

Final Act of the International Consultations on the Establishment of the Proposed South Pacific Regional Fisheries Management Organisation

Introduction

1. In 2006, Australia, Chile and New Zealand initiated a process of consultations to enable states to cooperate in addressing the gap that existed in the international conservation and management of non-highly migratory fisheries and protection of biodiversity in the marine environment in high seas areas of the South Pacific Ocean. The process resulted in a series of international meetings with the objective of discharging the duty of states under international law to cooperate with each other in the conservation and management of living resources in such areas of the high seas. Through these international meetings participants decided to establish a regional fisheries management organisation with the ongoing responsibility for this task.

Meetings

2. The International Consultations on the Establishment of the Proposed South Pacific Regional Fisheries Management Organisation (SPRFMO) were held as follows:
 - First International Meeting held at Wellington, New Zealand, 14 - 17 February 2006;
 - Second International Meeting held at Hobart, Australia, 6 - 10 November 2006;
 - Third International Meeting held at Reñaca, Chile, 30 April - 4 May 2007;
 - Fourth International Meeting held at Noumea, New Caledonia, 10 - 14 September 2007;
 - Fifth International Meeting held at Guayaquil, Ecuador, 10 - 14 March 2008;
 - Sixth International Meeting held at Canberra, Australia, 6 - 10 October 2008;
 - Seventh International Meeting held at Lima, Peru, 18 - 22 May 2009;
 - Eighth International Meeting held at Auckland, New Zealand, 8 - 14 November 2009.
3. An Interim Secretariat, a Science Working Group (SWG) and a Data and Information Working Group (DIWG) were established to carry out work in support of the International Consultations process.

Participation in the Consultations

4. A list of the participants and observers who attended some or all of the International Meetings held in the course of the Consultations process is annexed to this Final Act (Annex I).

Officers

5. At the First Meeting, Mr Bill Mansfield was elected as Chair of the Consultations. The following served as Chair's Assistants at one or more of the Meetings: Mr Francisco Berguño, Ms Amy Laursen, Ms Laurel Simm, Ms Amanda Thornton, Mr James Yeomans and Ms Marisa Macpherson.
6. The Third Meeting decided to establish an Interim Secretariat to support the work of the Consultations. Dr Robin Allen was appointed as Executive Secretary of the Interim Secretariat effective October 2007.
7. The following served as co-conveners of the SWG at the First and Second Meetings: Mr Rodolfo Serra, Mr Neville Smith and Mr Richard Tilzey. Mr Neville Smith led the intersessional work between the Second and Third Meetings and chaired the Group during the Third Meeting at the conclusion of which Mr Andrew Penney was appointed to take over the role. Mr Dean Swanson chaired the DIWG until the conclusion of the Third Meeting when Ms Kelly Denit was appointed to take over the role. Informal Working Groups on Interim Measures were established during the Second and Third Meetings. These were chaired respectively by Mr Simon Veitch and Ms Holly Koehler.

Main documents of the Consultations

8. All of the documents considered by the Consultations are available on the website www.southpacificrfmo.org as meeting papers.
9. At the conclusion of the First Meeting, the Chair was asked to prepare a draft Convention text and a draft text for interim arrangements for circulation in advance of the next Meeting. At the request of each subsequent Meeting he prepared a revision of the draft Convention text taking into account the proposals and discussions at that Meeting. The relevant documents are:
 - SP-02-WP1 Chair's draft Convention text - September 2006
 - SP-02-WP2 Chair's draft Interim Measures text - September 2006
 - SP-03-WP1 Chair's revised draft Convention text - March 2007
 - SP-04-WP1 Chair's revised draft Convention text (second revision) - July 2007
 - SP-05-WP1 Chair's revised draft Convention text (third revision) - March 2008
 - SP-06-WP-1 Chair's revised draft Convention text (fourth revision) - September 2008
 - SP-07-WP-01 Fifth revision of the draft Convention - April 2009
 - SP-08-WP-01 Sixth revision of the draft Convention - November 2009.
10. Delegations provided their comments on the drafts in meeting papers (to be found as Information Papers on the web pages for each Meeting at www.southpacificrfmo.org), in oral comments at the Meetings, or both.
11. An agreed report of each Meeting was prepared and these can also be found on the Meeting web pages on www.southpacificrfmo.org.

