SPRFMO

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

COMM 6 - Obs 02

Briefing for the 6th Commission meeting of the SPRFMO

DSCC

Briefing for the Sixth Meeting of the Commission of the South Pacific Regional Fisheries Management Organisation

Lima, Peru

30 January – 3 February 2018

Contents

Introduction and Recommendations

The Deep Sea Conservation Coalition (DSCC) respectfully submits this briefing for the Sixth Meeting of the Commission of the South Pacific RFMO (SPRFMO). The DSCC thanks the Peruvian government for holding this Commission meeting.

This briefing will address agenda item 3, the report of the Scientific Committee (SC), and item 6, Conservation and Management Measures (CMM), with respect to bottom fisheries.

The DSCC makes the following recommendations:

1. The New Zealand and Australian proposal for a new CMM on Bottom Fishing, COMM6-PROP5, should be adopted at this meeting, as it is broadly consistent with the provisions related to the protection of VMEs of UNGA resolutions 71/123 (2016), 64/72 (2009) particularly paragraphs 119[1] and 120,[2] and resolution 66/68 (2011), as well as resolution 61/105[3] (2006) and the 2008 United Nations Food and Agriculture Organisation International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (FAO Guidelines).[4]
2. States that intend to continue bottom trawling should update their impact assessments as a matter of urgency by a specified date.[5] The Commission should require all countries carrying out bottom fishing to expeditiously update their impact assessments in line with the seven criteria outlined in paragraph 47 of the FAO Guidelines.
3. The proposed changes in the catch of orange roughy is a matter of concern. The TACs proposed for the next 2-3 years, especially for the Louisville Rise (1140 tonnes), are a significant increase over the actual catch in the previous 2 years. For the Louisville Ridge, the SC advice has ignored much lower precautionary catch limits proposed in assessments by New Zealand scientists

(665 tonnes (table 2 in SC5-DW15_rev1) which is the combined North, Central and South limits). DSCC recommends that, at a minimum, the allowable catch be limited to the average annual catch over the previous 2-3 years until a more reliable determination of sustainable levels of catch can be made (consistent with the obligations in the UN Fish Stocks Agreement).

4. The Commission should instruct the Scientific Committee to prioritize stock assessments for target species in addition to orange roughy as a matter of urgency. This is a fundamental requirement for sustainable fisheries management and fishing should not occur absent stock assessments and a determination of sustainable levels of catch for target species.
5. The Commission should also instruct the Scientific Committee to provide advice on assessments and minimizing impacts on non-target species, in order for measures to be established to minimize, prevent, or eliminate the catch of deep-sea (low productivity) species, in particular species listed as endangered, threatened, vulnerable or near threatened on the IUCN Red List or otherwise likely to qualify as such under IUCN Red List criteria.
6. The Commission should not adopt the requested measure on experimental fishing for lobster and crabs and should require SC consideration instead, consistent with CMM 13-2016.
7. The Commission should amend the list of "other species of concern" in Annex 14 of CMM 02-17(data) to include deep-sea sharks in the SPRFMO Convention Area which are categorized as critically endangered, endangered, vulnerable or near threatened on the IUCN Red List and to also include CITES appendix II relevant species as recommended by SC-4 in Annex 5 of the SC-4 report.)

8. The Commission should require the collection of information that will provide for assessments in non-orange roughy target fisheries or these fisheries should be closed if it is not likely that the information collected will lead to a robust stock assessment in a short timeframe.
9. The Commission should put into place a process to study ecologically or biologically sensitive areas (EBSAs) identified in the Commission area and to identify appropriate responses, including protected areas. This should include a specific request to the SC to assess the EBSAs in the Commission Area and make recommendations.

The Scientific Committee Report

DSCC continues to be concerned at the lack of data about orange roughy stocks, as well as bycatch,[6] and notes that much uncertainty surrounds the recommendations (reflected in Article 19 of the CMM) of 1,140 tonnes per year for up to the next 2 years on the Louisville Ridge[7] and 346 tonnes per year for the Tasman Sea for up to the next 3 years.[8] These TACs, particularly for the Louisville Ridge, would represent a significant increase in the catch of orange roughy in the SPRFMO area compared to the average catch in these areas over the past several years in spite of continued uncertainty over the status of orange roughy stocks in the SPRFMO area as repeatedly noted in the report of the Scientific Committee.

