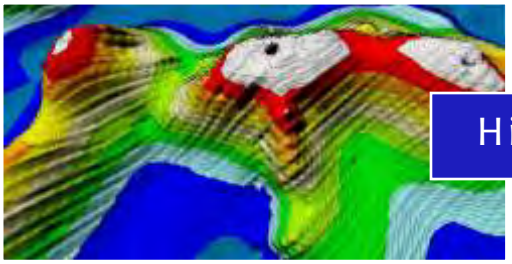
6th Meeting of the Commission
Lima, Peru, 30 January to 3 February 2018

COMM 6 – OBS 01

Objection by the High Seas Fisheries Group to the Proposed SPRFMO Draft – Bottom Fishing CMM (COMM6-Prop05)

NZHSFG



High Seas Fisheries Group Incorporated

3 January 2018

The Independent Chair
SPRFMO Secretariat

To: All SPRFMO members

Dear Members,

OBJECTION BY THE HIGH SEAS FISHERIES GROUP TO THE PROPOSED SPRFMO DRAFT - BOTTOM FISHING CMM

Executive Summary.

In this paper, the New Zealand High Seas Fisheries Group (HSFG) records its objections to the timing and content of the Proposed Draft CMM for Management of Bottom Fishing jointly submitted to the SPRFMO secretariat on 11 December 2017 by Australia and New Zealand (**Annex 3 attached).**

Further, the HSFG signals its intention to pursue legal action against the NZ Government to prevent their access rights to bottom trawling on the High Seas in the SPRFMO area being further eroded should the Draft CMM be passed by SPRFMO at the forthcoming 6th Commission meeting that will occur in Peru from 26 January 2018.

The HSFG has requested the NZ Government to recall the Draft CMM and retain the Current Bottom Fishing Measure until the terms of the Proposed Draft CMM are reviewed comprehensively and a consensus is achieved with the HSFG members.

The Paper sets out the history and background to the current Draft CMM, and outlines the HSFG's concerns with the current Draft. It also seeks to highlight inadequacies in the modelling that has given rise to the current measures.

Andy Smith

Chair: High Seas Fisheries Group.
21 December 2017

PO Box 3830 Richmond, Nelson 7050, New Zealand

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1. **Introduction.**

It is widely recognised that fishing vessels are important platforms for gathering scientific information and so provide data that is valuable to management. In the SPRFMO area, it is this data that enables our members, officials and scientists to make the informed and evidence-based decisions needed to manage the fisheries. However, it is not the fishing vessels that gather the information; rather their officers, crew and observers. The combination of the SPRFMO deep-sea fishing grounds not being easy places to work and their great distance from the vessels' home bases result in a challenging working environment.

Most of the professionals manning the vessels and fishing in the 'zone' are passionate about fishing and about ensuring the long term sustainability of the SPRFMO and the wider areas. Without them and without more collaboration between officials and the individuals operating these vessels, the sustained and rational use of the resources in SPRFMO will not happen. Fishermen are a unique, strong, independent group of individuals with a clear sense of their purpose and identity. They work in an often-harsh environment which can appear harsh to officials and scientists. They certainly do not suffer fools gladly as the risks to them and their businesses are just too high. In saying this, I have a strong belief that most career fisherman care for the environment, resources sustainability and are, at their core, conservationists.

However, with inadequate or inaccurate information to support good management decisions, the commercial fisheries will fail, which will inevitably cost all participants. This will only serve to provide fuel to anti-fishing groups who believe we should simply stop fishing.

It is not our intention to cause mischief, but rather to provide members with direct real-time input from the industry, provided by individuals with unique skills and experiences in understanding the reality of fishing on the grounds.

We have always been willing, indeed eager, to share our knowledge with this forum as we believe that information and insights that the members of the HSFG have, together with our expertise in the SPRFMO area, can add enormous value to the forum and ground the decision-making process in reality rather than conjecture. We note the growing global recognition of the value of fishermen's knowledge in improving fisheries resource management.

2. **Background**

It is well known that, despite measures to protect the horse mackerel fishery from overfishing, the fishery collapsed. In my opinion, this failure by New Zealand, Australian and Chilean officials and politicians to effectively put measures in place to protect and achieve a sustainable fishery directly contributed to the collapse of the fishery. This was despite strong warnings from industry groups such as ourselves.

Between New Zealand and South America are many different types of underwater seafloor features (UTFs) which are commonly (and incorrectly) referred to as Seamounts (See Annex 2 Fig 3**)**. New Zealand, in addition to having one of the largest EEZs, has pioneered fishing for deep water species on these UTFs. Fishing in these areas requires vessels to roll the trawls down the slopes of the seamounts after landing the net on the bottom at depths in excess of 800 metres and retrieve them from a maximum of 1500 metres. This is highly risky to the crews as when the net lands on rough ground

(similar to that of the Andes mountain range in Chile), it can encounter cliffs or large rocks that can trap the net. It is times like these, when anchored to the bottom by two 3000 metre steel wires for 24 hours in high seas, that the risks associated with our trade can be truly understood. It is a highly skilled operation, requiring large, powerful vessels that cost from three to 30 million dollars and highly skilled individuals. The main target species are Orange Roughy and Alfonsino, which are prized by consumers in Japan, Europe and the United States (See Annex 2 Fig 3 for pictures of areas we have fished).

Prior to the 'enclosing of the commons' of the high seas through RFMOs, vessels from any nation could operate in these waters with little to no limitations and their catches could be landed almost anywhere. Increasingly, however, the focus of international environmental groups has moved to the effects of bottom trawling/fishing on the seabed.

Most of you will have heard the analogy that the effect of bottom fishing upon benthic animals such as sea sponges, corals, etc. is akin to the felling of forests on land. Several governments have been persuaded to listen to this rhetoric about bottom fishing and to believe that deep water species cannot be fished sustainably. Yet we find that resources of so called "long lived" fish are returning after relatively short fishing down periods, and the evidence from our skippers and, more recently, from scientists indicates? that bottom fishing is not as destructive as you have been led to believe.

