

**Review panel established under Article 17 and Annex II of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean**

**Written Memorandum by the Head of the EU Delegation to SPRFMO**

By letter dated 14 June 2013 the Russian Federation has submitted information to the Review panel in support of its objection of the conservation and management measure *Trachurus murphyi* (CMM 1.01) under the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (SPRFMO). This memorandum wishes to react to the different elements provided by the Russian Federation, in particular to the following claims:

**1. The lack of a part of data cannot serve as a reason for exclusion of the Russian 2010 catches taken in 2010 from the declaration.**

The submission by the SPRFMO secretariat explains in detail why the 2010 catch data put forward by the Russian Federation were not acceptable for the parties.

Instead of “lack of data” it is more appropriate to refer to “absence of reliable data” as, on the one hand, there is evidence, that *F/V Lafayette* was not an active fishing vessel in 2010 (as supported by two different inspection reports) and, on the other hand, data on transshipments submitted by Peru contradict the figures reported by Russia for 2010. Up to now the Russian Federation has failed to provide information that would underpin the reliability of the data.

In addition to that, *F/V Lafayette* was the only Russian vessel authorised to fish jack mackerel in the area in the reference period. As evidenced by the inspection reports from the EU and France submitted to the Review Panel by the SPRFMO Secretariat *F/V Lafayette* was neither equipped for fishing nor could have acted as a pair trawler as there was no other Russian vessel authorised to fish jack mackerel to pair with *F/V Lafayette* in the reference period.

**2. The 2010 catch data cannot be used as the basis for determining of national quotas for the following reasons:**

- **The Commission had no grounds to refer to the Revised Interim Measure for Pelagic Fisheries.**

It is not correct to affirm that the reference for the establishment of CM 1.01 was the Revised Interim Measure for Pelagic Fisheries. With the entry into force of the SPRFMO Convention, the legal basis for the adoption of CM 1.01 was the SPRFMO Convention. CM 1.01 refers explicitly to Articles 4, 20 and 21 of the Convention. For that reason also the statement put forward in paragraph 64 of the Information paper submitted by the SPRFMO Secretariat is misleading.

- **2010 catches do not reflect the real potential of the Parties**

Article 21 is the main provision governing the participation in SPRFMO fisheries in the Convention Area. The potential catches of the parties is not a criterion included in Article 21.1 of the Convention for determining the participation in SPRFMO fisheries in the Convention Area.

It should be noted that the use of the potential catches of the parties as a point of reference could be in contradiction with the precautionary approach as embedded in Articles 2 and 3 of the Convention. In this regard, we highlight that the SWG established that the stock is still at very low levels ranging between 8% and 17% of estimated unfished levels.<sup>1</sup>

Thus determining the participation in SPRFMO fisheries in the Convention Area on the basis of the fishing potential of Contracting Parties would undermine the Convention objectives and be incoherent with Article 21.

- **Using 2010 catch data is violating Article 21.1 of the SPRFMO Convention**

It is underscored that paragraph 1 (a) of Article 21 of the Convention refers to “historic catch and past and present fishing patterns and practices in the Convention Area” as a criterion for determining the participation in SPRFMO fisheries in the Convention Area.

- **No Regional Fisheries Management Organisation is using a particular year as a key for allocating the Total Allowable Catch (TAC) into national quotas.**

Setting a precise date as a reference for the conservation and management of the stocks is not an uncommon practice in RFMOs. In this regard, for example, the WCPFC limits the fishing effort for Northern Albacora to that of 2005 under WCPFC CMM 2010-05.

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<sup>1</sup> Report of the 1<sup>st</sup> Meeting of the Commission, para 10.