For the Louisville Ridge, the SC advice has not applied lower precautionary catch limit proposed in assessments by New Zealand scientists (865 tonnes (table 2 in SC5-DW15_rev1) which is the combined North, Central and South limits). DSCC recommends that, at a minimum, the allowable catch be limited to the average annual catch over the previous 2-3 years until a more reliable determination of sustainable levels of catch can be made (consistent with the obligations in the UN Fish Stocks Agreement).

DSCC welcomes the recommendations in the report of the Scientific Committee on developing biological reference points and harvest control rules[9] and DSCC also welcomes the recommendations that:[10]

- ***noted*** *the BFIAS was agreed in 2011 and much has since changed in SPRFMO*
- ***noted*** *that UNGA has issued resolutions which reinforce the importance of conducting impact assessments which take full account of the FAO Deep Sea Guidelines and assess the individual, collective and cumulative impact; and further note that it would be appropriate for SPRFMO BFIAS to be revised to reflect these international developments to ensure current and future bottom fishing is assessed against a contemporary standard*
- ***agreed*** *that independent peer-review was important for the SC to consider as part of this process.*
- ***agreed*** *that the BFIAS should be refreshed to reflect changes in SPRFMO and international instruments since it was published*
- ***recommends*** *to the Commission that the SC's Workplan should include preparation of a revised and updated BFIAS for agreement no later than the SC's meeting in 2019*

and DSCC welcomes the recommendation respect to seabirds that[11]

- ***Recommended*** *a thorough review of ecological risk assessment methodologies being used by Australia and New Zealand at SC6.*

However, the DSCC considers that the lack of recommendations on measures for target non-orange roughy catches (eg alfonsino, bluenose/blue-eye trevalla, and wreckfish) and bycatch and a number of other elements of the SC advice falls short of the commitments to take action established in UNGA resolutions including the most recent resolution 71/123, adopted in 2016 on the basis of a UNGA review of the implementation of previous resolutions.

In addition, DSCC is concerned at the proposal from the Cook Islands (for an apparently Australian fishing company) for an exploratory potting fishery over four years for lobster and deepwater crabs on the Foundation Seamount Chain. Quite apart from the initial massive proposed annual 6,000 tonne catch, reduced now to a still enormous 1,750 tonne catch, rather than the precautionary and gradual development called for in measure 13-2016, there are still no effective measures to prevent damage to the seabed biota and structure from the pots and lines as well as ghost fishing and other impacts from lost gear. There is no prior assessment for VMEs, and as was note in the INF paper, very little is known about the potential for VMEs to occur on the proposed seamounts.

The proposed CMM falls short of the procedures and standards required by CMM-13-2016. That called for a Fisheries Operation Plan to be submitted to the Scientific Committee (para 5), for the SC to consider the Plan (para. 6), for the SC to provide recommendations on the items listed from paragraph 8(a) to 8(h), such as an appropriate precautionary catch limit, reference points and advice and recommendations in accordance with paragraph 12 of CMM 03-2017 (Bottom Fishing). Instead, the SC indicated that it could not support the proposal in its current form and agreed that it could consider a revised proposal that provides more information on how the data collected through a gradual development of the fishery could be used to assess and manage the stocks appropriately. The Compliance and Technical Commission consideration cannot substitute for the Scientific Committee, and is instead intended to follow a successful consideration by the SC.

The SC intersessional meeting took place without notice to DSCC and does still not satisfy CMM 03-2017 or CMM 13-2016. With the subgroup agreeing to prepare advice regarding the revised proposal "to the best of their ability noting that the timeframes for the upcoming Commission meeting were getting very tight and that drafting an exploratory fishing CMM in time for the Commission meeting was going to be a significant task (for the Cook Islands)", the subgroup did not apply the procedures in CMM 13-2016 or a precautionary approach. There is still no assessment prior to fishing, such as could have been conducted with cameras and ROVs. Any catch suggested by the Commission would be sheer guesswork.

