeting. To ensure that the adoption of these procedures and standards by PECMAS was fully formal, PECMAS has now formally confirmed them through correspondence.

I can therefore hereby formally confirm to the Heads of Delegation that PECMAS has concluded this task it has pursuant to Article 7.3 and developed procedures and standards for PECMAS’ consideration of proposals for exploratory fishing pursuant to Recommendation 19:2014.

The document containing the procedures and standards is attached, for your information. I will also request the Secretary to make it available on the NEAFC website.

Yours sincerely

Evgeny Shamray
Chair of PECMAS
Procedures and standards for PECMAS’ consideration of proposals for exploratory fishing pursuant to Rec. 19:2014

In the Articles 7.2 and 7.3 of the Recommendation 19:2014 on the protection of VMEs there are references to “procedures and standards developed by PECMAS”. The following procedures and standards were adopted by PECMAS as of 11 November 2015.

PECMAS OBLIGATIONS

In accordance with Art. 6.3 and 7.2 of the Rec. 19:2014 PECMAS 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 4).

The task for PECMAS is specified in Art. 7.3: ‘PECMAS 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 three months following the date of submission of the Notice of Intent.’ And further that PECMAS shall ‘use any other information required, including information from other fisheries in the region or similar fisheries elsewhere and, in particular, any advice provided by ICES.’

And the overriding expectation is the following, given in Art. 7.4: ‘PECMAS 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 the mitigation measures to prevent such impacts.

PROCEDURES

A PECMAS 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 three months after the date of submission of the Notice of Intent. It should also accommodate, if deemed necessary, the request for comments from ICES.

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 Rec. 19:2014 Art. 6.2. If elements are missing, requests should be made to the relevant CP for supplementary material.
2. When all the required documentation elements have been received, the documentation shall without delay be forwarded to PECMAS 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 3-month evaluation period in PECMAS (Rec. 19:2014, Art. 7.3).

3. If deemed necessary by the Chair according to PECMAS standards (Item 3), the Notice of Intent and all documentation and the preliminary assessment shall at the same time be forwarded to ICES for evaluation in accordance with an agreed standard and protocol, as a rule as a technical service.

4. The Chair shall without delay forward to CPs any comments received from ICES.

5. CPs shall carry out and independent evaluation of the submitted proposal in accordance with the PECMAS standards, taking into account the comments that may have been received from ICES.

6. CPs evaluations and statements of opinions shall be forwarded to the Chair and other members of PECMAS within 6 weeks after first receiving the submitted Notice of Intent and the CP’s preliminary assessment.

7. In their responses to the Chair, PECMAS members (one per CP) shall in writing comment on the submitted material and express whether the proposal should or should not be approved. Failure by CPs to respond within that 6 week deadline will be interpreted as meaning that the CPs assessment is that the exploratory fishing is unlikely to have significant adverse impacts (SAI) on VMEs.

8. If possible within the time-frame available, the evaluations shall be discussed in a PECMAS 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.

9. Upon receiving the responses from PECMAS members and comments received in session, the Chair shall summarise the evaluations and formulate a response to the Commission in accordance with Art. 7.4. If there are differing views on the recommendation, these views shall be reflected in the response.

10. The PECMAS recommendation shall be forwarded to the Commission as soon as it is completed and at the latest within 3 months after the date of submission of the ‘Notice of Intent’.

STANDARDS

Any standards used by PECMAS should ensure that the requirements given in Art. 6.2. of the Rec. 19:2014 are satisfied and that a satisfactory preliminary assessment (Art. 7.1) has been conducted. Applying the precautionary approach, PECMAS 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, PECMAS 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 PECMAS 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.
3) Any advice received from ICES.

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 4. 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 Rec. 19:2014 for PECMAS to adopt the precautionary approach. The PECMAS 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 Rec. 19:2014 Art. 6.2, and PECMAS shall determine if the documentation is sufficient to evaluate the risk of significant adverse impacts on VMEs. There are 8 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 occurs 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) 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;
   (f) data collection plan to facilitate the identification of VMEs in the area fished;
   (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 PECMAS finds that any of the 8 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 Rec. 19:2014 instruction to PECMAS 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 (Rec. 19/2014, 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 4. The CP should address individual request point by point in order to facilitate PECMAS 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.

PECMAS shall require that information provided is documented with references to published sources or other source that PECMAS can access/consult. Any advice from ICES that the CP may have obtained should also be documented.

If PECMAS 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. **Independent scientific advice requested by PECMAS.**

PECMAS may ask ICES for comments on the Notice of Intent and the CPs preliminary assessment. This is not obligatory to satisfy Rec. 19:2014, but in order to ensure high
quality of the PECMAS evaluation and lower the risk of wrong decisions, asking ICES for comments should rather be the rule than the exception.

Exceptional circumstances where ICES comments are not needed are the following:

- ICES at an earlier stage provided fully satisfactory advice for the same type of fishing and fishing area and conditions are the same.
- The proposed exploratory fishing is likely to have less impact on VMEs than previous experiment in the same area/habitat where previous accepted experiments were conducted.
- The CP has submitted with the preliminary assessment an advice statement from ICES that satisfies PECMAS need for information.

If these conditions are not met, then the Chair should ask ICES for advice on the Notice of Intent and CPs preliminary assessment. ICES will then be requested for comments on the submission and specifically address:

a) The adequacy of the submitted preliminary assessment and the documentation underlying it.

b) The level of precaution adopted.

c) Any significant gaps in the information on VMEs in the area which may be filled with available information in e.g. the ICES VME database.

d) The likelihood of effectiveness of mitigation measures proposed by the CP.

4. Additional elements to be considered prior to PECMAS’ final evaluation of SAI.

The final evaluation and decision by PECMAS 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 and the ICES advice, PECMAS 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 taking into account in the PECMAS evaluation of the likelihood of SAI.
5. Transparency of decision-making process and documentation. PECMAS should keep stakeholders (CPs) fully informed of the process and discussions leading to its recommendation to the Commission.