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Wellington, 3 June 2020

To: Mr Miguel de Serpa Soares
Under-Secretary General for Legal Affairs and
UN Legal Counsel
UN Division for Oceans and the Law of the Sea of the
Office of Legal Affairs

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Subject: SPRFMO Contribution to Oceans and the Law of the Sea

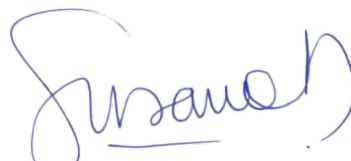
Mr Under-Secretary General for Legal Affairs and United National Legal Counsel,

I am writing in response to your letter dated 15 April 2020 requesting a contribution from the South Pacific Regional Fisheries Management Organisation to the report of the Secretary-General on oceans and the law of the sea, as per UNGA Resolution 74/19 of 10 December 2019.

I am pleased to attach the SPRFMO contribution, containing the main developments that have taken place in this Organisation, including a section that lists actions specifically related to the provisions of the UNGA RES 74/19 in regards of oceans and the law of the Sea.

I hereby express SPRFMO's consent for its contribution to be posted on the web if so required.

Sincerely yours,



Ms Susana Delgado Suárez
Coordination and Communications Officer

2020 CONTRIBUTION OF THE SOUTH PACIFIC REGIONAL FISHERIES MANAGEMENT ORGANISATION

“Oceans and the Law of the Sea”

(Prepared and submitted by the SPRFMO Secretariat)

Paragraph 1 of Article 29 of the **Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean** provides that *“The Commission shall publish an annual report, which shall include details of decisions taken by the Commission to achieve the objective of this Convention. The report shall also provide information on actions taken by the Commission in response to any recommendations from the General Assembly of the United Nations or the FAO.”*

1. Membership

In March 2020, the SPRFMO Commission had fifteen Members: Australia, Republic of Chile, People's Republic of China, Cook Islands, Republic of Cuba, Republic of Ecuador, European Union, Kingdom of Denmark in respect of the Faroe Islands, Republic of Korea, New Zealand, Republic of Peru, Russian Federation, Chinese Taipei, United States of America, and the Republic of Vanuatu.

In addition, three countries held the status of Cooperating Non-Contracting Parties (CNCs): Curaçao, Republic of Liberia and the Republic of Panama, unfortunately this year Republic of Colombia did not renew CNC status 2020/2021 period.

2. Outcomes from the 2020 Commission Meeting

The 8th Meeting of the Commission (COMM8) of the South Pacific Regional Fisheries Management Organisation took place from 14 to 18 February 2020, in Port Vila, Vanuatu.

Nearly 100 participants (from the 15 SPRFMO Members, 4 CNCs, 2 IGOs, 3 NGOs along with invited experts) reviewed and made recommendations concerning the preceding meetings of the subsidiary bodies, including the 7th Scientific Committee (SC7, held in October 2019), the 7th Compliance and Technical Committee (CTC7, held in February 2019) and the con-current 7th Finance and Administration Committee (FAC7), as well as 25 proposals put forward and, finally, considered and developed plans for addressing the recommendations contained in the 1st SPRFMO Performance Review Report.

2.1. Subsidiary Bodies

The report of the 7th Scientific Committee¹ was presented, and the SC Chairperson reviewed progress made on assessments and requirements for future data collection for Jack mackerel, deepwater, and squid fisheries, ecosystem approaches on marine management and exploratory fishing, as well as progress on reviewing the Observer Programme. The management measure discussions focused on fishing effort limits, temporal and spatial restrictions to protect spawners and juveniles, and observer coverage. The SC Chairperson summarised the various SC recommendations for the Commission, noting that management strategies should be re-evaluated annually to account for new challenges and data, and introduced a proposed SC multi-annual workplan. Many Members commended the SC for the quality of its work and advice, as well as its comprehensive report, and supported the proposed workplan.

¹ <https://www.sprfmo.int/assets/2019-SC7/Reports/SPRFMO-SC7-Report-2019-V2.pdf>



The report² of the 7th Compliance and Technical Committee was presented by the CTC Chairperson, noting an overall improvement among Members in compliance issues, as well as a decrease in priority non-compliance; the provisional compliance report was also presented. The CTC Chairperson reported on the discussions held concerning the SPRFMO IUU Vessel list and presented the provisional IUU Vessel List along with the recommendation that only one vessel on the 2019 IUU Vessel List remain on the list. The CTC also recommended that all four applications for CNCP status be accepted.