Meeting Decisions

12. The First Meeting established the SWG and the DIWG. The ongoing work programme of the SWG has included the provision of stock status advice, the preparation of species profiles, the development of the jack mackerel stock structure and stock assessment research programmes and the evaluation of benthic fishery impact assessments prepared by participants in respect of proposed bottom fishing operations in the Convention Area. The ongoing work programme of the DIWG, that has been carried out in consultation with the SWG, has included the identification of the types of data to be collected by participants, the development of standards for the collection, verification, exchange and reporting of data, the development of standards for data security and the terms and conditions for making data available.
13. On the recommendation of the DIWG the Third Meeting agreed Standards for the Collection, Reporting, Verification and Exchange of Data (Annex C to the Report of the Meeting).
14. The Third Meeting adopted Interim Measures for Pelagic Fisheries and for Bottom Fisheries (Annex F to the Report of the Meeting).
15. The Third Meeting also accepted New Zealand's offer to host an Interim Secretariat with the following roles:
 - Data Management - The receipt, compilation, storage and dissemination (where appropriate) of data submitted by the participants;
 - Document Management - The receipt, storage and dissemination of reports and documents submitted by the participants;
 - Meetings - Providing assistance to the relevant host in organising meetings of the Consultations and of subsidiary bodies of the Consultations; and
 - Website - The management of the contents of the SPRFMO website (Annex G to the Report of the Meeting).
16. New Zealand made an initial voluntary contribution to the funding of the Interim Secretariat of NZ\$ 1,000,000. Subsequent voluntary contributions were made by Australia (A\$ 80,000), Chile (US\$ 20,000), China (US\$ 40,000), United States of America (US\$ 40,000) and at the Seventh Meeting the European Community announced its intention to make a voluntary contribution in 2010.
17. On the recommendation of the SWG, the Fourth Meeting adopted the Interim Benthic Assessment Framework (Annex C to the Report of the Meeting) to guide benthic assessments under the Interim Measures for Bottom-Fishing and also adopted a process by which these assessments are to be reviewed and commented upon (Annex D to the Report of the Meeting).
18. On the recommendation of the DIWG, the Fourth Meeting adopted standards for the collection, reporting, verification and exchange of data for squid jigging and potting (Annex F to the Report of the Meeting) and, in relation to the Interim Measures, the Vessel Monitoring System – Standards for the collection, reporting, verification and exchange of data. It also agreed on a set of decisions regarding observer coverage.

19. On the recommendation of the DIWG the Fifth Meeting adopted the Standards for the Collection, Reporting, and Exchange of Observer Data (Annex 3 to the Report of the DIWG) and the Standards for the collection, reporting, verification and exchange of data for drop line fishing and dahn line fishing (Annex 4 to the Report of the DIWG).
20. On the recommendation of the DIWG the Sixth Meeting adopted a consolidation of all the SPRFMO standards for the collection, reporting, verification and exchange of data (Annex D to the Report of the Meeting).
21. The Seventh Meeting recorded in its Report that much of the draft text of the Convention had been provisionally settled at that Meeting and delegations were generally of the view that the negotiations could be successfully completed with one further Meeting.
22. The Eighth Meeting agreed:
 - Interim Measures for pelagic fisheries effective from 1 January 2010 which are annexed to this Final Act (Annex II);
 - that following the opening for signature of the Convention text a Preparatory Conference should be convened to make arrangements for the smooth entry into force of the Convention;
 - that the work of the SWG, in particular, stock assessment and evaluation of benthic impact assessments to support the interim management measures would continue pending the entry into force of the Convention;
 - that the work of the DIWG, in particular the development of standards for collection, reporting, verification and exchange of data for landings and for the collection, reporting, verification and exchange of data for transshipment, would continue pending the entry into force of the Convention;
 - that the work of the Interim Secretariat would continue pending the entry into force of the Convention;
 - that the Depositary of the Convention would be the Government of New Zealand; and
 - that the Chair is authorised to make necessary arrangements to facilitate full participation in the Organisation.
23. The Eighth Meeting also considered Interim Measures for deepwater gillnet fisheries, annexed as Annex III to this Final Act, for implementation from 1 February 2010 following participants' internal consultation and approval processes.
24. On 14 November 2009, the Meeting adopted the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (the Convention), together with a Resolution regarding the holding of a Preparatory Conference to assist the efficient commencement of the work of the Commission of the South Pacific Regional Fisheries Management Organisation established by the Convention.
25. The Resolution adopted by the Consultations is annexed to this Final Act (Annex IV).

