12TH MEETING OF THE SPRFMO COMMISSION

Manta, Ecuador, 29 January to 2 February 2024

COMM 12 – Prop 15

PROPOSAL TO:

☒ Amend ☐ Create	CMM 13-2021 on Management of New and Exploratory Fisheries
Submitted by: New Zealand	
Summary of the proposal: These amendments are being proposed by New Zealand in order to provide more clarity for Members and the operators and crew of their fishing vessels as to what constitutes an authorised or an exploratory fishery. The proposal updates the definition of "exploratory fishery" in paragraph 4 of CMM 13-2021 to consist of any fishery that is not specified in the new annex "Authorised Fisheries" (Annex A). The annex details the authorised targeted species, FAO Code, authorised zone/s, authorised gear and expected bycatch. A new para 5 explains how bycatch is to be considered in relation to the targeted species and the appropriate levels of authorised bycatch. There is also a section detailing fisheries not covered by current CMMs.	
Objective of the proposal: The aim of this proposal is to address any ambiguity in CMM 13-2021 (Exploratory fishing) as regards the definition of "exploratory fishery". In the report of its 10th meeting, the Scientific Committee noted the existence of fishing activities targeting species that are not covered by an established or exploratory fishing CMM and are not associated with a science-based monitoring scheme (SC10-report, paragraph 252.a). Similarly, during its discussions on a directed redbait fishery in the SPRFMO Convention area at its 10th meeting, the CTC recommended that CMM13-2021 be reviewed to ensure that SPRFMO's fisheries continue to be managed sustainably. New Zealand requests the establishment of a Working Group to discuss this proposal.	
Has the proposal financial impacts or influence on the Secretariat work?	☐ Yes ☒ No
Ref: **COMM12-Prop15**	Received on: 10 December 2023

CMM 13-2024

Conservation and Management Measure for the Management of New and Exploratory Fisheries in the SPRFMO Convention Area

(Supersedes CMM 13-2021)

The Commission of the South Pacific Regional Fisheries Management Organisation*;*

RECALLING Article 22 of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (the Convention) which provides that a fishery that has not been subject to fishing or has not been subject to fishing with a particular gear type or technique for ten years or more shall be opened as a fishery or opened to fishing with such gear type or technique only when the Commission has adopted cautious preliminary Conservation and Management Measures (CMMs) in respect of that fishery and, as appropriate, non-target and associated or dependent species, and appropriate measures to protect the marine ecosystem in which that fishery occurs from adverse impacts of fishing activities;

RECOGNISING Articles 3(1)(a)(i) and (ii) of the Convention which call on the Commission, in giving effect to the objectives of the Convention, to adopt CMMs that take account of international best practices and protect the marine ecosystem, particularly ecosystems with long recovery times following disturbance;

FURTHER RECOGNISING Articles 3(1)(b) and (2) of the Convention which call on the Commission to apply the precautionary approach and ecosystem based approach to fishery resources under the mandate of the Convention;

NOTING United Nations General Assembly (UNGA) Resolution 61/105 which calls upon Regional Fisheries Management Organisations (RFMOs) to assess, on the basis of the best available scientific information, whether individual bottom fishing activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts, or not authorised to proceed;

FURTHER NOTING UNGA Resolution 64/72 which calls upon RFMOs to establish and implement appropriate protocols for the implementation of UNGA Resolution 61/105, including definitions of what constitutes evidence of an encounter with a VME, in particular threshold levels and indicator species; and to implement the FAO Guidelines for the Management of Deep-sea Fisheries in the High Seas (FAO, 2009; International Guidelines for the Management of Deep-sea Fisheries in the High Seas) in order to sustainably manage fish stocks and protect vulnerable marine ecosystems (VMEs);

NOTING the requirements in CMM 03-2022 on the Management of Bottom Fishing in the SPRFMO Convention Area which place a number of obligations on Members and CNCPs who intend to authorise their flagged vessels to engage in any bottom fishing in the Convention Area;

