

# **Report by New Zealand on actions taken pursuant to paragraphs 113, 117 and 119 to 124 of resolution 64/72, paragraphs 121,126, 129, 130 and 132 to 134 of resolution 66/68, and paragraphs 156, 171, 175, 177 to 188 and 219 of resolution 71/123**

15 March 2022

## **Introduction**

New Zealand continues to be actively engaged in developing, improving, and implementing measures to sustainably manage deep-sea fish stocks and prevent significant adverse impacts from bottom fishing on vulnerable marine ecosystems (VMEs), both in its own exclusive economic zone and on the high seas.

New Zealand is a member of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) and the South Pacific Regional Fisheries Management Organisation (SPRFMO). On the high seas, New Zealand flagged fishing vessels undertake bottom fishing in the CCAMLR Convention Area and the SPRFMO Convention Area.

Since 2020, New Zealand has:

- Continued to advocate for, and implement, improved measures adopted by CCAMLR to prevent significant adverse impacts on VMEs in the CCAMLR Convention Area, including supporting proposals by other member states to establish further MPAs in the Convention Area;
- Continued to play a key role in the implementation and management of the Ross Sea region Marine Protected Area (RSrMPA), currently the world's largest Marine Protected Area;
- Continued a comprehensive research programme and engaged in SPRMFO processes to ensure management measures in SPRFMO are effective in preventing significant adverse impacts on VMEs.

Further details of New Zealand's actions to implement paragraphs of resolutions 64/72, 66/68, and 71/123 are contained in this report in response to the invitation in paragraph 213 of United Nations General Assembly resolution 74/18. To streamline our response, paragraphs in resolutions that cover similar subject matter have been grouped together.

This report updates information provided to the Secretary-General in:

- 2009 'Report on New Zealand's Implementation of Operative paragraphs 80 and 83-90 of resolution 61/105' (New Zealand's 2009 report);
- 2011 'Report by New Zealand on actions taken pursuant to Operative paragraphs 80 and 83-87 of Resolution 61/105 and Operative Paragraphs 113-117 and 119-127 of

Resolution 64/72' (New Zealand's 2011 report);

- 2016 'Report by New Zealand on actions taken pursuant to Operative Paragraphs 113, 117 and 119-124 of Resolution 64/72 and Operative Paragraphs 121, 126, 129, 130 and 132-134 of Resolution 66/68' (New Zealand's 2016 report);
- 2020 'Report by New Zealand on actions taken pursuant to paragraphs 113, 117 and 119 to 124 of resolution 64/72, paragraphs 121, 126, 129, 130 and 132 to 134 of resolution 66/68, and paragraphs 156, 171, 175, 177 to 188 and 219 of resolution 71/123' (New Zealand's 2020 report).

These reports are referenced throughout this document.

## **Implementing the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas**

This section addresses paragraphs 113 and 117 (res 64/72), paragraph 122 (res 66/68), and paragraph 171 (res 71/123).

New Zealand was actively involved in developing the Food and Agriculture Organization (FAO) International Guidelines for the Management of Deep-Sea Fisheries in the High Seas and uses the guidelines when formulating proposals for new, or improvements to existing, bottom fishing measures.

## **Conservation Measures for Bottom Fisheries**

This section addresses paragraphs 119 (a-d), 120, and 123 (res 64/72), paragraphs 129 (ad) and 132 (res 66/68), and paragraphs 180 (c) and 182 (res 71/123).

### ***A CCAMLR Conservation Measures for bottom fisheries***

The Conservation Measures (CMs) adopted by CCAMLR to regulate bottom fisheries in the Convention Area and to address the requirements of paragraph 119(a) to (d) have been described in detail in New Zealand's 2009 report. The relevant Conservation Measures (CMs 22-04 to 22-07) are also publicly available on the CCAMLR website (**Error! Hyperlink reference not valid.**).

Since New Zealand's 2020 report, CCAMLR has:

- Closed further areas recognised as VMEs or VME Risk areas to bottom fishing based on the best scientific and technical information available;
- Continued work intersessionally, and in informal discussions to streamline the processes for the identification, reporting and management of VMEs identified by vessels in CCAMLR fisheries;

- Through its Scientific Committee Working Groups, updated the system for VME notification and distribution, with the intention to integrated VME data into broader spatial planning data analyses moving forward;
- Continued the management of the RSrMPA and undertaken research with the objective of better understanding the effects of fishing and other environmental impacts on the Ross Sea region ecosystem.

New Zealand continues to implement CCAMLR's bottom fishing requirements (CM 22-04 and 22-07) through permits issued under its Antarctic Marine Living Resources Act 1981. These permits are required by any New Zealand citizen or vessel participating in Southern Ocean fisheries. The conditions of the permits reflect all applicable CCAMLR Conservation Measure requirements for operating in CCAMLR fisheries.