26. The Meeting held a ceremony of confirmation of the English text of the Convention and this Final Act on 14 November 2009.

IN WITNESS WHEREOF the undersigned representatives of the participants have signed this Final Act.

DONE at Auckland this fourteenth day of November, two thousand and nine, in a single original. The original of this Final Act shall be deposited in the archives of the Government of New Zealand.

The Chairman of the Consultations:

Bill Mansfield



The Executive Secretary of the Interim Secretariat:

Robin Allen

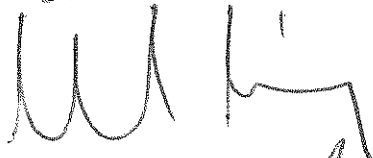


Signatures of participants and Special Observer participant:

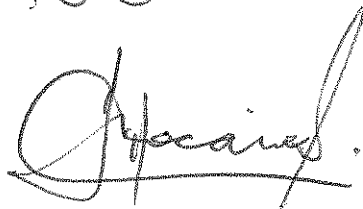
Australia:



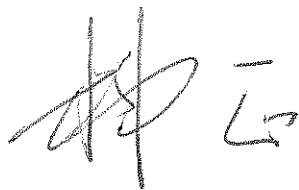
Belize:



Chile:



China:



Cook Islands:



European Community:

Alberto Clivio

Fiji:

France:

[Signature]

Kingdom of Denmark in respect of the Faroe Islands:

Korea:

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New Zealand:

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Peru:

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Russian Federation:

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United States of America:

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Vanuatu:

[Signature]

Chinese Taipei Fishing Entity:

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Annex I

List of Participants

Australia, Belize, Canada, Chile, China, Colombia, Cook Islands, Cuba, Ecuador, European Community, Federated States of Micronesia, Fiji, France, Japan, Kingdom of Denmark in respect of the Faroe Islands, Kiribati, Korea, Marshall Islands, New Zealand, Niue, Palau, Panama, Papua New Guinea, Peru, Russian Federation, Samoa, Solomon Islands, Tonga, Ukraine, United States of America, Vanuatu, Venezuela,

Observers: Malaysia, Mexico.

Special Observer: Chinese Taipei Fishing Entity.

International and Intergovernmental Organisations

Agreement for the Conservation of Albatrosses and Petrels, Commission for the Conservation of Antarctic Marine Living Resources, Commission for the Conservation of Southern Bluefin Tuna, Food and Agriculture Organisation of the United Nations, Inter-American Tropical Tuna Commission, Permanent Commission of the South Pacific, Secretariat of the Pacific Community, South Pacific Forum Fisheries Agency, United Nations, Western and Central Pacific Fisheries Commission.

Non-governmental Organisations

Birdlife International, Conservation International, Deep Sea Conservation Coalition, Environment & Conservation Organisations of NZ, Greenpeace, International Coalition of Fisheries Associations, International Fishmeal and Fish Oil Organisation, International Union for the Conservation of Nature, New England Aquarium, New Zealand Seafood Industry Council, Oceana, Centro Oceanus, Sustainable Fisheries Partnerships, The Nature Conservancy, World Wildlife Fund for Nature.