AGREEING that new and exploratory fisheries should not be permitted to expand faster than the acquisition of information necessary to ensure that the fishery can and will be developed in accordance with the principles set out in Article 2 of the Convention;

ADOPTS the following CMM in accordance with Articles 8, 20 and 22 of the Convention:

Objective

1. This CMM details the framework which will govern the management of new and exploratory fisheries in the SPRFMO Convention Area. This CMM is intended to ensure that sufficient information is available to evaluate the long term potential of new and exploratory fisheries, to assist the formulation of management advice, to evaluate the possible impacts on target stocks and non-target and associated and dependent species, to ensure new and exploratory fishery resources are developed on a precautionary and gradual basis and to promote the sustainable management of new and exploratory fisheries.

Application

2. Hereinafter, "new and exploratory fisheries" shall be referred to in this CMM as "exploratory fisheries".
3. This CMM applies to all fishing activity in exploratory fisheries, as defined in this CMM, in the Convention Area.

Interpretation

4. For the purposes of this CMM;
   a) a fishery is an ""exploratory fishery"" if any of the following apply:
      i. It is not listed as an established fishery in Annex A;
      ii. It will not be undertaken within the authorised areas in Annex A or the relevant CMM; or
      iii. It is not undertaken with a fishing gear type authorised for the species targeted in Annex A or the relevant CMM.
   b) Planned fisheries or fishing activity in an exploratory fishery can only be undertaken pursuant to approval by the Commission in accordance with the requirements for an Exploratory Fishery outlined in this CMM.
   c) To engage in an Exploratory Fishery without having a valid authorization from the Commission is a contravention of this CMM.

Bycatch

5. Notwithstanding paragraph 4, it is possible that non-target species[1] will be captured while carrying out fishing activities for authorised targeted species. For the purposes of this CMM these species will be considered as bycatch. The bycatch in any targeted fisheries should not exceed the threshold for the species identified in Annex A or the relevant CMM. If there is no threshold identified in Annex A or the relevant CMM, the bycatch should not exceed the [40] percent by green weight of the targeted species as determined appropriate by the Scientific Committee. Bycatch provisions apply to each [specific haul], [tow or] [daily operation]. Based on data submissions, the Secretariat [Members] is/are able to refer instances of excessive bycatch to the Scientific Committee for assessment and recommendations.

Requirements for Exploratory Fisheries

6. Any Member or CNCP seeking to permit a vessel that flies its flag to fish in an exploratory fishery, or to fish in an exploratory fishery with a gear type that has not been used in that fishery for the previous ten years; shall submit no less than 120 days prior to the next annual meeting of the Scientific Committee a succinct description of their intended Fisheries Operation Plan for information purposes, using the templates developed by the Scientific Committee. The Secretariat shall circulate the succinct description received to all Members and CNCPs, 115 days in advance of its next annual Scientific Committee meeting. A full

[1] Excluding marine mammals, seabirds, reptiles, VME indicator taxa and Other Species of Concern.

Fisheries Operation Plan shall be submitted, taking into account paragraph 6 if relevant, not less than 60 days in advance of the next annual meeting of the Scientific Committee, according to the following:

a) submit an application to the Commission to permit a vessel or vessels that fly its flag to fish in that exploratory fishery. This application shall include information that satisfies paragraphs 2 and 3 of Annex 1 of CMM 05-2022 (Record of Vessels);

b) prepare and submit a Fisheries Operation Plan to the Scientific Committee. The Fisheries Operation Plan shall include the following information, to the extent it is available:

   i. a description of the exploratory fishery, including area, target species, proposed methods of fishing, proposed maximum catch limits and any apportionment of that catch limit among areas or species;

   ii. specification and full description of the types of fishing gear to be used, including any modifications made to gear intended to mitigate the effects of the proposed fishing on non-target and associated or dependent species or the marine ecosystem in which the fishery occurs;

