

REPORT OF EXTERNAL MEETING ATTENDED BY SPRFMO STAFF

Staff name	Dr. Sebastián Rodríguez Alfaro
Position	Executive Secretary
Meeting attended	Rights Based Management Workshop
Date	10 to 12 April 2019
Location	FAO, Rome, Italy

1. INTRO

The Rights Based Management Workshop took place in Rome, Italy from 10 to 12 April 2019 hosted by FAO under the ABNJ Deep Sea Project, an initiative funded by the Global Environmental Facility.

The workshop aimed at considering the application and effectiveness of rights based management approaches for deep sea fisheries in areas beyond national jurisdiction (ABNJ).

FAO invited (at no cost for the Organisation budget) the SPRFMO Executive Secretary to participate as a panellist giving a presentation on “RFMOs case studies” as per Agenda Session 4, together with an analysis of Section 2.4 “RFMOs -- what are they are doing and what can they do”.

14 Participants: Rebecca Metzner (Head - Policy, Economics and Institutions Branch, Fisheries and Aquaculture Department, Food and Agriculture Organization (FAO)); Andrew Serdy (Professor of Public International Law and Ocean Governance at the University of Southampton); Jon Lansley (Executive Secretary, SIOFA Southern Indian Ocean Fisheries Agreement); Ross Shotton (Executive Secretary Southern Indian Ocean Deepsea Fishers Association); Stefán Asmundsson (Head of International Affairs Office, Ministry of Fisheries of Iceland); Javier Garat (President of Europêche); Dale Squires (Adj Professor, NOAA Southwest Fisheries Science Center); Johan Williams (Former President NEAFC Commission and former Chair of the FAO Committee of Fisheries COFI); William Emerson (Common Oceans Deep Seas Project Coordinator, Fisheries and Aquaculture Department (FAO)); Ricardo Federizon (Senior Fisheries Management Coordinator NAFO); AhmedAl-Mazrouai (Senior Fisheries Officer in the Policy, Economics & Institutions FAO); Jessica Fuller (Fisheries and biodiversity consultant, FIAF-FAO) and Sebastián Rodríguez Alfaro (Executive Secretary SPRFMO).

This report is structured following the Agenda of the Workshop (Annex I) focusing on the relevant issues for SPRFMO.

2. CONTENT

2.1. Opening of the meeting

Mr. William Emerson opened the meeting reminding the participants about the main objective of the ABNJ Deep Sea Project (achieving sustainability in the use of deep-sea living resources and improve biodiversity conservation in the ABNJ) and how this workshop builds on this main objective.

He gave a summary of the ABNJ Deep sea project elaborating on the 4 project components: legal framework, reduce adverse impacts on VMEs, improve adapting management (this workshop belongs to this component) and develop methods for area based planning.

Johann Williams and Dale Squires were appointed as Chairpersons and the Agenda was adopted.



2.2. Review of rights-based management (RBM) in the ABNJ context

- Rights – why have them? Dale Squires.

The presentation described what property rights are (secured entitlements becoming important incentives shaping the decision making in Regional Fisheries Management Organizations (RFMOs)), the characteristics of property rights (exclusive use, transferability, duration, divisibility and security...) and the different types of property rights according to the strength of exclusive use (Open Access, State Property, Common Property, Private Property and a Hybrid model).

The types of property rights on fisheries were also comprehensively addressed: Limited Access/Entry; Individual Transferable Quotas (ITQs), Individual Transferable Effort (ITE) Quotas, Community Quotas, Fishery Cooperatives, Territorial Use Rights in Fisheries (TURFs), Transferable Habitat Impact Quotas (THIQs). Other aspects such as the entry into the fishery, the incentives (incentivise fishermen to align their interest with the collective interest, allowing maximizing economic rents to the fishery while creating incentives to conserve resources), how to regulate them and the self-enforcement of Property Rights in International Fisheries were also developed in the presentation.

- Harvesting entitlements – what do these concepts mean and what do they mean in ABNJ deep sea fisheries. Dale Squires.

The presentation detailed how credit system are an alternative to fisheries rights. The concept came from regulation of pollution as an alternative to property rights.