The Chairperson of the 7th Finance and Administration Committee presented the FAC7 report³ including recommendations to accept the Annual Financial Statements and the associated Auditors Report. FAC7 noted that budgetary constraints were a continuing challenge and recommended the amendments proposed to the Staff Regulations (incorporating a code of ethics and conflict resolution procedure) along with new administrative policies (Disaster Recovery Plan and Mobile Device Acceptable Use). FAC7 also recommended amendments to the Financial Regulations regarding the Contingency Fund, the Developing States Fund and Travel Support Policy. The 2020/21 budget of NZ\$ 1,365,075 (≈ USD\$ 837,190) was adopted along with the associated Member contributions with individual Member contribution increases being capped at 14%. China also provided as a voluntary contribution USD\$ 20,000 towards the Jumbo Flying Squid sampling for genetic studies, while the European Union reported a commitment of \$150,000 EUR (≈ USD\$ 168,000) for the implementation of the accreditation process of the Observer Programme. Finally, the FAC was grateful for bids from Members to host future meetings and accepted Russian Federation offer to host the 2021 Annual meeting, with Peru flexibility in delaying hosting until 2022 meeting to provide an opportunity to rotate meetings of the Commission between the membership. The meeting also welcomed New Zealand's offer to host the 2020 Scientific Committee meeting, with Panama hosting the 2021 SC meeting.

2.2. Decisions taken by the Commission to achieve the objective of the SPRFMO Convention

COMM8 amended 10 Conservation and Management Measures including:

- CMM 01-2020: *Trachurus murphyi*, where catches of *Trachurus murphyi* in 2020 throughout the range of the stock should not exceed 618,001 tonnes as per advice of the SPRFMO Scientific Committee.
- CMM 02-2020: Data Standards in the SPRFMO Convention Area, where updates were introduced to reflect changes in other CMMs in recent years and clarify data collection and reporting requirements.
- CMM 03-2020: Bottom Fishing in the SPRFMO Convention Area, where the weight thresholds for triggering the Vulnerable Marine Ecosystem (VME) encounter protocol were amended to make the bottom fishing framework more precautionary for the protection of VMEs.
- CMM 03a-2020: Deepwater Species in the SPRFMO Convention Area, where the orange roughy catch limits were revised based on recommendations from the Scientific Committee and to enable improved implementation and management of these catch limits, including a carry-forward provision.
- CMM 04-2020: Establishing a List of Vessels Presumed to have Carried Out IUU Fishing Activities in the SPRFMO Convention Area, where amendments were introduced to broaden the information that requires updating on the IUU vessel list in events of changes.
- CMM 06-2020: Establishment of the Vessels Monitoring System in the SPRFMO Convention Area, which provides for a template for the request of VMS data for scientific purposes.
- CMM 10-2020: Establishment of a Compliance and Monitoring Scheme in the SPRFMO Convention Area; where editorial changes were made to the CMM and the review date was changed to 2023.
- CMM 12-2020: Regulation of Transshipment and Other Transfer Activities, which clarifies reporting requirements for transshipments, particularly in the jumbo flying squid fisheries.
- CMM 13-2020: Management of New and Exploratory Fisheries in the SPRFMO Convention Area, where editorial changes were made to the CMM and the review date was changed to 2021.
- CMM 14b-2020: Exploratory Potting Fishery in the SPRFMO Convention Area; the Scientific Committee (SC) recommends that the SPRFMO Commission extend the expiry date of this CMM to 2022, aligning

² <https://www.sprfmo.int/assets/0-2020-Annual-Meeting/Reports/CTC7-Meeting-Report-10Mar2020.pdf>

³ <https://www.sprfmo.int/assets/0-2020-Annual-Meeting/Reports/FAC7-Report-10Mar2020.pdf>



the CMM to the start of fisheries operations and set the total allowable catch (TAC) at 300 t a year for fishing years 2 and 3.

Regarding CMM 16-2019: Establishing the SPRFMO Observer Programme, the Commission discusses the implementation of the SPRFMO Observer Programme and the Commission accepted the FAC and CTC recommendations and selected MRAG as the Observer Programme Accreditation Evaluator.