The only details in the proposed CMM are of the pilot study and second pilot study (paras 6 & 7) which could take place in the first year. There is no justification for future years. The CM refers to stock indicators but there are no details on what they might be or how they will be monitored and assessed. The process for undertaking assessments is unclear and not specified.

The initial proposal was not supported by the full SC, and rather than be progressed without proper SC scrutiny, should be deferred until next year.

The Bottom Fishing Measure

UNGA Resolution 71/123, adopted following the bottom fishing review in 2016, committed States individually and through RFMOs, including SPRFMO, to take action to, inter alia:[12]

(a) to use the **full set of criteria** in the Guidelines to identify where VMES occur or are likely to occur as well as for assessing significant adverse impacts (SAIs);

(b) to ensure that **impact assessments**, including for cumulative impacts, are:

- conducted consistently with the Guidelines, particularly paragraph 47,[13]

- are **reviewed periodically and are revised** thereafter whenever a substantial change in the fishery has occurred or there is relevant new information, and
- where such impact assessments have not been undertaken, they should be carried out as a priority **before authorizing bottom fishing activities**;

(c) To ensure that measures are based on and updated on the basis of the best available scientific information, noting in particular the need to improve **effective implementation of thresholds and move-on rules**;

The 2017 Sustainable Fisheries Resolution[14] reiterated the joint meeting suggestion,[15] noted the "the immense importance and value of deep-sea ecosystems and the biodiversity they contain as documented in the First Global Integrated Marine Assessment"[16] and reaffirmed the importance of paragraphs 80 to 90 of resolution 61/105, paragraphs 113 to 127 of resolution 64/72, paragraphs 121 to 136 of resolution 66/68 and paragraphs 156, 171 to 188 and 219 of resolution 71/123 addressing the impacts of bottom fishing on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks and the actions called for in those resolutions, and emphasizes the need for full implementation by all States and relevant regional fisheries management organizations and arrangements of their commitments under those paragraphs on an urgent basis.[17] The UNGA urged RFMOs to ensure actions in managing deep sea fisheries are consistent with the FAO Guidelines, and in a specific set of recommendations:[18]

> 184. *Calls upon*, in this regard, States, regional fisheries management organizations and arrangements with the competence to regulate deep-sea fisheries, and States participating in negotiations to establish such organizations or arrangements to take, in particular, the following urgent actions regarding bottom fishing in areas beyond national jurisdiction:
>
> (*a*) To use, as applicable, the full set of criteria in the Guidelines to identify where vulnerable marine ecosystems occur or are likely to occur as well as for assessing significant adverse impacts;
>
> (*b*) To ensure that impact assessments, including for cumulative impacts of activities covered by the assessment, are conducted consistent with the Guidelines, particularly paragraph 47 thereof, are reviewed periodically and are revised thereafter whenever a substantial change in the fishery has occurred or there is relevant new information, and that, where such impact assessments have not been undertaken, they are carried out as a priority before authorizing bottom fishing activities;
>
> (*c*) To ensure that conservation and management measures adopted by States and regional fisheries organizations and arrangements are based on and updated on the basis of the best available scientific information, noting in particular the need to improve effective implementation of thresholds and move-on rules;

Deepwater Spatial Management

The spatial management approach is clearly spelled out in the UNGA resolutions and the FAO Guidelines:

1. closing areas where VMEs are known or likely to occur on the basis of the best scientific information available unless bottom fisheries in such areas can

be (and are) managed to prevent significant adverse impacts (SAIs) on VMEs; and

2. only permitting bottom fishing to take place in an area after conducting a prior impact assessment to determine whether SAIs would occur and any mitigation measures needed, including closures, within the area to ensure that SAIs on VMEs would be prevented.
3. As a complement to these two key requirements, a move-on rule is required to cover those cases where encounters with VMEs occur in spite of the efforts of States and RFMOs to close areas where VMEs are likely to occur and to conduct impact assessments.