Annex II

Revised Interim Measures for Pelagic Fisheries

General Provisions

1. These Interim Measures apply to fisheries for *Trachurus* species over which the Commission will have competence in accordance with the Convention.
2. These Interim Measures are to be effective from 1 January 2010 until the Convention enters into force and conservation and management measures for *Trachurus* species are established, and will be reviewed, and revised as appropriate, no later than 31 December 2010 to take account of the stock assessment for *Trachurus* species proposed by the SWG.
3. These Interim Measures are adopted within a framework of a provisional approach for the management of the *Trachurus* species concerned. Therefore, the management measures in these Interim Measures in no way constitute a precedent or should serve as a reference for future management decisions of the Commission, or in the revision of these Interim Measures as called for in paragraph 2 above. Such management decisions, or the revision of these Interim Measures, which will be based on a completed stock assessment, will consider all the tools available.
4. Further, the provisions of these Interim Measures are not to be considered precedents for future allocation or other decisions taken by the Commission, in accordance with Article 21 of the Convention, relating to participation in fisheries for *Trachurus* species, and are not to affect the full recognition of the special requirements of developing States in the region, in particular small island developing States and territories, in accordance with the Convention.
5. These Interim Measures are voluntary and are not legally binding under international law.

In respect of fisheries for *Trachurus* species, participants resolve the following:

Effort management measures

6. Participants are to limit the gross tonnage (GT)¹ of vessels flying their flag to those that have been actively fishing in 2007 or 2008 or 2009 in the Convention Area, and may substitute their vessels as far as the total level of GT in Table 1 is not exceeded. Participants that have not already done so are to communicate to the Interim Secretariat, by 31 December 2009, the GT¹ of those vessels flying their flag that have been actively fishing in 2009.

¹ In the event that GT is not available, participants are to utilise Gross Registered Tonnage (GRT) for the purposes of these Interim Measures.

7. Participants will verify the effective presence of their vessels referred to in paragraph 6 through VMS records and catch reports.
8. From 1 January 2010, participants are not to exceed the levels of total GT¹ listed in Table 1.

Catch management measures

9. Each participant is to voluntarily restrain catches by vessels flying its flag in the Convention Area to the annual level of catches recorded by that participant in either 2007, 2008, or 2009.
10. Voluntary restraint is to be exercised having regard to the state of the fishery. Participants recognise that in exercising voluntary restraint it is understood that there may be small exceedances in relation to the annual catch levels recorded and referred to in paragraph 9 above.
11. Participants with a catch history in the *Trachurus* species fisheries in the South Pacific, but not exercising such fisheries activities in 2007 or 2008, and who communicated to the Interim Secretariat by 31 December 2009 the GT¹ of vessels flying their flag that entered the fishery in 2009, agree to voluntarily restrain in 2010 catches by such vessels flying their flag in the Convention Area.
12. For 2010, the Faroe Islands agrees to voluntarily restrain, in accordance with paragraph 2, its catch effort to 2 vessels not exceeding a total of 15, 610 GT flying its flag in the Convention Area. Each of these 2 vessels will not catch more than what the vessel that was not affected by the *force majeure* situation caught in either 2007, 2008, or 2009. For 2011, the voluntary restraint is to be considered by reference to the GT levels in Table 1 and in accordance with paragraph 2.