   iii. the time period the Fisheries Operation Plan covers (up to a maximum period of three years);

   iv. any biological information on the target species from comprehensive research and/or survey cruises, such as distribution, abundance, demographic data and information on stock identity;

   v. details of non-target and associated or dependent species and the marine ecosystem in which the fishery occurs, the extent to which these would be likely to be affected by the proposed fishing activity and any measures that will be taken to mitigate these effects;

   vi. the anticipated cumulative impact of all fishing activity in the area of the exploratory fishery if applicable;

   vii. information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of the relevant exploratory fishery's potential yield, to the extent the Member or CNCP is able to provide this information;

   viii. if the proposed fishing activity is bottom fishing, as defined in CMM 03-2022 (Bottom Fishing), the assessment of the impact of their flagged vessels' bottom fishing activities, prepared pursuant to paragraph 21(a) of CMM 03-2022 (Bottom Fishing); and

   ix. where the target species is also managed by an adjacent Regional Fisheries Management Organisation or similar organisation, a description of that neighbouring fishery sufficient to allow the Scientific Committee to formulate its advice in accordance with paragraph10.

c) provide a commitment in its proposal to implement the Data Collection Plan for the exploratory fishery developed in accordance with paragraph 11, should the Commission approve fishing in accordance with the Fisheries Operation Plan.

7. Where two or more SPRFMO Members or CNCPs are seeking to participate in an exploratory fishery for the same or overlapping fishery, area and timeframe, all reasonable efforts shall be made by all the participants of the proposed fishery to jointly submit the Fisheries Operation Plan described in paragraph 6.

8. Paragraph 7 shall not apply to Fisheries Operation Plans for the same or overlapping fishery, area and timeframe already approved by the Commission that have not expired[2], except with the agreement of all the participants in the fishery which recognise ongoing efforts by the current participant.

9. The requirements in paragraphs 7 and 8 shall be considered as a proposal for the next annual meeting of the Commission and will be made available to all Members and CNCPs in accordance with the Rules of

[2] A Fisheries Operation Plan is considered to have expired after the time period covered by the Fisheries Operation Plan or when a Commission decision is necessary for its continuation.

Procedure.

Scientific Committee Consideration

Fisheries Operation Plans

10. At its annual meeting, the Scientific Committee shall consider all Fisheries Operations Plans submitted pursuant to paragraph 6, all information provided in accordance with a Data Collection Plan and any other relevant information.

11. The Scientific Committee shall provide recommendations and advice to the Commission on each Fisheries Operation Plan on the following matters, as appropriate:

    a) management strategies or plans for fishery resources;

    b) reference points, including precautionary reference points as described in Annex II of the 1995 Agreement;

    c) an appropriate precautionary catch limit;

    d) the cumulative impacts of all fishing activities in the area of the exploratory fishery;

    e) the impact of the proposed fishing on the marine ecosystem;

    f) the sufficiency of information available to inform the level of precaution required and the degree of certainty with which the Scientific Committee's advice is provided;

    g) the degree to which the approach outlined in the Fisheries Operation Plan is likely to ensure the exploratory fishery is developed consistently with its nature as an exploratory fishery, and consistently with the objectives of Article 2 of the Convention; and

    h) in respect of a Fisheries Operation Plan that proposes any bottom fishing activity, advice and recommendations in accordance with paragraph 21 (b) of CMM 03-2022 (Bottom Fishing).

Data Collection Plans

12. When considering a Fisheries Operation Plan submitted pursuant to paragraph 6 of this CMM in respect of an exploratory fishery that meets the definition of paragraph 4(a) of this CMM, the Scientific Committee shall develop a Data Collection Plan in respect of that exploratory fishery which should include research requirements, as appropriate. The Data Collection Plan shall identify and describe the data needed and any operational research actions necessary to obtain data from the exploratory fishery to enable an assessment of the stock, the feasibility of establishing a fishery and the impact of fishing activity on non-target, associated or dependent species and the marine ecosystem in which the fishery occurs. The Scientific Committee shall review and update the Data Collection Plan for each exploratory fishery annually as appropriate.