The SC, following the discussion on spatial management,[19]

- ***Noted*** *the series of workshops convened by New Zealand to include industry and environmental stakeholders together with researchers and officials from both Australia and New Zealand;*
- ***Noted*** *the substantial progress made in capacity development and agreement on analytical methods that can be used in the design of candidate spatial management areas to meet the objective of the SPRFMO*

  Commission;
- ***Agreed*** *that the analytical approach using Zonation decision-support software is scientifically defensible and appropriate;*

Agreed *to support, if necessary, an additional deepwater working group in October or November 2017 to finalise the Zonation analyses and oversee scientific analyses required to underpin the design of candidate spatial management areas.*

and[20]

- ***Noted*** *the successful application to SPRFMO bottom trawl fisheries of the spatially explicit bottom fishing impact evaluation methodology originally developed for CCAMLR bottom line fisheries*
- ***Agreed*** *that this methodology is appropriate for assessing the impacted area, intensity of impact by location, and likely impact on benthic epifauna*
- ***Agreed*** *that the methodology should be applied to develop spatially-explicit bottom impact evaluations for all deepwater bottom fisheries in the western SPRFMO Area*

That work was done, and the NZ/Australian proposal for a CMM reflects that.

UNGA Resolution 72/72 emphasised the importance of seabed mapping, mapping of VMEs, camera observations, benthic ecosystem modelling and predictive modelling (such as the Zonation modelling work undertaken by New Zealand) and the adoption of measures to prevent significant adverse impacts (SAIs) on such VMEs, including closures of areas.

> 185. *Recognizes* that different types of marine scientific research, such as, inter alia, seabed mapping, mapping of vulnerable marine ecosystems based on information from the fishing fleet, on-site camera observations from remote vehicles, benthic ecosystem modelling, comparative benthic studies and predictive modelling have resulted in identification of areas where vulnerable marine ecosystems are known or are likely to occur and in the adoption of conservation and management measures to prevent significant

> adverse impacts on such ecosystems, including the closure of areas to bottom fishing in accordance with paragraph 119 (b) of resolution 64/72;
>
> 186. *Encourages*, in this regard, States, regional fisheries management organizations and arrangements with the competence to manage bottom fisheries, and States participating in negotiations to establish such organizations or arrangements, to consider the results available from different types of marine scientific research, including, as appropriate, those listed in paragraph 185 above, concerning the identification of areas containing vulnerable marine ecosystems, and to adopt conservation and management measures to prevent significant adverse impacts from bottom fishing on such ecosystems, consistent with the Guidelines, or to close such areas to bottom fishing until such conservation and management measures are adopted, as well as to continue to undertake further marine scientific research, for the above-mentioned purposes, in accordance with international law, as reflected in Part XIII of the Convention;

This, then, is support for the proposed CMM, with its inclusion of modelling, the use of cameras and the move-on rule to identify VMEs.

The New Zealand High Seas Fisheries Group (HSFG) has signalled that it intends to pursue legal action against the New Zealand government.[21] That is its decision, but that should not influence SPRFMO in finalizing the proposed CMM according to its own Convention. Far less should SPRFMO's Members and CNCPs postpone adoption of the measure until "a consensus is achieved with the HSFG members."[22] No such consensus with observers is required. Instead, the Convention calls for "consultations with, and the participation of, non-governmental organisations, representatives of the fishing industry, particularly the fishing fleet, and other interested bodies and individuals."[23] The New Zealand and Australian governments have undertaken an extensive series of consultations through workshops in Hobart and Wellington as well as preceding the Scientific Committee in Shanghai. Now, the HSFG has taken issue with the concept of VMEs, SAIs, the move-on rule, spatial constraints, VME indicators, and the proposed catch limits.[24] The UNGA has two proposed responses to this: either "to close such areas to bottom fishing until such conservation and management measures are adopted," (to prevent significant adverse impacts from bottom fishing on such ecosystems),[25] or for States and SPRFMO to "not to authorize bottom fishing activities until such measures have been adopted and implemented".[26]

