

Ms Charlina Vitcheva  
Director-General for Maritime Affairs and Fisheries  
European Commission  
Jozef II-straat 99  
1000 Brussels  
Belgium

Dun Laoghaire, 16 November 2023

Dear Ms Vitcheva,

**Subject: ICES Advice on VMEs 2023**

The North Western Waters Advisory Council would like to thank the European Commission for organising the meeting on the implementation of the Deep-Sea Access Regulation where the STECF opinion on VMEs as released on 28 July was presented. As part of the consultation and information process it has become apparent that further details must be highlighted which are in vital need of being addressed by the Commission.

We would like to recall that on 15 September 2022 the European Commission published Implementing Regulation ((EU) 2022/1614) closing 87 areas in EU waters to bottom fishing based on the [2021 ICES VME Advice and the 2022 Technical Service](#). The NWWAC asked for clarification and expressed its concerns in letters submitted on [15 June 2022](#) and [10 November 2022](#). Since the coming into force of (EU) 2022/1614 members of the NWWAC Executive Committee were able to engage directly in a dialogue with Fabrizio Donatella, Director DG MARE C, on this issue during meetings held in 2022 and 2023, and we would like to express our appreciation for this continued engagement.

On 18 April 2023 ICES published its updated [Advice on areas where Vulnerable Marine Ecosystems \(VMEs\) are known to occur or are likely to occur in EU waters](#) following a request to carry out an annual assessment. The Scientific, Technical and Economic Committee for Fisheries (STECF) was requested to provide an opinion to inform the Commission's possible review of the list of areas, as per Article 9(6) of the Deep-sea Access Regulation (EU) 2016/2336. In particular, STECF was requested to review, at its summer plenary meeting in July 2023, the results of two ad-hoc contracts (*GIS Analysis* and *Scenarios for the Socio-economic Analysis*), prepared to facilitate the final opinion. STECF presented its opinion of these ad-hoc contract reports to stakeholder representatives in a meeting organized by the Commission on 26 September 2023 which was attended by several NWWAC representatives.



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Significantly however, STECF was not requested to review the data, approach or basis for defining the VME polygons in the original ICES 2021 VME Advice/2022 Technical Service nor the effect of changes to the number and delineation of closed areas as a result of changes in the 2023 VME Advice. Two of the most significant changes were:

1. Changes in the extent of the VME polygons, where in the 2023 advice the polygons were cropped to the modelled 400-800m zone but the current EU closed polygons extend outside this zone (deeper than 2800m and shallower than 200m) and as such do align with the current ICES advice.
2. Changes in the extent of a number of polygons in the 2023 advice due to changes in the underlying data which resulted in the *“previous VME polygons no longer being supported by the evidence base”*.
3. In the 2023 Advice ICES acknowledged that it was not possible to accurately determine static gear fishing activity and as such, *“fishing with static gear is not included in the assessment scenarios”*.

The NWWAC would like to highlight these issues as well as the following issues that have been highlighted in reviews and proposals made by NWWAC members [Killybegs Fishermen’s Organisation](#) (KFO), Organización de Productores Pesqueros del Puerto de Burela (OPP-7 Burela) and others:

- A lack of transparency in the assessment process on which the advice is based.
- Errors in ICES VME Database and VME Map Portal.
- Lack of support for the current delineation of a number of the closed polygons
- Inconsistencies between the VME Index layers in the 2021 and 2023 VME advice.
- Inappropriate definition of the depth zones that are the foundation of the assessment.
- Inappropriate delineation of VME Habitats at the c-square resolution level.
- Potential confounding of the VME Confidence Index.
- Questionable exclusion of the VME Confidence Index.
- Biasing of the VME Index due to the exclusion of absence data.
- Lack of previous socio-economic assessments.

The NWWAC urges the Commission to review and analyse the lack of transparency and review of the ICES VME Database and assessment, the errors in the VME dataset and VME portal, and to scrutinise the validity of the assessment approach. Further, the NWWAC requests the Commission to review the differences between the polygons output by the 2021 and 2023 advice.

The NWWAC also wonders whether the EU Commission can take such measures by means of delegated acts without the required socio-economic assessment and would like to ask for clarification from its decision-makers in this regard before approval of any new VMEs.



NWWAC members fully support the protection of vulnerable marine ecosystems for conservation and restoration reasons as well as for protecting biodiversity and ensuring the future of sustainable fisheries. The closures must be based on robust scientific evidence, and based on the above the AC believes that the current scientific evidence needs to be urgently reviewed and updated to increase robustness.

However, the delineation of any future closures should try to limit as far as possible the socio-economic impacts, should respect the legal basis provided by the Deep-Sea Access Regulation, as well as correct the geographical distortions that derived directly from the use of the C-Square grid in 2022, and that were detected following the initial closures. As such, it remains very clear that the trawling buffer-zones should not be included in the implementing Act, as they do not host VMEs and imply some undue closure for other gears (nets, longlines). All closures should also be delineated with respect to the smallest C-Square surface area (17 km<sup>2</sup>) in order to provide equity for all European fishermen affected by these closures. In the same vein, all buffer-zones should have the same length regardless of their geographical direction and latitude and defined as the current East-West distance (1, 56 km) used for the Northern closures.

It is vital that this process is initiated at the earliest opportunity as the current closures are impacting on fishing activities causing socio-economic impacts on the fleets involved.

In short, and in view of the technical deficiencies detected, the suspension of the application of the implementing rules for fixed gears is requested, since the ICES recommendations are based only on data from mobile gears with disproportionate grid dimensions, unjustified buffer zones, and no data on the impacts of the different fishing gears on vulnerable marine ecosystems (VMEs).

We remain at your disposal to elaborate on this request should this be necessary. We thank you for your attention on this matter and look forward to your response.

Yours sincerely,

Emiel Brouckaert  
NWWAC Chairman