13. The Data Collection Plan shall require, as appropriate:

    a) a description of the catch, effort and related biological, ecological and environmental data required to undertake the evaluations described in paragraph 6;

    b) the dates by which the data must be provided to the Commission;

    c) a plan for directing fishing effort in an exploratory fishery to allow for the acquisition of relevant data to evaluate the fishery potential and the ecological relationships among harvested, non-target and associated and dependent populations and the likelihood of adverse impact;

    d) where appropriate, a plan for the acquisition of any other research data obtained by fishing vessels, including activities that may require the cooperative activities of scientific observers and the vessel, as may be required by the Scientific Committee to evaluate the fishery potential and the ecological relationships among harvested, non-target, associated and dependent populations and the likelihood of

adverse impacts; and

e) an evaluation of the time scales involved in determining the responses of harvested, dependent and related populations to fishing activities.

Compliance and Technical Committee Consideration

14. The Compliance and Technical Committee shall consider any Fisheries Operation Plan submitted pursuant to paragraph 6 and any advice of the Scientific Committee thereon and provide advice and recommendations to the Commission on appropriate management arrangements, including in light of the obligations in CMM 03-2022 (Bottom Fishing), if applicable.

Commission Consideration

15. At its annual meeting, the Commission shall consider all Fisheries Operation Plans submitted pursuant to paragraph 6, any advice or recommendations provided by the Scientific Committee and Compliance and Technical Committee pursuant to paragraphs 11 and 14, and any applicable obligations under CMM 03-2022 (Bottom Fishing) in respect of the proposed fishing activity. On the basis of this consideration, the Commission shall take a decision as to whether to approve fishing in the exploratory fishery in accordance with the Fisheries Operation Plan and for what period of time, up to a maximum period of three years. If the Commission approves fishing in accordance with the Fisheries Operation Plan it shall adopt a CMM in respect of the exploratory fishery which shall include a precautionary catch limit and any other management measures the Commission considers appropriate.
16. The Commission may amend a Fisheries Operation Plan, as necessary, prior to approving fishing.
17. Exploratory fisheries shall only be open to those vessels that are equipped and configured to comply with all relevant CMMs.

Fishing Activity

18. Members and CNCPs shall not permit their flagged vessels to fish in an exploratory fishery without approval from the Commission.
19. Members and CNCPs shall ensure that any vessel that flies their flag only fishes in an exploratory fishery in accordance with the Fishery Operations Plan prepared and approved in respect of that vessel's proposed fishing activity.
20. Members and CNCPs shall ensure that where their flagged vessels fish in an exploratory fishery, the data required by the Data Collection Plan is provided to the Commission. That data shall be provided to the relevant standard prescribed in CMM 02-2022 (Data Standards). Members and CNCPs whose vessels participate in exploratory fisheries shall be prohibited from fishing in the relevant exploratory fishery if the data specified in the Data Collection Plan has not been submitted to the Commission for the most recent season in which the fishing occurred, until the relevant data has been submitted to the Commission and the Scientific Committee has had the opportunity to review that data.
21. Members and CNCPs whose vessels participate in exploratory fisheries shall ensure that each vessel that flies its flag carries one or more independent observers sufficient to collect data in accordance with the Data Collection Plan.
22. None of the obligations in this measure exempt a Member or CNCP from complying with any other obligations in the Convention or any CMM adopted by the Commission.
23. Any fishing activity undertaken pursuant to this CMM will not be considered to be a precedent for future allocation decisions.
24. Notwithstanding paragraph 19, Members and CNCPs shall be entitled to authorise fishing in an exploratory fishery by a flagged vessel not identified in the Fisheries Operation Plan if a vessel

specified in the Fisheries Operation Plan is prevented from fishing on account of legitimate operational or force majeure reasons and a replacement vessel is proposed pursuant to this paragraph. In such circumstances the Member or CNCP concerned shall immediately inform the Secretariat and provide:

a) full details of the intended replacement vessel;

b) a comprehensive account of the reasons for the replacement and any relevant supporting evidence; and

c) specifications and a full description of the types of fishing gear to be used by the replacement vessel. The Secretariat shall circulate this information to all Members and CNCPs as soon as possible.