In addition, COMM8 adopted 2 new CMMs being:

- CMM 14d-2019: Exploratory Fishing for Toothfish by Chilean-Flagged Vessels in the SPRFMO Convention Area.
- CMM 18-2020: Management of the Jumbo Flying Squid Fishery in the SPRFMO Convention Area where a set of rules adopted for conserving and managing the squid fishery in the Convention Area. This CMM shall enter into force on 1 January 2021 and be reviewed by the Commission in 2024

The report of the 1st SPRFMO Performance Review⁴ was presented by the Chairperson of the SPRFMO Review Panel. The report commended the:

- Management of the jack mackerel fishery;
- ongoing regular review and amendment of the Commission's data standards;
- Commission's respect for and willingness to act upon the advice of its SC;
- number of substantive CMMs adopted and the efforts to ensure CMM development follows best-practice;
- work undertaken thus far to minimise bycatch of seabirds;
- framework for new and exploratory fisheries;
- recognition that compliance issues are integral to the effective functioning of the Commission;
- for adoption of a Port Inspection regime in 2014 and its further refinement in 2017;
- impressive suite of MCS measures adopted by the Commission in its first six years of operation;
- Secretariat for the work that it has done thus far to implement the MCS measures and for its work to develop a new SPRFMO website; and
- use of the Permanent Court of Arbitration as the venue and provider for the Article 17 review panel process.

The report also acknowledged:

- The scientific work being undertaken to develop assessments for deepwater stocks particularly (Orange roughy) and Squid;
- the efforts being undertaken to systematically build information enough to undertake assessments for all deepwater stocks;
- the effectiveness of the consensus-first/vote-later approach used in the SPRFMO Convention;
- that the Article 17 review panel process is a point of difference between SPRFMO and most other RFMOs and the effectiveness of the Article 17 review panel process in resolving disagreement between Members and in progressing the long-term resolution of disputes;
- the open and transparent processes adopted by the Commission and its subsidiary bodies;
- that SPRFMO decisions, scientific advice, and other relevant materials are made publicly available in a timely fashion; and that the SPRFMO website contains up to date information which is accessible and user friendly;
- that cooperation with other international organisations can be advantageous for SPRFMO and that increasing the cooperation with neighbouring and overlapping RFMOs can bring direct benefits to the organisation;
- that the Commission could do more to address some of the capacity needs of Members and CNCPs;

⁴ <https://www.sprfmo.int/assets/Basic-Documents/Convention-and-Final-Act/2018-SPRFMO-Performance-Review/2018-12-01-REPORT-SPRFMO-PERFORMANCE-REVIEW-FINAL.pdf>



- that Members and CNCPs pay their contributions on time and that this is of great assistance in ensuring the smooth operation of the organisation's finances;
- that the 2020 review of the budget formula needs to take into account the durability of the formula so that the necessary work of the organisation drives the level of budget, rather than the level of individual contributions; and,
- the importance of the Secretariat providing support to the Chair of the Commission and subsidiary bodies not only at meetings, but also during the intersessional period.

The Commission and its subsidiary bodies also provided responses to the key findings and recommendations made by the review panel who conducted the 1st SPRFMO Performance Review.

2.3. International Cooperation

The SPRFMO Executive Secretary presented document on progress of cooperation with other RFMOs. Reminding Members that, at the 8th Commission meeting in 2020, the Commission approved the MoUs with the Western and Central Pacific Fisheries Commission (WCPFC) and the Inter-American Tropical Tuna Commission (IATTC).

2.4. Office Holders

The Commission expressed appreciation for the commendable and efficient leadership of the current Commission Chairperson Mr. Osvaldo Urrutia, Chile and the Vice Chairperson of the Commission Ms. Kate Sanderson, Faroe Islands.

Mr. Andrew Wright, New Zealand, will continue to serve as the CTC Chairperson for a second term, with Ms. Kerrie Robertson, Australia, chairing the FAC. The SC Chairperson Dr James Ianelli, United States of America, will also continue to serve in his position.

The full report⁵ of the Commission and all related documents are available on the SPRFMO website at www.sprfmo.int.

3. Information specific to UNGA Resolution 74/19, entitled "Ocean and the Law of the Sea"

3.1. II Capacity-building:

10. Recognizes the importance of assisting developing States, in particular the least developed countries, landlocked developing countries and small island developing States, as well as coastal African States, in implementing the Convention, urges States, international financial institutions, donor agencies, intergovernmental organizations, non-governmental organizations and natural and juridical persons to make voluntary financial or other contributions to the trust funds, as referred to in resolutions 55/7, 57/141, and 64/71 of 4 December 2009, established for this purpose, and expresses its appreciation to those that have contributed;

The Commission has established a fund to facilitate the effective participation of developing State Contracting Parties in the region, in particular the least developed among them and small island developing States, and, as appropriate, territories and possessions in the region, in the work of the Commission and its subsidiary bodies. As of 30 November 2019, the USA have made contributions to this fund. In addition, the Commission's annual budget includes a similar category to support the travel and subsistence for developing State contracting parties to meetings of the 8th Commission and its subsidiary bodies. Delegates from Cuba and Peru have been supported in this way.