3. **The regulation of the SPRFMO area.**

The role of RFMOs in combating IUU fishing and managing fish stocks is described in Paragraphs 83 to 90 of UN General Assembly Resolution 61/105 of 8 December 2006 on Sustainable Fisheries which:

> *"Calls upon regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to adopt and **implement measures**, in accordance with the precautionary approach, ecosystem approaches and international law, for their respective regulatory areas as a matter of priority, but not later than 31 December 2008 …"*

The measures in place to manage bottom fishing on the high seas are referred to in Article 83. In this article, these measures follow what would appear to be a logical process:

1. The *assessment* of whether bottom fishing would have significant adverse impacts on vulnerable marine ecosystems (VMEs) and, if assessment determines that it have significant adverse impacts, it is managed to prevent these impacts;

2. To *identify* VMEs and the adverse impact that bottom fishing would have on these VMEs;

3. To *close* VMEs including sea mounts based on best available scientific information;

4. To *require* members of RFMOs to have made "arrangements with the competence to regulate bottom fisheries" to cease bottom fishing activities where VMEs are encountered.

Regarding bottom fishing in SPRFMO we have previously stated that the drafters of the *SPRFMO interim measures* got the Article 83 process back to front; they followed the following order:

1. The *limitation* of bottom trawl effort to existing levels (i.e. 2002 to 2006 levels) including limitations on the number of vessels and tonnage (called the effort footprint).

2. A complete *closure* of some areas previously fished (including lightly trawled areas). Was this caused by the ignorance of officials who were unaware of the extent of fishing history in the wider SPRFMO area?

3. Cooperation between members to identify VMEs;

4. *Closure* of areas where VMEs are known to occur or likely to occur based on "best available scientific information", and subject to the *assessment* process below;

5. Introduction of an area closure of 5 nautical miles around any site in the SPRFMO area where evidence of VMEs is encountered and the undertaking of scientific research activities for stock assessment purposes;

6. Undertake scientific research activities in areas where fishing is not happening.

New Zealand then imposed these measures on their own flagged vessels by way of a Gazette Notice pursuant to Section 113C of the NZ Fisheries Act 1996 and the consequent conditioning of High Seas permits under Section 113K(r). This has led to the introduction (through the back door) of what is in effect a comprehensive management and compliance regime for Bottom Trawling on the High Seas into New Zealand and this is incompatible with the regime within the EEZ. The NZ permit conditions followed the Interim Measures closely, resulting in vessels being confined to the 2002 to 2006 "footprint" and the so called 'move on' rule as well as a suggested catch limit. Further regulation of fishing in SPRFMO occurred when the Commission redefined CM 2.03 to include and regulate other types of fishing gear, not just bottom trawling.

As a result, through further conditioning of the High Seas fishing permits, HSFG members have been limited to an area that is far smaller than the area for which catch history exists. We, the Industry, were and still are unhappy with this because we sees no scientific basis for this. The 2002-2006 catch years were a result of political compromise and were not based on clear scientific findings or on policy (See Annex 2, Fig. 1).

NZ vessel owners and skippers are a part of one of the best managed fisheries in the world but are asking themselves why this level of regulation was thrust upon them, largely without reference to them or with the benefit of their intimate knowledge of fishing in this area and completely out of step with similar fisheries inside our EEZ.

The regulation of SPRFMO repeatedly relies on poor science. Here is an example: Much of the regulation in SPRFMO was based on predictive modelling of habitats. Predictive modelling advanced the view that the entire South Pacific Ocean was a VME, by predicting that coral existed on virtually every single UTF whether it is seamount, ridge or any other type of habitat. This predictive modelling ignored large sets of data, and specifically ignored the zero records. That is, where the model said there was coral and the survey record said there was nothing (or fishermen said there was nothing), the model then predicted a VME and the area was closed. It did little to nothing in addressing whether there was any risk of a significant adverse impact from fishing activity.

The new Zonation Model, advanced by NZ and reviewed in the 2017 SPRFMO Scientific Committee, follows the same path in that it starts with everything CLOSED and then the model opens areas where the fish are and where the model says there will be the least impact on VMEs. These models also suggest that if doubt exists as to the nature of the feature, you must assume it to be a VME. Actual reviews by New Zealand and Australia presented to the Scientific Committee show that less than 0.5% of the fishable habitat within the geographical area of the SPRFMO area has been impacted by bottom trawling. Of that 0.5%, experience from time on the grounds shows that less than 50% of that habitat is actually fishable, and, on most features, less than 5% of the respective areas have been fished.

As operators, we have been faced with a raft of scientific and management terms that are used in one way or the other to underpin regulations which restrict the operation of vessels, but that defy clear explicit definition: These include the terms "vulnerable marine ecosystems (VME)"; "significant adverse impacts"; "ecosystem approach"; "precautionary principle", and "sustainable management".

Over the past 7 years, we have lodged many information papers with SPRFMO, voicing our concerns and our discontent with some of the matters I have referred to. The primary purpose of our working papers was to bring practical, scientific and real-time input into the Scientific Working Group and to the Commission meetings that we have attended as observers. We believe we have added significant value with our technical expertise through being able to answer questions that have arisen from discussion and points raised in the papers submitted to meetings thereby assisting the work of SPRFMO.

4. **The High Seas Fisheries Group.**

The New Zealand High Seas Fisheries Group (HSFG) represents a group of New Zealand fishing companies that operate vessels on the High Seas, outside of NZ's EEZ. The South Pacific Regional Fisheries Management Organisation (SPRFMO) is a Regional Fisheries Management Organisation tasked with managing the high seas in the South Pacific. Our group was formed in 2010. Our skippers have considerable "on the ground" fishing experience gained over many years fishing in all oceans of the world. Many of these skippers, like myself, have well over 30 years' experience commanding operations on a range of vessels in many oceans. As such, our group is well qualified to comment on the work of this conference and on the various instruments provided by and to this organisation. Most of us have spent our entire lives working on the ocean, with a deep passion for the sea and all that it represents.

The HSFG was formed because our members were concerned with the direction that New Zealand officials were taking SPRFMO. At a meeting in Wellington NZ, I expressed the desire to inform SPRFMO members of my concerns. At this meeting, the official in charge informed us that HSFG members were free to "do what you like ", and thus we have made our concerns known to members of SPRFMO. As a result, my membership of the NZ delegation to SPRFMO has been rescinded and NZ tried to stop me attending. Thanks to my Chilean friends and the SPRFMO rules of procedure, I was able to attend and the HSFG is now accredited with other NGOs.