Review

25. Once a Fisheries Operation Plan expires, a Member or CNCP may prepare a new Fisheries Operation Plan in accordance with paragraph 6.

26. Once an exploratory fishery has been fished for 10 years pursuant to this CMM, any further fishing in that fishery shall be undertaken only in accordance with a CMM adopted by the Commission in accordance with paragraph 26 to manage that fishery as an established fishery.

27. At any time if the Commission is satisfied that sufficient information is available:

    a) to evaluate the distribution, abundance and demography of the target species to inform an estimate of the exploratory fishery's potential yield; and

    b) to review the exploratory fishery's potential impacts on non-target and associated or dependent species and the marine ecosystem in which the fishery occurs; and

    c) to allow the Scientific Committee to formulate and provide advice to the Commission on appropriate management arrangements;

the Commission may take a decision, on the application of any Member, to manage the fishery as an established fishery.

28. At its [2024] annual meeting, the Scientific Committee will review the Established fisheries listed in Annex A and provide advice to the CTC on the targeted species, area of operations, gear used and expected levels of bycatch (including the level specified in paragraph 5) considering the most recent 10 years of available information. The CTC will consider the advice provided by the SC on the fisheries that have been established in the SPRFMO Area and will advise the Commission accordingly.

29. This measure shall be reviewed at the annual meeting of the Commission in 2021. Such review shall take into account, *inter alia*, the most recent advice of the Scientific Committee on exploratory fisheries.

Annex A – Established Fisheries

Fishery	Targeted Species	FAO Code	Authorised Areas ~~restrictions~~	Authorised Gear	Expected levels of bycatch
Jumbo flying squid	*D. gigas*	GIS	FAO Area 87	Jigging	Less than 5%
Jack mackerel	*T. murphyi*	CJM	FAO Area 87	Midwater trawl and purse seine	Less than 10% Mostly MAS, BRU, GIS, UBA
Bottom fishing (Bottom trawl)	Orange roughy Alfonsino Cardinalfish Oreo dories	ORY ALF, BYX, BYS APO	Bottom Fishing FMAs only	Bottom trawl	Variable % Ribaldo Rattail Deepwater dogfish
Bottom fishing (Mid-water trawl)	Alfonsino Pelagic armourheads	ALF, BYX, BYS EDR	Bottom Fishing FMAs only	Midwater trawl	Variable % Bluenose warehou Oreo dories
Bottom fishing (Bottom line)	Emperors Bluenose warehou Wreckfish Morwongs Snappers Amberjacks Ling Bass/Hapuka		Bottom Fishing FMAs only	Bottom longline, Drop/Dahn line Hand line	Variable % Deepwater dogfish Sea perch Gemfish
Fisheries not covered by current CMMs					
Chub mackerel (pretty common, but under the radar)	*S. japoncus*	MAS	FAO Area 87	Midwater trawl and purse seine	Less than 15% Mostly CJM
Redbait (subject to a COMM decision)	*E. nitidus*	EMM/EMT	FAO Area 87	Midwater trawl	Up to 50% mostly BYS, UBA
Rays Bream (strictly speaking a HMS spp)	*B. Australis*	BRU	FAO Area 87	Midwater trawl	Less than 10%
Jumbo flying squid (now prevented by 2023 CMM)	*D. gigas*	GIS	FAO Area 87	Midwater trawl	