SPRFMO supports this approach. Its objective stated in article 2 is: "The objective of this Convention is, through the application of the precautionary approach and an ecosystem approach to fisheries management, to ensure the long-term conservation and sustainable use of fishery resources and, in so doing, to safeguard the marine ecosystems in which these resources occur." This makes it clear that marine ecosystems in which fishery resources occur must be "safeguarded".[27]

Article 20.1(d) provides that the conservation and management measures adopted by the Commission shall include measures to:

> protect the habitats and marine ecosystems in which fishery resources and non-target and associated or dependent species occur

> from the impacts of fishing, including measures to prevent significant adverse impacts on vulnerable marine ecosystems and precautionary measures where it cannot adequately be determined whether vulnerable marine ecosystems are present or whether fishing would cause significant adverse impacts on vulnerable marine ecosystems."

Article 10 tasks the Scientific Committee to

> 2 (c) provide advice and recommendations to the Commission and its subsidiary bodies on the impact of fishing on the marine ecosystems in the Convention Area including advice and recommendations on the identification and distribution of vulnerable marine ecosystems, the likely impacts of fishing on such vulnerable marine ecosystems and measures to prevent significant adverse impacts on them.

Articles 10 and 20 clearly represent an incorporation of the approach of resolution 61/105, the protection of VMEs and avoidance of SAIs on VMEs. The mandate in article 20.1(d) to 'protect' habitats and marine ecosystems, as well as measures to prevent SAIs on VMEs is a strong one.

The provisions are also an implementation of the UN Fish Stocks Agreement, including its preambular recital that Parties are "Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations", the principle in article 5(g) to "protect biodiversity in the marine environment" and to "apply the precautionary approach in accordance with article 6".

In conclusion, the CMM proposed by Australia and New Zealand is the product of extensive consultations with observers, including the fishing industry, and is the result of a considered and comprehensive approach, using the Zonation model, and applying the UNGA resolution requirements including assessments, closed areas and the move-on rule. It no doubt can be improved, and needs to be proven through ground truthing, like any model, but another year's delay is neither warranted nor in the interest of the fishery and the marine environment.

However, the proposed CMM should be improved in the following respects.

Orange roughy catch limits

DSCC continues to be concerned at the lack of data about orange roughy stocks,[28] and notes that much uncertainty surrounds the recommendations (reflected in Article 19 of the CMM) of 1,140 tonnes per year for up to the next 2 years on the Louisville Ridge[29] and 346 tonnes per year for the Tasman Sea for up to the next 3 years.[30] These TACs, particularly for the Louisville Rise, would represent a significant increase in the catch of orange roughy in the SPRFMO area compared to the average catch in these areas over the past several years in spite of continued uncertainty over the status of orange roughy stocks in the SPRFMO area as repeatedly noted in the report of the Scientific Committee.

For the Louisville the SC advice has not applied a lower precautionary catch limits proposed in assessments by New Zealand scientists (865 tonnes (table 2 in SC5-DW15_rev1) which is the combined North, Central and South limits). DSCC

recommends that, at a minimum, the allowable catch be limited to the average annual catch over the previous 2-3 years until a more reliable determination of sustainable levels of catch can be made (consistent with the obligations in the UN Fish Stocks Agreement).

Bycatch

SPRFMO still does not have in place any measures for bycatch species. SC-4 recognized that efforts should be undertaken to assess the impacts on trawl and bottom longline bycatch species, in particular on low productivity species as called for in paragraph 47 of the FAO Guidelines. SC-5 examined a paper on deep-sea chondrichthyans (including sharks) which showed that 53 species were taken in trawl fisheries and SC-5 concluded that the SC agreed to:[31]

- ***Request*** *Members with bottom fisheries to continue collaborations and apply more quantitative risk assessment methods to estimate current fishing mortalities (or proxy) for their SPRFMO bottom fisheries;*
- ***Request*** *Members collaborating on the above analyses to develop advice for the Scientific Committee on the effects of fishing on deepwater chondrichthyans;*
- ***Adopt*** *the proposed work plan outlined;*
- ***Recommend*** *to the Commission that the committee's workplan and roadmap are amended to include the work described above.*