Data collection, reporting and monitoring and control measures

13. All participants engaged in the fishery are to collect, verify, and provide all data to the Interim Secretariat, in accordance with the SPRFMO Data Standards, by 30 June of each year for their previous (January to December) year's fishing activities, including information relevant to stock status and recovery.
14. Using the information provided by participants, in accordance with the SPRFMO Data Standards, the Interim Secretariat will maintain a register of authorised vessels, by flag. Participants are to notify the Interim Secretariat which of those authorised vessels are actively fishing in the Convention Area. The Interim Secretariat will post this information on the SPRFMO website. In addition, participants will provide a list of vessels that participated in transshipment during the course of the previous year.
15. Participants are to provide to the Interim Secretariat estimated monthly catches of *Trachurus* species, as prescribed by the SPRFMO Data Standards, within thirty [30] days of the end of each month. The Interim Secretariat will circulate such estimated monthly catches, aggregated by flag State, to all participants on a quarterly basis.
16. Those participants that are port States in the region are to implement measures, where possible in accordance with its national law, to verify catches of *Trachurus* species caught in the Convention Area that are landed or transhipped in its ports.

17. All participants engaged in the *Trachurus* species fishery are to ensure a minimum of ten percent observer coverage of trips for vessels flying their flag and ensure that such observers collect and report data as described in the SPRFMO Data Standards.
18. All participants engaged in the *Trachurus* species fishery are to implement a vessel monitoring system (VMS) in accordance with the SPRFMO Data Standards, and ensure all vessels flying their flag are fitted with a fully operational automatic location communicator (ALC) and that such ALCs remain operational and report in accordance with the SPRFMO Data Standards at all times and in all areas while in the Convention Area.
19. All participants engaged in the *Trachurus* species fishery are to provide an annual report to the Interim Secretariat describing how they have implemented these Interim Measures. Such annual reports will be made available to all participants and be posted on the SPRFMO website.
20. Coastal States adjacent to the Convention Area are to cooperate with other participants in ensuring compatibility in the conservation and management of *Trachurus* species fisheries when these resources straddle areas under national jurisdiction and the Convention Area. Such Coastal States are to inform the Interim Secretariat of the conservation and management measures in effect for *Trachurus* species fisheries in waters under their national jurisdictions when these resources straddle areas under national jurisdiction and the Convention Area.
21. Implementation of these Interim Measures is to be kept under regular review by participants during the interim period, including through meetings of the Preparatory Conference and the Interim SWG and DIWG.
22. The information collected under paragraph 13, and any stock assessments and research in respect of *Trachurus* species fisheries in the Convention Area will be submitted for review to the Interim SWG. In 2010, the SWG will conduct the necessary analysis and assessment to provide advice on stock status and recovery. If possible, based on the information available, this advice will include projections of stock status associated with the impact of a range of possible management measures, including minimum size lengths for *Trachurus* species and minimum fishery specific net mesh sizes.

Cooperation with other States

23. Participants resolve, individually or jointly, to request those States that are fishing for *Trachurus* species in the Convention Area, but that did not participate in the negotiations to establish the SPRFMO, to cooperate fully in the implementation of these Interim Measures, and to consider becoming party to the Convention.

Special requirements of developing States

24. In recognition of the special requirements of developing States in the region, in particular small island developing States and territories, participants are urged to provide financial, scientific and technical assistance, where available, to enhance the ability of those developing States to implement these Interim Measures and participate effectively in the Preparatory Conference to establish the Commission.

Table 1.

Participant	GT or GRT for 2010²
Belize	9,814 GT
Chile	96,867.24 GT + 3,755.81 GRT
China	74,516 GT
Cook Islands	12,613 GRT
European Community	78,600 GT
Faroe Islands	23,415 GT
Korea	15,222 GT
Peru (a) high seas	40,000 GT
(b) occasionally high seas	25,000 GT
Vanuatu	31,220 GRT
Russian Federation	23,235 GT

² These numbers are provisional and may change pending the notification by participants, in accordance with paragraph 6 of these Interim Measures, to the Interim Secretariat of the GT or GRT of vessels flying their flag actively fishing in 2009.

Annex III

Interim Measure for Deepwater Gillnets in the Convention Area

Participants commit themselves to:

1. require any vessel flying their flag not to use deepwater gillnets in the Convention Area until relevant conservation and management measures are adopted by the future Commission, which will be established following the entry into force of the Convention; and
2. require any vessel flying their flag seeking to transit the Convention Area carrying gillnets to give advance notice of its intent, including the expected dates of its passage through the Convention Area, to the Interim Secretariat.