⁵ <https://www.sprfmo.int/meetings/meeting-reports/>



3.2. VII Maritime safety and security and Flag State implementation:

113. Encourages States to ratify or accede to international agreements addressing the safety and security of navigation, as well as maritime labour, and to adopt the necessary measures consistent with the Convention and other relevant international instruments aimed at implementing and enforcing the rules contained in those agreements, and emphasizes the need for capacity-building for and assistance to developing States;

The Commission noted that artisanal and small-scale fishing is an activity that serves as an economic and social engine for developing States, providing food and nutrition security, generating self-employment and other multiplier effects for local economies, while supporting the livelihoods of coastal communities. The "CMM 05 - 2019" does not differentiate in the requirements for the registration of artisanal or small-scale vessels that do not exceed 65 gross tonnage (GT). This situation would affect those vessels due to their impossibility to comply with certain mandatory requirements on standard vessel data, as stipulated in Annex 1 of "CMM 05 - 2019" (i.e. letters "d", "e", "l" and "u", of point 2), and because of their physical characteristics. Peru proposed to Members the commencement of a training programme for artisanal fishers to inform them regarding their SPRFMO-related obligations when fishing in the Convention Area. Peru informed that the training programme can be developed during 2020 so in January 2021 a Register of artisanal vessels can be implemented and the information submitted to the Commission.

3.3. IX Marine environment and marine resources

194. Reiterates, in this regard, the call made in the declaration entitled "Our ocean, our future: call for action" for action to be taken on an urgent basis to conserve and sustainably use the oceans, seas and marine resources for sustainable development;

The Commission created CMM18-2020 to introduce an effort limit for the Jumbo flying squid fishery in the SPRFMO Convention Area while improving data collection, pending completion of a stock assessment.

3.4. X Marine biodiversity

260. Reaffirms the need for States, individually or through competent international organizations, to urgently consider ways to integrate and improve, based on the best available scientific information and the precautionary approach and in accordance with the Convention and related agreements and instruments, the management of risks to the marine biodiversity of seamounts, cold water corals, hydrothermal vents and certain other underwater features;

The SPRFMO Scientific Committee took place from 7-12 October 2019 in Havana, Cuba. The SC discussed updates on Ecological Risk Assessments (ERA) in deepwater fisheries, particularly deepwater sharks, rays and chimaeras.

3.5. XI Marine science

285. Calls upon States, individually or in collaboration with each other or with competent international organizations and bodies, to continue to strive to improve understanding and knowledge of the oceans and the deep sea, including, in particular, the extent and vulnerability of deep sea biodiversity and ecosystems, by increasing their marine scientific research activities in accordance with the Convention;

As per the information provided above.

3.6. XV Coordination and Cooperation

353. Encourages States to work closely with and through international organizations, funds and programmes, as well as the specialized agencies of the United Nations system and relevant international conventions, to identify emerging areas of focus for improved coordination and cooperation and how best to address these issues;

The SPRFMO is actively pursuing opportunities to collaborate with other organisations, especially neighbouring or overlapping RFMOs. Currently the Commission approved the MoUs with the Western and Central Pacific



Fisheries Commission (WCPFC) and the Inter-American Tropical Tuna Commission (IATTC).

4. Impact of COVID-19 on oceans issues

The 8th Meeting of the SPRFMO Commission took place from 14 to 18 February 2020, in Port Vila, Vanuatu. This timing, in relation to the pandemic outbreak, prevented the successful travel and attendance of two Member delegation and one Cooperating non-Contracting Party delegation. For the Members concerned, this meant that, in order to participate, they relied on the cooperation of local diplomatic representation (whose excellence in this regard was noted by the SPRFMO Chairperson at the close of the meeting).

The upcoming 8th Scientific Committee meeting is (SC8) scheduled to be hosted by New Zealand from 3 to 8 October 2020. In anticipation of the possibility for a remote meeting to be convened, the Scientific Committee has arranged to have more frequent web meetings and has also organised itself into workstreams to prioritise the SC8 agenda and progress the current workplan.

The Compliance and Technical Committee Chairperson of SPRFMO has invited Members to an electronic working group to be held on 5 June 2020 to discuss COVID-19 related issues.