DSCC welcomes this focus on chondrichthyans, but UNGA resolution 71/123 (2016) called for measures to ensure the long-term sustainability of non-target species.[32]

In light of UNGA resolution 71/123 (2016), and its concern with impacts on low-productivity fishery resources, particularly where scientific information is uncertain, unreliable or inadequate, the SPRFMO Commission should heed the UNGA's call to ensure that measures are established consistent with the precautionary approach, in particular with regard to vulnerable, threatened or endangered species.[33]

DSCC recommends that the Commission:

1. *Instruct the Scientific Committee to prioritize further research and advice on conservation measures for non-target species, for a measure to be adopted in the next Commission, in order for a measure to be adopted to minimize, prevent, or eliminate the bycatch of deep-sea (low productivity) species, in particular species as endangered, threatened, vulnerable or near threatened on the IUCN Red List or otherwise likely to qualify as such under IUCN Red List criteria and*
2. *Amend the list of "other species of concern" in Annex 14 of CMM 02-17(data) to include deep-sea sharks in the SPRFMO Convention Area which are categorized as critically endangered, endangered, vulnerable or near threatened on the IUCN Red List and to also include CITES appendix II relevant species as recommended by SC-4 in Annex 5 of the SC-4 report.)*

Non-Orange Roughy Target Species

While preliminary assessments of some orange roughy stocks in the SPRFMO area exist, there are no assessments of other target species. These include bluenose, alfonsino and wreckfish.

As the annual report notes, in the last year New Zealand undertook trawling for alfonsinos (80 tonnes), and bottom line fishery for bluenose (20 tonnes) and for wreckfish (50 tonnes).

Australia reported 156 tonnes of catch from its longline fishery. This included a range of target species: "redthroat emperor comprised the largest landed volume (44 t, 28%

of total catch), with smaller quantities of yellowtail kingfish, Robinson's seabream, flame snapper, jackass morwong and other species comprising the remainder. Morwong species constituted the single largest component of the total Australian non-trawl catch between 2008 and 2015.

This included a change in composition of landed catches due to change in main fishing grounds in 2016. This further complicates the assessment process and setting precautionary catch limits.

The reporting does not indicate when assessments will be undertaken nor whether the monitoring of catches and level of research is sufficient to provide information that can be used in assessments. These species can be long-lived. The maximum age for bluenose is reported at 71 years, for wreckfish was over 70 years, and jackass morwong a maximum age of over 41 years for males. The risk of catches can impact on these species is highlighted in the decline in bluenose in the adjacent New Zealand EEZ where bluenose abundance "could have declined by more than 50%"[34].

Ecologically or Biologically Sensitive Areas (EBSAs)

One of the items in the 2016 Work Program[35] was to update data available and evaluate the impact of fishing activities on VMEs and EBSAs in the Convention Area and evaluate appropriate spatial management options. A number of EBSAs have been identified within the SPRFMO Convention Area.[36] VMEs and EBSAs are the product of different processes, and occur at different scales. The EBSA work is separate but is not in any way inconsistent with the protection of VMEs. The VME work is a product of the UNGA resolutions, particularly resolution 61/105 (2006) and 64/72 (2009), and the FAO Guidelines, and is central to the management of deep-sea bottom fishing. The EBSA work, on the other hand, is being carried out[37] under the auspices of the CBD,[38] and is focused on identifying areas as a scientific and technical exercise.[39]

International governance steps responsive to the identified EBSAs, such as designating some EBSAs as marine protected areas (MPAs), have yet to be determined. It is important that SPRFMO carries on its work in identifying and protecting VMEs, as well as to determine its response to identified EBSAs.

At the third SC meeting, the Secretariat introduced information received from the Secretariat of the Convention on Biological Diversity (CBD) regarding five areas within the Convention Area that meet the CBD criteria for EBSAs. The SC considered whether it might address these areas through spatial management. Chile has taken action and established MPAs that include part of some identified EBSAs.