This Interim Measure will have effect for all participants from 1 February 2010. If a participant informs the Interim Secretariat before 1 February 2010 that it will not apply this Interim Measure, this Interim Measure will not apply to that participant.

Annex IV

Resolution

Establishing a Preparatory Conference for the Establishment of the South Pacific Regional Fisheries Management Commission

The International Consultations on the Establishment of the South Pacific Regional Fisheries Management Commission,

Having adopted the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean,

Having decided to make the necessary arrangements for the commencement of the functions of the Commission of the South Pacific Regional Fisheries Management Organisation established by the Convention without undue delay and to take all possible measures to ensure its effective operation,

Having decided to hold a Preparatory Conference for the fulfillment of these purposes and to continue the work of the SWG, the DIWG and the Interim Secretariat established during the International Consultations on the Establishment of the South Pacific Regional Fisheries Management Organisation pending the entry into force of the Convention,

Decides as follows:

1. The Preparatory Conference shall be open to all participants in the International Consultations on the Establishment of the South Pacific Regional Fisheries Management Organisation and all States and entities that can become party to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean or can otherwise commit to abide by the terms of that Convention. Intergovernmental organisations and non-governmental organisations that attended the International Consultations on the Establishment of the South Pacific Regional Fisheries Management Organisation may attend the Preparatory Conference as observers.
2. The Preparatory Conference will be convened by the Depositary of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean and the first session of the Conference shall take place no later than one year after the Convention is opened for signature.
3. The Preparatory Conference will elect its Chairperson and other officers.
4. The Preparatory Conference will:
 - a. prepare draft rules of procedure of the Commission;
 - b. prepare draft rules, regulations and procedures, as necessary, to enable the Commission to commence its functions, including draft regulations concerning the financial management and internal administration of the Commission;

- c. make recommendations concerning the Secretariat of the Commission in accordance with the relevant provisions of the Convention;
 - d. make recommendations concerning the budget for the first financial period of the Commission, including recommendations for a formula for the calculation of contributions to the budget in accordance with Article 15, paragraph 2, of the Convention;
 - e. consider the funding needs of the Interim Secretariat and make any appropriate recommendations to participants;
 - f. review the implementation of the Interim Measures; and
 - g. prepare the provisional agenda for the first meeting of the Commission and, as appropriate, make recommendations relating to items thereon.
5. The Preparatory Conference will seek scientific advice from the SWG on the status of fishery resources covered by the Convention and may, if it considers necessary, adopt such revisions of the Interim Measures adopted by the International Consultations on the Establishment of the South Pacific Regional Fisheries Management Organisation as may be necessary pending the entry into force of the Convention to ensure the long-term conservation and sustainable use of fishery resources within the Convention Area. Any such revised Interim Measures adopted by the Conference will be applied on a voluntary basis.
6. The Preparatory Conference will seek advice from the DIWG concerning any additions to, or revisions of, the consolidated data standards adopted by the International Consultations on the Establishment of the South Pacific Regional Fisheries Management Organisation before they are transmitted to the first meeting of the Commission of the South Pacific Regional Fisheries Management Organisation.
7. The Preparatory Conference may also carry out such other functions as the Conference may decide.
8. The Preparatory Conference will meet as often as necessary for the expeditious exercise of its functions. It will remain in existence until the conclusion of the first meeting of the Commission, at which time its property and records shall be transferred to the Commission.
9. The Preparatory Conference may make use, as appropriate, of existing regional institutions and outside sources of expertise to facilitate its work.
10. The costs of the Preparatory Conference, including Interim Secretariat costs, will be met by the participants through voluntary contributions in such manner as may be agreed, taking into account, where appropriate, the need to obtain national appropriations as well as the need to minimise the costs to all participants.
11. The Preparatory Conference will prepare a final report on all matters within its mandate for presentation to the Commission at its first meeting.