The HSFG, has been engaging with officials over the past years to achieve a consensus as to a sustainable, scientifically supported management regime for this area that supports sustainable use

and that considers “all of the best available information”. Notwithstanding our continued engagement with our ministries, we are disappointed and certainly underwhelmed with the progress, and recent events indicate that our extensive input into a proposed revised management regime for SPRFMO is being ignored.

5. **Previous objections raised by HSFG to current management measures.**

The HSFG has, over the past eight years, actively engaged with the NZ Ministry of Fisheries (MFISH), its successor the Ministry of Primary Industries, and the Ministry of Foreign affairs (the lead NZ agency on SPRFMO) on the management of SPRFMO. We have repeatedly voiced our objections to the SPRFMO Measures as they are reflected in their permit conditions on (amongst others) the following grounds:

1. The proposed implementation of catch limits on the High Seas in the SPRFMO area;
2. The manner and policy direction in which NZ has been driving the implementation of the measures;
3. The continued reliance on ill-defined concepts that are scientifically weak and essentially impossible to operationalize in a rational manner (e.g. VMEs and SAIs to name but a few). The term “significant adverse impact” being used when it is not defined scientifically and is proving problematic in function operationalizing (not only in the South Pacific but elsewhere too).
4. The continued management of the High Seas fishery on the basis of selective information and naïve modelling, the assumptions of which do not reflect the actual history of the fishery;
5. The use of spatial constraints (i.e. area closures such as the 2002 – 2006 footprint) to mitigate adverse impacts. This is widely seen as a blunt measure; it is not based on robust science but rather a political compromise (this much has been openly admitted by officials);
6. The contrived initial categorisation of New Zealand’s footprint on certain areas as heavily, moderately and lightly trawled and the rationale of the “move-on” rule;
7. The subjective and contrived thresholds for bottom fauna and what constitutes ‘vulnerable bottom fauna’ (VME indicator scores); the infamous “presence / absence” sheet. (See Annex 3).
8. The use of the term “VME” (vulnerable marine ecosystem) as it is unscientific and gives, in the mind of the public and uninformed decision makers, the notion that there must be a problem if an object is classed as “vulnerable”. This, to me, is akin to labelling fisherman as murderers , pillages and plunders .
9. The regulation of mid water trawling by the amendment of the definition of “bottom fishing to include all mid water trawling. HSFG objected to this strongly and now, years later, Australia and NZ are proposing three bottom fishing categories, finally recognizing our views!

SPRFMO records show there is little information on the benthos, so it is assumed that faunal elements are either rare or everywhere! However, recent scientific papers show that cold water corals and similar benthos are rare over the extensive areas that have been examined. Insufficient analysis has been undertaken and insufficient consideration has been given to the results of these scientific papers. I mention that the recent video that industry has through the use of the Acoustic Optical System has given us a clear insight into the nature of the seabed where we fish.

The HSFG has noted on several occasions that New Zealand, through MFISH/MPI, does not review the current Conservation and Management measures as it should. We agree we need to understand and use all available information to minimise adverse impacts on benthic fauna based upon (amongst others) the following:

1. Comprehensive review of the current bottom fishery impact assessment;
2. The introduction of new and more comprehensive management measures based upon *all* data;
3. The introduction of agreed catch limits based on a longer qualifying period;
4. Review of the validity of the VME concept as it is currently being interpreted and with regard to what actually occurs, i.e. as has been shown from NIWA surveys on the Louisville Ridge.

In late 2010, the HSFG proposed an alternative management measure for deep water fisheries in the SPRFMO area. These conservation measures proposed specific feature-based management and suggested the establishment of "open" and "closed" areas be defined for specific UTFs The New Zealand industry would commit to limiting fishing effort to specific and explicitly defined areas on the features both within and outside the current New Zealand footprint. In so doing, the management of this fishery will be simplified and there be a departure from the existing unscientific "light, medium and heavily trawled" categorisation of fishing areas and associated subjective and problematic "move on" rules. Further, the current management measures also dictate that, in an area has not been fished for 10 years, an application be made for an exploratory permit and the SC will decide if the proposal merits allowing access to the area.

A detailed paper entitled *"Management of Deepwater Fisheries by Seafloor feature in the South Pacific Ocean",* authored by Ross Shotton, was submitted to the NZ government in November 2010. Some 5 years on, this paper is still being discussed. However, I am pleased to see that spatial management (or management by feature) is now being taken more seriously by our officials through the current Zonation Model that NZ officials are relying upon.

Our group continues to engage the New Zealand Ministry of Primary Industries and the Ministry of Foreign affairs on their management of SPRFMO, as the imposition of extensive conditioning on our member's high seas permits is inconsistent (and indeed incoherent in function) with the regulation of their vessels by other countries. It is out of step with the SPRFMO Conservation Measures.

6. **Proposed Draft CMM for Management of Bottom Fishing.**

HSFG received by email on 11th December 2017, the final draft of a document entitled *"Conservation and Management Measure for the Management of Bottom Fishing in the SPRFMO Convention Area"*. This document sets out the proposed regulation of bottom fishing in the SPRFMO area and is a proposed joint Australia/NZ proposal for the management of fisheries in the SPRFMO area that is being submitted for review by other states. NZ and Australia are looking for approval at the forthcoming commission meeting, to be held in Peru in January 2017. *It has proposed significant additional and unacceptable restrictions to Bottom fishing measure and fishing in the SPRFMO area that will remain in force for many years to come!*

We have had several discussions with New Zealand officials in regard to the wording of the proposed CMM, but notwithstanding our objections on scientific and legal grounds, officials informed us at a meeting in Wellington on Monday 11 December 2017 that they intend to advance the latest draft of the proposed CMM (See Annex 3) to all Commission members. The effect of the draft CMM will be to constrain the fishing activities of the HSFG members to such a point as to make it uneconomical to send vessels to this fishery. Livelihoods will be lost, food and economic benefits will be forgone.