DSCC Recommendation: The Commission should put into place a process to study the identified EBSAs and consider appropriate management responses, including marine protected areas. To this end, the Commission in its roadmap should make a specific request to the SC to assess the EBSAs in the Commission Area and make recommendations.

---

[1] UNGA Resolution 64/72 (2009) paragraph 119(a): Conduct the assessments called for in paragraph 83 (a) of its resolution 61/105, consistent with the Guidelines, and to ensure that vessels do not engage in bottom fishing until such assessments have been carried out.

[2] UNGA resolution 64/72 paragraph 120: "Calls upon flag States, members of regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries and States participating in negotiations to establish such organizations or arrangements to adopt and implement measures in accordance with paragraphs 83, 85 and 86 of its resolution 61/105, paragraph 119 of the present resolution, and international law, and consistent with the Guidelines, and not to authorize bottom fishing activities until such measures have been adopted and implemented."

[3] At http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/61/105.

[4] FAO, International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (2009). At http://www.fao.org/docrep/011/i0816t/i0816t00.htm.

[5] The last impact assessment of New Zealand was for the 2008-2009 period and for Australia, the 2009-2010 period. Both impact assessments were carried out over 5 years ago, while bottom trawling has continued during that time, and New Zealand's was carried out before the 2009 UNGA resolution 64/72.

[6] E.g. the SC noted that the Commission has been requesting information and guidance on the status of Orange roughy stocks in the SPRFMO Area for a number of years.

[7] SC said that "A significantly more precautionary approach is recommended if insufficient advancement is made in data collection and stock assessments for the relevant stocks within 2 years. The SC recommends that, within this group, the Louisville Central stock should be prioritised for improved data collection and stock assessment." SC Report, para. 100.

[8] SC said that "A significantly more precautionary approach is recommended if insufficient advancement is made in data collection to support stock assessments for the relevant stocks in 3 years. The SC recommend that, within this group, the Lord Howe Rise and Northwest Challenger Plateau stocks should be prioritised for improved data collection and stock assessment.". SC Report, para. 100.

[9] • Adopted the proposed generalised assessment framework for bottom fisheries to provide direction for future assessment work and speed the committee's processes in developing advice for the Commission.

• Requested Members with bottom fisheries or an interest in finalising the framework to work together to develop proposals for biological reference points and harvest control rules for SPRFMO bottom fisheries.

• Recommended to the Commission that it agrees to the nature and structure of advice on precautionary catch limits for bottom fisheries that will stem from such an assessment framework.

• Requested Members with bottom fisheries to cooperate in the development of a Scoping Analysis for their SPRFMO bottom fisheries.

• Requested Members with bottom fisheries to work towards the development of Management Strategy Evaluations to develop robust Harvest Control Rules for their SPRFMO bottom fisheries.

• Recommended to the Commission that the Committee's Workplan and Roadmap are amended to include the work described above.SC5 Report para. 85.

[10] SC5 Report para. 128.

[11] SC5 Report para. 150.

[12] UNGA resolution 71/123 paras. 55, 180.

[13] FAO Deep Sea Guidelines (2009) 47. Flag States and RFMO/As should conduct assessments to establish if deep-sea fishing activities are likely to produce significant adverse impacts in a given area. Such an impact assessment should address, inter alia:

i. type(s) of fishing conducted or contemplated, including vessels and gear types, fishing areas, target and potential bycatch species, fishing effort levels and duration of fishing (harvesting plan);

ii. best available scientific and technical information on the current state of fishery resources and baseline information on the ecosystems, habitats and communities in the fishing area, against which future changes are to be compared;

iii. identification, description and mapping of VMEs known or likely to occur in the fishing area;

iv. data and methods used to identify, describe and assess the impacts of the activity, the identification of gaps in knowledge, and an evaluation of uncertainties in the information presented in the assessment;

v. identification, description and evaluation of the occurrence, scale and duration of likely impacts, including cumulative impacts of activities covered by the assessment on VMEs and low-productivity fishery resources in the fishing area;

vi. risk assessment of likely impacts by the fishing operations to determine which impacts are likely to be significant adverse impacts, particularly impacts on VMEs and low-productivity fishery resources; and

vii. the proposed mitigation and management measures to be used to prevent significant adverse impacts on VMEs and ensure long-term conservation and sustainable utilization of low-productivity fishery resources, and the measures to be used to monitor effects of the fishing operations.