Credits are created on an annual basis and any unused portion can be carried forward. This can include Total Allowable Catch (TAC), Total Allowable Effort (TAE), Total Allowable Capacity, or Total Allowable Habitat Impact (TAHI) limits. A key distinction between rights-based management and the credit system are that only the unused portion can be sold. The economic efficiency of transferability (highlighted as it adapts to changing market circumstances), the spatial distribution of fisheries resources allowing for different forms of property/use rights, the effect of entrants (ways to accommodate new entrants and the barriers to entry) were also addressed.

Key to successful RBM is an effective monitoring, control, and surveillance (MCS), compliance and enforcement scheme in force.

- The United Nations Convention on the Law of the Sea (UNCLOS) – what it says about RBM in the context of ABNJ deep sea fisheries. Andrew Serdy.

The presentation focused on several issues such as: the definition of areas beyond national jurisdiction, the applicable regimes, the Articles 87 and 116-119 (on the freedom of fishing for States and their obligations such as cooperation and maintaining or restoring population to a level that produces MSY), the applicable treaties and the provisions for straddling stocks, the compatibility of high seas and EEZ conservation and management measures.

Nothing in any UNCLOS provision deals with RBM. It is neither prohibited nor compulsory. So, it can be pursued, but subject to the duties of cooperation and non-discrimination.

- RFMOs -- what are they are doing and what can they do. Andrew Serdy.

The presentation pointed out those RFMOs already engage in RBM (NAFO, NEAFC and SPRFMO, CCSBT, ICCAT and IATTC) understood as quota allocations. However, RBM based on property rights revolves around transferability of allocations at national or international level and then RFMOs varies on how freely they allow such transfers. Proposals made in the past leaving quota holders dealing directly with each other and report to the RFMOs Secretariat were also mentioned, noting that in practice the States are unlikely to yield the control necessary to make this possible.



- The new entrant issue. Andrew Serdy.
As Treaties bind only their parties, the catch or effort limits are binding only to those States inside the RFMO. Therefore, this reduces the incentive of cooperate creating tensions between purely looking forward economic approach (arguing for closure to new entrants) and the legal constraints (notably UNCLOS 119 on the non-discrimination against the fishermen of any State).

2.3. Factors controlling quota management, conferring of entitlements and other incentive-based approaches in RFMOs

- 3.1 Allocation – how and of what?
The presentation focused on different aspects associated with allocation, such as: distribution (controversial issue because of the assignment of wealth and political influence associated with exclusive property rights), the allocation mechanisms (auctions, etc), the norms of equity and fairness in the allocation of property rights, duration, allocation to States and finally how some allocations are more enforceable than others from a compliance and enforcement perspective.
- RBM - A Government perspective. Stefán Asmundsson.
The presentation focused on why governments tend to like RBM (because of the associated long term thinking, because it maximises income per kilo of catch and because of harmonizing capacity and available fishing opportunities without direct government management of fleet capacity) and which factors prevent States to move towards RBM (traditional rights can be difficult to overcome and political reasons). The presentation also elaborated on the benefits of RBM when applied to high seas fisheries.
- An RFMO perspective. Sebastián Rodríguez Alfaro.
The assessment of the allocation controversial associated to RBM was linked with how SPRFMO has been able to find criteria (Art 21 of the SPRFMO Convention) to solve the potential allocation controversial. Furthermore, transfers of jack mackerel (as per Art 9 of CMM 01-2019) were explained as a potential tool for solving issues related with the distribution problem associated with the allocation. Concerning new entrances, the SPRFMO Commission has encouraged CNCPs to work towards ratification of the Convention. How SPRFMO has tackled the duration of the allocation was explained using the examples of the CMMs on Jack mackerel and deep water species. The different resources, particularly in terms of scientific capacity in different RFMOs were also mentioned stating that RBM and sustainable management should go hand to hand.
- An Industry Perspective on Property Rights on High Seas Fisheries. Ross Shotton.
The presentation stressed the highly specialised type of fishery taking place in the Southern Indian Ocean highlighting the importance of the knowledge of the fishery and the confidentiality regarding company know-how and data. The fear of new entrants considering the easy of collapse of the fishery was also addressed.