Once again, we find our fears well founded when considering the pathway followed by NZ and the effect on SPRMO's management of the deep-sea fisheries. HSFG members, (as with the members of SPRFMO), is committed to responsible resource management and to the operation of these fisheries in a manner that has a minimal impact upon the environment. It is this dedication to sustainability that drives our actions. We also have a duty to provide comments based on the reality of the actual fishery and the fisherman who are involved on the grounds, on the actual situation in areas covered by SPRFMO. The Commission records show that we have faithfully and diligently put forward our views to the Commission over many years.

7. **Objections to Proposed Draft CMM.**

When we reviewed the latest CMM, a number of issues caused concern:

a. The draft CMM does not reflect the results of the spatial management studies carried out - funded by the New Zealand taxpayer (including us) at a cost we estimate in excess of $ 10 m. This work was carried out ostensibly to follow the directions of the FAO Guidelines on how to implement UNGA resolutions relating to Bottom Fishing. We put it to the SPRFMO Scientific Committee that the funding was being poorly managed and mis-spent by our government's preferred suppliers of science, and that the studies were flawed. We warned of these flaws prior to the expenditure being incurred, and informed the Commissioners in 2014 in Manta. However, we were ignored and have not had our views recognized regarding the poor outcomes. It was claimed that "a negative result in science is a positive result". The negative result demonstrated that the models being promoted by New Zealand and Australian scientists were wrong.

b. It is unclear to us what inputs have been applied within the NIWA authored "Zonation Model" to arrive at the size of the open boxes proposed by the draft CMM. An issue of concern is that our recent input into the South Pacific Working Group stock assessment revealed that MPI's stock assessments (an input into the model) were significantly flawed

c. However, it was agreed by the SC that move-on rules should be viewed only as "back-stop" measures (if required) to complement spatial closures developed using decision-support software (whatever that is) and designed to prevent significant adverse impacts on VMEs;

d. The draft CMM is out of step with the work that the HSFG has done (at significant cost) to promote spatial management of this fishery (now referred to as the Zonation model) and to move away from the reliance on the "move on" rules which applied to the "Interim Measures" for the management of this fishery. The advice, within MPI and outside, confirms that the "move on" rule is an ineffective (and unnecessary) poor management tool that should be used as a last resort in the absence of any other measure.

e. The current draft CMM proposes significantly increased restrictions on operations of NZ vessels in this fishery by the introduction of "move on" rules where there are encounters with so-called VMEs (which, in reality, are neither ecosystems nor vulnerable in a population ecology sense) in areas that were previously open to fishing. An example of this new encounter protocol is found at paragraph 34 and following the Draft CMM. It is important again to put this in context: 99 % of the High Seas in the SPRFMO areas is closed to all bottom fishing. We are dealing with only 0.3% of the High Seas and this will now introduce further restrictions.

f. The proposed east/west split for the catch limits for deep sea fish stocks (paragraphs 19 and following) does not take into account stock assessments and input from the HSFG. Annex 2 does not provide clarity as to actual amounts each country can harvest access. The Annex seems to indicate a 50/50 split which does not reflect the NZ catch history in the area nor does it reflect the historical footprint imposed upon us of 2002 to 2006.

g. The proposed introduction of Catch Distribution at paragraphs 24-28 of the Draft CMM and Appendix 2 requires much more thought. The SPRFMO Science Committee has recommended further research and additional stock assessments to be conducted over the next 2 to 3 years to review the HSFG information on stock assessments. Australia's catch history in the area is very low. It is the HSFG's strong view that while more information is being gathered the existing CMM should apply

h. The size and location of the blocks referred to in Appendix 1 of the Draft CMM require more work. These were selected by people not experienced in our industry, based on the unproven 'zonation model'. What officials then did was to send them to industry and, when we plotted them, they had made some of the boxes so small that a trawler could not go back and shoot their trawl, land in the box and stay within the box during the trawl. This confirms a lack of understanding of fishing by those responsible in government. Please understand, the fishing final boxes sent out with the draft CMM were not agreed upon with industry and it is the industry who have the most information on the areas.

8. HSFG Conclusion of the new proposed bottom fishing CMM

In our view the proposed additional restrictions to access by this draft CMM (assuming they are accepted by the Commission), which would form part of the HSFG Permit conditions, ignore both the contents of the Articles defining the objectives SPRFMO and the purpose of the New Zealand Fisheries Act 1996, namely to provide for the utilisation of fisheries resources while ensuring sustainability. Further, as we can prove, the CMM is not based on the best available information as required under Section 10 of the Act and may be subject to review. Further, it undermines several SPRFMO articles.

We suggested to our officials that the precautionary approach to fisheries management must strike an appropriate balance between use and protection and to serve its ultimate purpose of achieving sustainable utilisation. This has been ignored as the current draft CMM, if implemented, will have the effect of precluding access to all others from the already limited area dictated by the flawed 2002-2006 qualifying years. In the HSFG's view, a disproportionally high value is being placed upon

protection values at the expense of sustainable utilisation by the HSFG members. This is a recurring theme throughout the CMM and in our view unlawful.

We made it clear to our officials it was inappropriate to advance the current draft CMM, given that the document is flawed and may be unlawful.

9. **Next Steps: Possible legal action and attendance at Commission**

It is with regret that the HSFG wishes to inform members that we are considering taking legal action against our government to protect our members' rights on the high seas. We have advised officials and Ministers accordingly. I appreciate that any legal action will have no impact on Members other than NZ, but it will be a public legal argument that will test the roots of how SPRFMO is being managed and how the current CMM is being enforced.

The HSFG has gone to great efforts to introduce real information into SPRFMO bottom fishing measures including the HSFG's 2010 recommendation to use Spatial Management as a tool to avoid the need to use the vague and ill-conceived concept of VME's.

We advise Members that we have no choice but to attend the Commission meeting and oppose the Draft CMM. We ask members to support a position that the Draft CMM be placed on hold for another year to allow a sensible and sustainable CMM to be negotiated.

Our officials have formed the view that the Commission is demanding a new CMM be put in place this year to ensure the Deepwater fishery is sustainable. I ask the large fishing nations that attend the commission including Russia, China, Korea, Taiwan, Chile, Peru and the EU and others to look very closely at this CMM as it sets unhealthy precedents. These include the allocation of rights which are not contemplated by UNGA and UNCLOS; the combination of full spatial management and "move on" rules and the non-recognition of straddling stocks and others. I look forward to meeting with you while in Lima as there are many details of the proposed draft CMM that I wish to share with you to inform your decision making.