[14] UNGA resolution 72/72 (5 December 201). At http://www.un.org/depts/los/general_assembly/general_assembly_resolutions.htm

[15] UNGA resolution 72/72, para. 158.

[16] UNGA resolution 72/72, para. 175.

[17] UNGA resolution 72/72, para. 178.

[18] UNGA resolution 72/72, para. 184.

[19] SC5 Report para 108.

fspp[20] SC5 Report para 111.

[21] COMM 6— OBS 01 Objection by the High Seas Fisheries Group to the Proposed SPRFMO Draft — Bottom Fishing CMM (COMM6-Prop05). At https://www.sprfmo.int/assets/00-2018-COMM6/COMM6-Obs01-NZHSFG-Objection-to-Prop05.pdf.

[22] Letter of Andy Smith to the Chair, 3 January 2018. At https://www.sprfmo.int/assets/00-2018-COMM6/COMM6-Obs01-NZHSFG-Objection-to-Prop05.pdf.

[23] SPRFMO Convention, article 18.3.

[24] HSFG submission page 7.

[25] UNGA resolution 72/72 (2017) paragraph 186.

[26] UNGA resolution 64/72 (2009), paragraph 120.

[27] This is consistent with UNCLOS which provides in article 192 that "States have the obligation to protect and preserve the marine environment" and accordingly provides in article 193 that "States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment." VMEs and habitat are addressed in article 194.5: "5. The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

[28] E.g. the SC noted that the Commission has been requesting information and guidance on the status of Orange roughy stocks in the SPRFMO Area for a number of years.

[29] SC said that "A significantly more precautionary approach is recommended if insufficient advancement is made in data collection and stock assessments for the relevant stocks within 2 years. The SC recommends that, within this group, the Louisville Central stock should be prioritised for improved data collection and stock assessment." SC Report, para. 100.

[30] SC said that "A significantly more precautionary approach is recommended if insufficient advancement is made in data collection to support stock assessments for the relevant stocks in 3 years. The SC recommend that, within this group, the Lord Howe Rise and Northwest Challenger Plateau stocks should be prioritised for improved data collection and stock assessment.". SC Report, para. 100.

[31] SC-5 Report, para. 75.

[32] UNGA resolution 72/123 para. 190

[33] UNGA resolution 71/123 para. 186.

[34] Ministry for Primary Industries (2017). Fisheries Assessment Plenary, May 2017: stock assessments and stock status. Compiled by the Fisheries Science Group, Ministry for Primary Industries, Wellington, New Zealand.

[35] Annex D, Scientific Committee Work Plan for 2016.

[36] http://www.cbd.int/ebsa/ebsas

[37] See overview by IDDRI, "Ecologically or biologically significant marine areas (EBSAs): the identification process under the Convention on Biological Diversity (CBD) and possible ways forward. At http://www.iddri.org/Publications/Collections/Idees-pour-le-debat/WP1712_ED_EBSAs.pdf.

[38] See CBD Decision XI/17 (2012). Marine and coastal biodiversity: Ecologically or biologically significant marine areas. At http://www.cbd.int/cop/cop-11/doc/2012-10-24-advanced-unedited-cop-11-decisions-en.pdf.

[39] CBD Decision XI/17: *"6. Noting that, in accordance with decision X/29, the application of the scientific criteria for ecologically or biologically significant marine areas is a scientific and technical exercise and emphasizing that the identification of ecologically or biologically significant marine areas and the selection of conservation and management measures is a matter for States and competent intergovernmental organizations, in accordance with international law, including the United Nations Convention on the Law of the Sea, as stated in paragraph 26 of decision X/29."*