2.4. RFMO case studies

- NAFO case study. Ricardo Federizon.
How NAFO Contracting Parties partly or fully transfer its allocated quota was the main topic of the presentation. Basically, transfers are not permitted for stocks under the “Others” quota and fishing days for shrimps in Division 3M are not transferable between Contracting Parties (chartering arrangements related to fishing days are permitted).
- SPRFMO. Sebastián Rodríguez Alfaro.
The presentation was structured in four sections: About SPRFMO, Quota Transfers, Participation in Fishing for Fishery Resources and latest developments in Bottom Fishing CMMs. The SPRFMO Observer Programme was also explained to the participants.



2.5. Moving forward – next steps

- Considering a potential second phase for the ABNJ project, the discussion focused on how to move forward, which potential areas of the project should be reinforced, and which ones could be the new ones. The discussion touched upon several topics such as: socioeconomics aspects, how to make members to participate and to engage into this debate, dissemination of results (because of the broad and technical topics executive summaries should be available), final outcomes of the ABNJ to be assessed, the planning and schedule of meetings.

3. ASSESSMENT OF THE WORKSHOP

SPRFMO has been a partner of the ABNJ project since 2013. Our participation (in kind) has been related with the deep seas component of the project. This last year, and because of that particularly active, the SPRFMO Secretariat has been involved (through direct input or coordination among SPRFMO members) in several actions aiming at providing the necessary feedback for a proper project implementation.

The no cost participation (FAO fully sponsored it), it was a good opportunity to assess the development and final stage of the ABNJ projects. Furthermore, it was an opportunity to show the engagement of SPRFMO with the project (SPRFMO hasn't participated in any of the meetings in the last couple of years) through a couple of presentations and two papers and to elaborate on latest developments of the organisation particularly on bottom fishing.

Considering that currently the governance of ABNJ lacks an overall coordinating mechanism affecting all maritime sectors, it is essential, as the Commission recommended in the last meeting, engaging with the ABNJ project to implement and keeping up to date on the developments for the sustainable utilisation of ABNJ fisheries resources.

Having FAO as an observer in the annual meetings of SPRFMO (as in COMM7), particularly those projects (or FAO branches) in which SPRFMO is actively participating (FIRMS and ABNJ) will be encouraged from the Secretariat. It seems we haven't created yet the momentum with FAO in terms of an institutional relationship which together with the poor awareness on issues affecting ABNJ should be tackled at Commission level.

Presentations and report of the workshop will be made available soon in the [project web site](#).



ANNEX 1

ABNJ Deep Sea Project - Rights Based Management Workshop

Agenda

10-12 April 2019

Rome, Italy

Wednesday, 10 April 2019

1. Opening of the meeting	
1.1 Opening remarks	09:00-09:30
1.2 Introductions	
1.3 Election of a Chairperson	
1.4 Adoption of the agenda	
1.5 Housekeeping matters	
2. Review of rights based management in the ABNJ context	
2.1 Rights – why have them?	09:30-10:30
Coffee break	10:30–11:00
2.2 Harvesting entitlements – what do these concepts mean and what do they mean in ABNJ deep sea fisheries	11:00-11:30
2.3 The United Nations Convention on the Law of the Sea – what it says about rights based management in the context of ABNJ deep sea fisheries	11:30-12:30
Lunch	12:30–13:30
2.4 RFMOs -- what are they are doing and what can they do	13:30-14:30
2.5 The new entrant issue	14:30-15:30
Coffee break	15:30–16:00
3. Factors controlling quota management, conferring of entitlements and other incentive-based approaches in RFMOs	
3.1 Allocation – how and of what?	16:00-17:00

Thursday, 11 April 2019

3. Factors controlling quota management, conferring of entitlements, other incentive-based approaches in RFMOs (continued)	
3.2 A Government perspective	09:00-10:00
3.3 An RFMO perspective	10:00-11:00
Coffee break	11:00-11:30
3.4 An industry perspective	11:30-12:30
Lunch	12:30–13:30
4. RFMO case studies	
4.1 RFMO case studies	12:30-15:30
Coffee break	15:30-16:00
4.1 RFMO case studies (continued)	16:00-17:00

Friday, 12 April 2019

5. Moving forward	
5.1 Roles and opportunities for RFMOs	09:00-10:30
Coffee break	10:30-11:00
5.2 Moving forward – next steps	11:00-12:00
6. Adjourn	12:00-12:30