10. **Some Reflections**

I am concerned that a wrong turn was taken at the start of the UNGA/SPRFMO process on how we, collectively, are to protect the fish and benthos on the High Seas. We see the process having been captured by groups claiming to be stakeholders in the process. Some of these have received funding for studies that, in hindsight, have proven to be poorly conceived and unproductive in their outcomes.

We see government departments with high staff turnovers being reluctant or unable to step back and objectively reflect as to whether current policies and practices are still the most effective means of ensuring satisfactory conservation and protection of biological communities, and the fragile benthos in the areas in which we fish. We are continually having to review the outputs from government and this Commission to ensure that the proper polices are implemented, based on sound science.

In our view, UNGA Resolution 61/105 has not been interpreted or executed properly. Officials and governments have fallen prey to all the unjustifiably negative rhetoric surrounding bottom fishing. We refer to our paper of October 2015 entitled "*Competing Narratives: Getting your VME story heard*

above the rest", where the authors unpack some of the misconceptions surrounding the use of scientific buzz words and where it is suggested that the spirit and intent of the UNGA regulation has not been carried through into the RFMOs because of the reliance on poorly defined scientific principles. I recommend this paper to officials as it places the debates on these issues in SPRFMO in context and is very enlightening.

RFMOs are not supposed to ***disable fishing***; on the contrary, they are supposed to ***enable sustainable fishing*** through effecitive measures with rational use as the management objective.

We have heard from several members that it is long past time to revise the FAO Deep-seas Fisheries Guidelines. We are better placed to do this having the benefit of actual information from underwater cameras and video footage on some of the grounds that we fish. No longer will officials and NGOS be able to hide behind negative, unrepresentative and emotional rhetoric in their quest to stop bottom fishing on the high seas (and ultimately within EEZ's)

We are concerned that departmental policies, that should be based on sound scientific and policy grounds are being driven by diplomats relying on the advice from lobbying organizations with singular and myopic anti fishing perspectives. Some positions appear to be held because to change them would involve recognition that they didn't get it right the first-time.

We rely upon our publicly funded scientists to be self-critical and skeptical - to challenge assumptions and not be driven in their conclusions by their need to keep funding streams intact.

11. **Conclusion**

Fishing alters the environment. It changes the number of available prey, it changes the numbers of predators, and it has an impact on the nature of ecological webs and energy flows and dependencies. In this way it is no different to any other food producing activity.

Of course, our fishing activities should not wipe out biological communities, erase species or cause entire populations to disappear. To do so would be contrary to our values. Equally importantly, we know that if our activities did this our markets would disappear – this is 2017 – not the 1950s, 60s or 70s.

The consequence of the implementation of flawed SPRFMO measures as interpreted by New Zealand is to impose significant and far reaching restrictions on New Zealand flagged vessels which preclude their operation in areas which they have operated in for many other years. There will be financial, economic and social costs.

Other non-SPRFMO flag states are not constrained by similar conditions as proposed in the Draft CMM with the consequence that effort on these areas will increase as IUU or vessels with non-conditioned permits may be able to operate on these areas without the normal strictures and reporting requirements that New Zealand flagged vessels operate under.

When you wade your way through the rhetoric and the suggestive pictures, scientists are relying largely upon guess work which they euphemistically call modelling, and manipulating data which they euphemistically refer to as grooming.

Put bluntly the information and evidence to support management measures that have been presented to this Commission is, in our opinion, sadly lacking in substance and does not rely on the best available information.

Yours Faithfully,

Andy Smith
Chairman
High Seas Fisheries Group Inc
Talley's Group Ltd, Sealord Group Ltd, Richardson Fishing Ltd, Endurance Fishing Ltd, Pescatore Fishing Ltd, Anton's Trawling Ltd and Sanford Ltd.

ANNEX 1: Chronology of New Zealand Interactions on SPRFMO

Mid 2007	UNGA Resolution 61/105 on sustainable fisheries introduced;
4 May 2007	Interim Measures to regulate bottom fishing adopted by participants to 3rd meeting of participants to SPRFMO;
February 2008	MFISH letter to permit holders: *NZ Implementation of the SPRFMO interim measures* Paper introduced (refers to 2010 review);
21 February 2008	Industry writes to MFISH objecting to closures (02/06 footprint) and 'move on' rule and fauna thresholds;
6 March 2008	MFISH response referring to international obligations (UNGA 61/105) and focus on protection on seamounts;
23 April 2008	MFISH write to industry setting out their programme to implement SPRFMO interim measures through conditions imposed on High Seas permits under S116K of the FA96; Industry objects: Qualifying years arbitrary; area closures and move-on rules imposed without assessment of significant adverse impact (SAI) and consequential identification of VME, no evidence of VMEs;
1 May 2008	NZ High Seas Permits conditioned;
December 2008	Draft NZ Bottom Fishery Impact Assessment circulated to industry for comment;
16 January 2009	Industry write to MFISH pointing out flawed approach and required management measures to done on a considered scientific basis; FA96 is a utilization based statute, not a conservation based statute; Draft Std does not accurately incorporate findings of the NZ Bottom Impact assessment;
July 2009 (undated)	Report on NZ's implementation of UNGA61/105 (Penney);
2009 (undated)	High Seas Catch Limits Regulations Discussion paper (Penney): Suggests 1852t catch limit.
July 2009	HSFG writes to MFISH objecting on grounds limits not required under SPRFMO Interim Measures; inconsistent with international law; no measures should be imposed with assessment of SAI and identification of VME;
1 April 2009;	Final Bottom Fishery Impact standard published; HSFG criticises: Std does not take adequate cognisance of sustainable utilisation and view of high seas fishers; qualifying years wrong, extension of application from 1500m – 2000m unsupported by scientific data; size of grid blocks; hierarchy of impacts;
14 November 2009	SPRFMO Convention signed in Auckland, New Zealand;
June 2010	Overview of Best Available Scientific Information on Orange Roughy Sustainable Catch Limits in the SPRFMO Area; Penney. Recommends: 1566t (predictive modelling paper);
August 2010	NIWA: Clark Biomass Assessment Report;
1 September 2010	Industry Meeting with MFISH re feature management;
October 2010	HSFG Incorporated;
14 January 2011	Ross Shotton for HSFG produces paper on "*Management of Deepwater Fisheries by seafloor feature"* sent to Ministry for Primary Industries MPI (successor to MFish);
1 April 2011	Amended HSP conditions imposed on NZ vessel's high seas permits;

22 January 2013	A New Approach to Fisheries (Shotton) published;
September 2013	MPI releases paper "*The Estimation of Initial Biomass and Catch Limits for Orange Roughy in the SPRFMO area*" (Emmerson). HSFG criticised this on grounds that no proper analysis had been done and paper scientifically weak and relies on ill-defined concepts;
November 2013	Draft CMM circulated; objected to by HSFG on grounds that it ignored previous work by HSFG; poorly drafted and significantly enhanced restrictions not based on any science; bottom trawling only impacts 4% of seafloor; ignores HSFG science based management and Shotton proposal;
23 December 2013	HSFG wrote to Ministers complaining of above;
January 2013	MANTA meeting: CMM 2.03 agreed.
April 2014	New HSP conditions published
17 April 2014	HSFG writes to Ministers of MPI and MFAT objecting to revised conditions on grounds of poor science, policy and methodology behind conditions and raising historical objections.
July 2014	MPI published papers "*The estimation of initial biomass and catch limits for Orange Roughy in the SPRFMO area*" and 'SPRFMO Bottom Fishing Conservation and Management overview paper.
September 2014	HSFG releases a comment on these papers noting that many of the issues raised in the papers, caused concern for several years, and was critical on new management directions that were emerging.
September 2014	HSFG publish "*Management by Seafloor feature of Deepwater fisheries in the Southern Ocean*" by Ross Shotton.
October 2014	HSFG writes to MPI objecting to the proposed inclusion of Mid water trawling restrictions on the High Seas Permits.
April 2015	MPI releases paper entitled "*Proposed NZ approach to Manage Midwater Trawling*" based on Advice of the Scientific Committee. MPI proposes further High Seas permit conditions seeking to include midwater trawling into the bottom fishing measures. This is objected to by the HSFG who negotiate amendment to conditions.
September 2015	HSFG Publishes paper "*Competing Narratives: Getting your VME story heard above the rest*"
January 2017	HSFG publishes paper "*Here Today Gone Tomorrow*" Progress towards more effective and rational fisheries management is there any?
May 2017	HSFG attend SPRFMO workshop in Hobart Tasmania
September 2017	HSFG presents a paper on *"A CPUE based stock assessment of the Louisville Central Orange Roughy stock* "

SCALE MATTERS

The small area open to trawling is due to the ad hoc use of a 2002-2006 footprint. (See Figure 1. The Green areas are those open to fishing)

- Total SPRFMO area is 49,000,000 Km2
- The fishable area <1600 m depth is 354,774 Km2- 0.71 % of the area under management by SPRFMO
- The area currently open to trawling is 207,849 Km2 – 0.42 % of the area under management by SPRFMO
- The actual area trawled 2002 – 2006 was 8,160 Km2 – 0.016 % of the area under management by SPRFMO

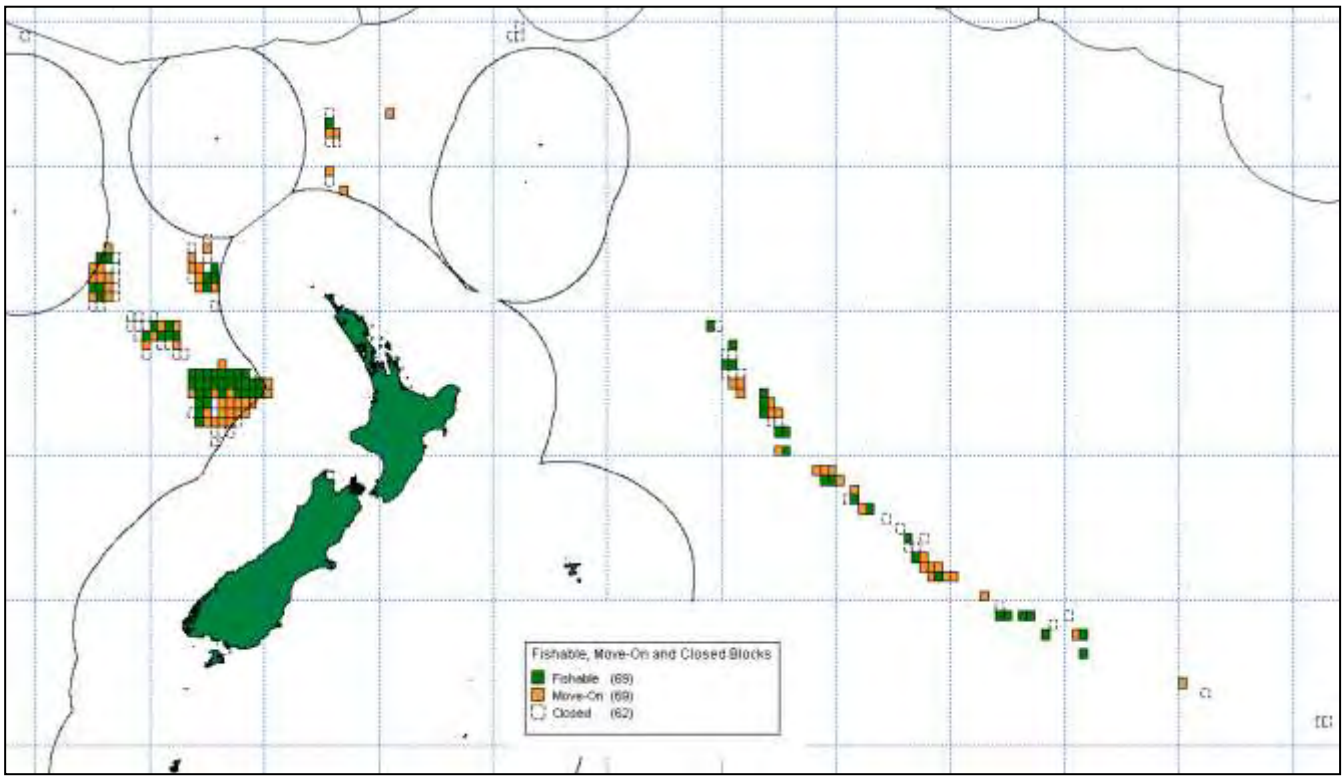


Figure 1. CLASSIFICATION OF TRAWLED BLOCKS BY EFFORT

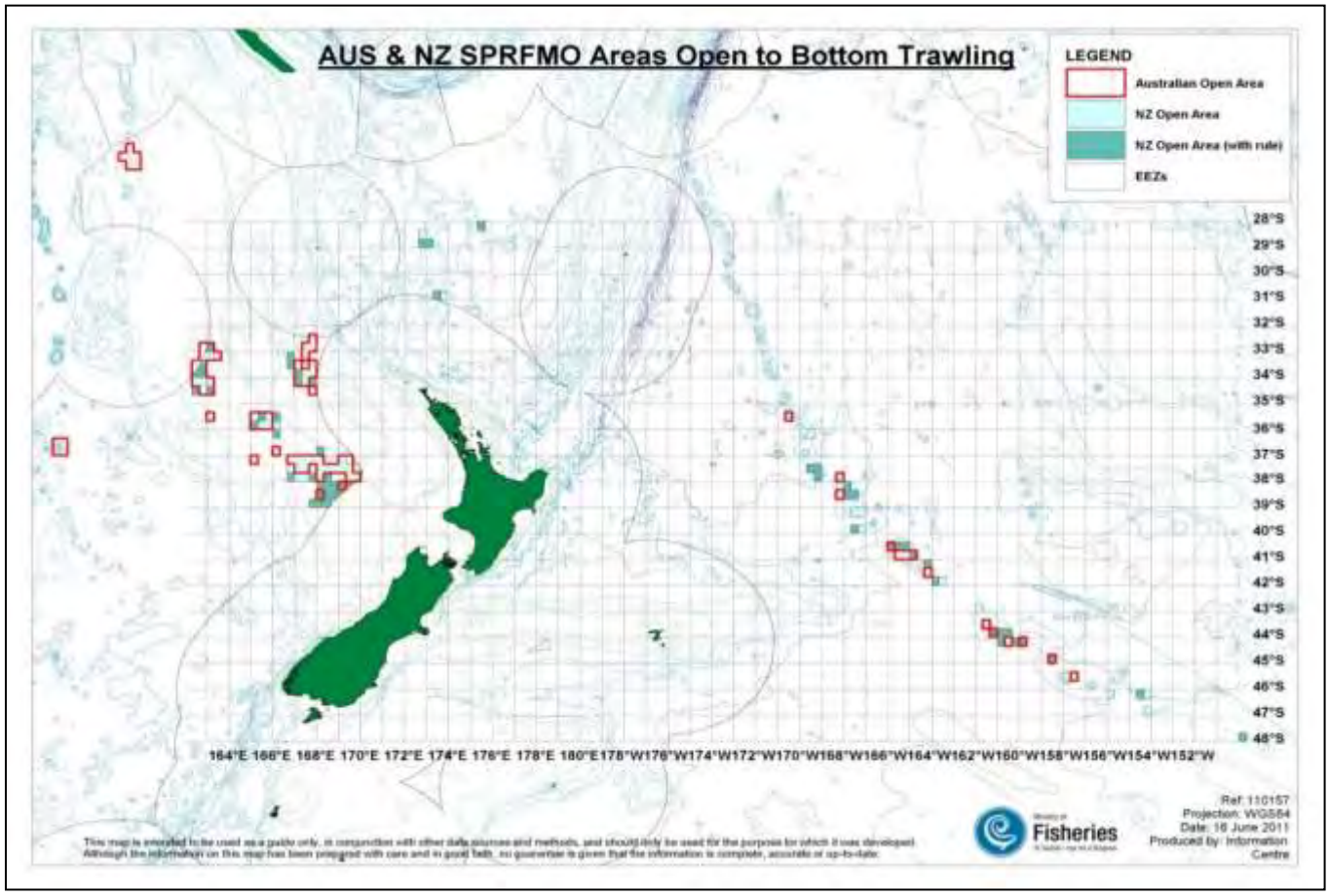
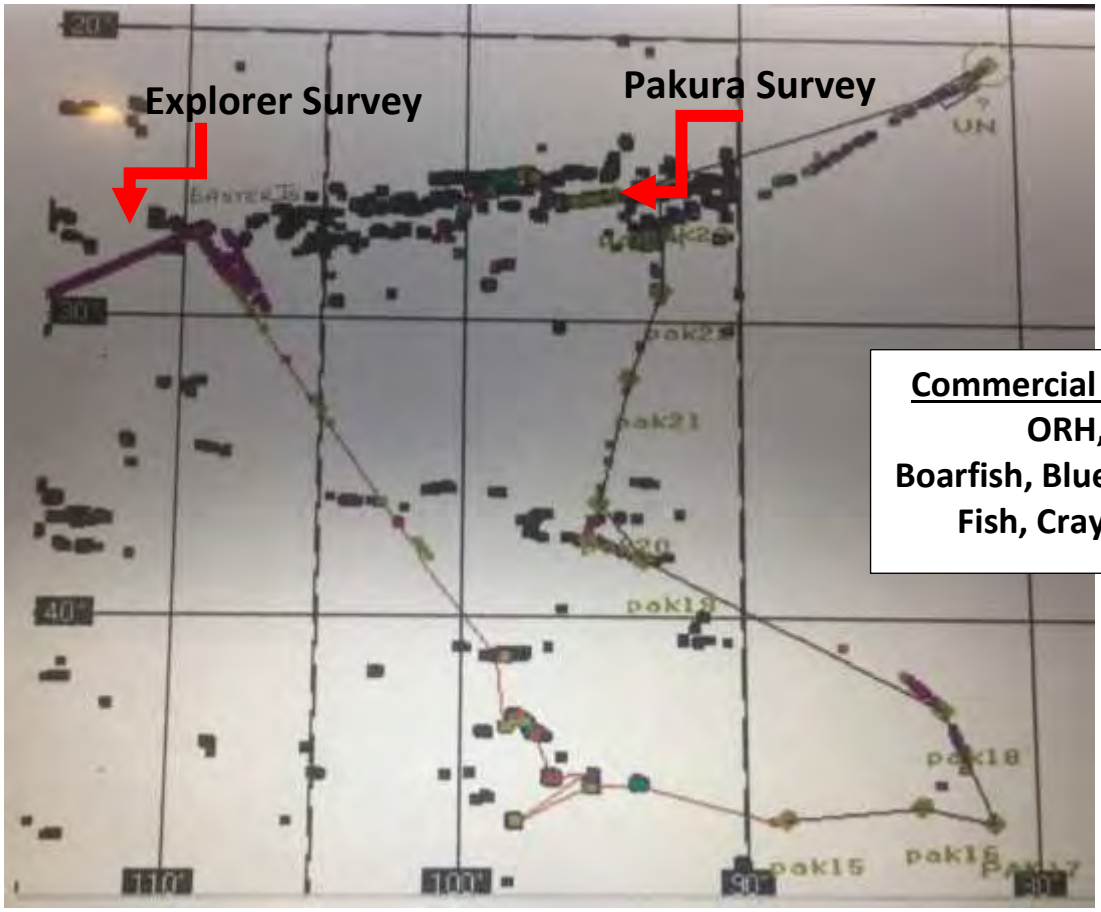


Figure 2: AUSTRALIAN AND NEW ZEALAND AREAS OPEN TO BOTTOM TRAWLING



Commercial Species Caught
ORH, BYX, Southern Boarfish, Bluenose, Emperor Fish, Crayfish and others

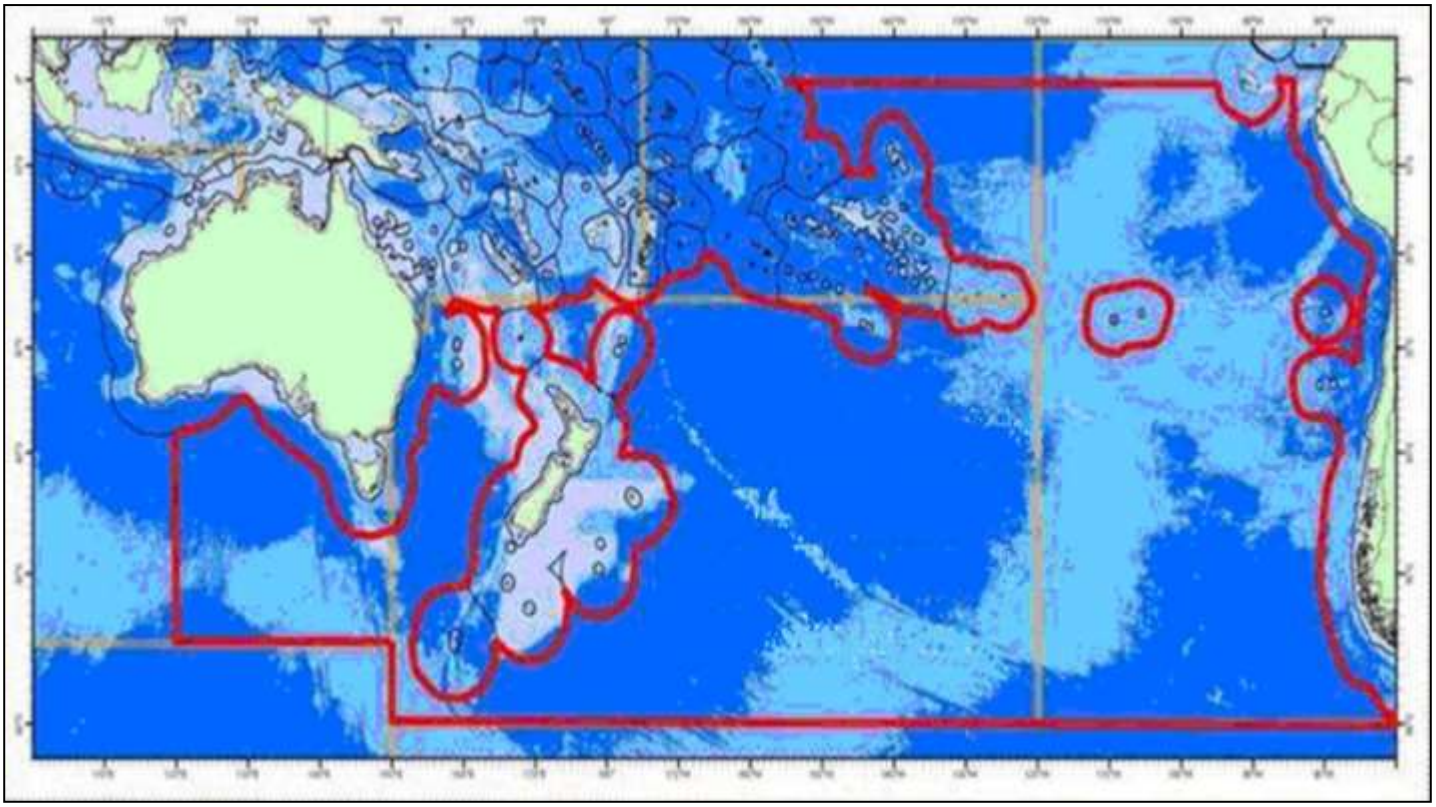


Figure 3: NEW ZEALAND VESSELS SURVEYS IN THE LATE 1990's.

Figure 4: AREA OF SURVEYS. The Pakura Survey took place between Nov 1998 and Jan 1999 on the western side of Easter Island in towards the Chilean EEZ. The Explorer survey took place in Jan 1999, in the area to the east of Easter Island. These areas are roughly indicated above by the yellow shape

- Some very clear points about environmental effects of fishing that all should consider:
- Food production comes in many forms, and all result in some form of modification to the environment
- There is no value to fishermen from inflicting environmental damage, only costs (direct and indirect)
- Fishers are more capable of developing solutions to problems than anybody else and should be encouraged when they do so
- It is this commission's obligation to use "all best available information" including data, best models, actual information from areas fished over the whole SPRFMO area.

The SPRFMO area is huge but only a tiny percent of this area is open due to the ad-hoc trawl footprint

SCALE MATTERS

ANNEX 3: CMM XX-2018 – Proposed Conservation and Management Measure for the Management of Bottom Fishing in the SPRFMO Convention Area

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CMM XX-2018
SPRFMO bottom fisł