### ***B SPRFMO Conservation and Management Measures for bottom fisheries***

The SPRFMO Convention specifies the use of the precautionary approach and an ecosystem approach to the sustainable management of non highly migratory species in the high seas of the South Pacific Ocean.

In recent years, SPRFMO has adopted a number of Conservation and Management Measures (CMMs), both at its own initiative and in response to resolutions 64/72 and 66/68, to prevent potential significant adverse impacts on VMEs and sustainably manage deep-sea fisheries:

- CMM 08-2019 prohibits the use of large-scale pelagic driftnets and all deepwater gillnets in the Convention Area;
- CMM 03-2022 and CMM 03a-2021 implement a comprehensive suite of measures to ensure the long-term conservation and sustainable use of deep-sea fishery resources, including target fish stocks as well as non-target or associated and dependent species;
- In doing so, the measures safeguard the marine ecosystems in which these resources occur, including the prevention of significant adverse impacts on VMEs, by *inter alia*:
  - Limiting bottom fishing catch in the Convention Area to precautionary levels estimated from stock assessment models where available, or where no stock assessments are available, to a level that does not exceed the annual average over the period 1 January 2002 and 31 December 2006;
  - Restricting where bottom fishing can be conducted to carefully designed bottom fishing management areas that comprise less than 1% of the SPRFMO Convention Area. Bottom fishing management areas are based on the best scientific information and are designed to exclude priority areas for conservation and take into account the history and cumulative impacts of past and proposed bottom fishing;

- In establishing these areas, data and analyses using research and predicative modelling of likely VME areas are provided to the SPRFMO Secretariat (for circulation) and the Scientific Committee (for scientific review);
- Ensuring 100 percent observer coverage for vessels using trawl gear and at least 10 percent observer coverage for vessels using bottom line fishing gear;
- Establishing a protocol for encounters with potential VMEs, including identified indicator taxa and two sets of thresholds that trigger the protocol. Thresholds and details of the protocol are reviewed regularly using the best available information;
- Requiring that bottom fishing within an encounter area be suspended by all SPRFMO Members (unless the Commission agrees otherwise based on best available scientific advice) and reporting encounters with potential VMEs to the SPRFMO Secretariat;
- Requiring a full assessment of the impact of a Member's bottom fishing activities be accepted by SPRFMO Scientific Committee and Commission before authorizing vessels to engage in any bottom fishing;
- Requiring submission of Vessel Monitoring System (VMS) reports to the SPRFMO Secretariat for vessels that participate in bottom fishing. Vessels are required to poll once every thirty minutes for the duration of the trip. Vessels are also required to report at the start of towing or setting and the end position to the 1/100th degree resolution.

New Zealand has implemented CMM 08-2019, CMM 03-2022 and CMM 03a-2022 through conditions on high seas fishing permits issued to New Zealand flagged vessels that are intending to fish in the Convention Area pursuant to Part 6A of the Fisheries Act 1996. The conditions of the permits reflect all applicable SPRFMO Conservation and Management Measure requirements for operating in SPRFMO fisheries.

New Zealand treats breaches of these permits very seriously. New Zealand's Ministry for Primary Industry recently successfully prosecuted a company and the master of its fishing vessel in relation to bottom trawling in a protected area in breach of the conditions of its high seas fishing permit. In March 2022, Amaltal Fishing Co Limited and the master of the *Amaltal Apollo* were found guilty of 14 charges of breaching the conditions of a high seas fishing permit.

### **Bottom Fishing Impact Assessments**

This section addresses paragraph 119(a) (res 64/72), paragraphs 122 (b), 129(a) and 130 (res 66/68), and paragraphs 179 and 180(b) (res 71/123).

New Zealand has conducted impact assessments of all bottom fishing activities by New Zealand vessels in the CCAMLR and SPRFMO Convention Areas, in accordance with 119(a) of resolution 64/72 and 129(a) of resolution 66/68. Both SPRFMO and CCAMLR impact assessments are available on their respective websites.

## **A CCAMLR impact assessments**

Consistent with CCAMLR CM 22-06, New Zealand has continued to submit to CCAMLR an annual preliminary assessment with the best available information of the known and anticipated impacts of its bottom fishing activities on VMEs in the CCAMLR Convention Area.

## **B SPRFMO bottom fishing impact assessments**

As required under CMM 03-2022, New Zealand and Australia conducted a joint cumulative quantitative bottom fishing impact assessment based on an updated Bottom Fishing Impact Assessment Standard adopted by the Commission in 2021. Updated impact assessments are to be submitted to the Scientific Committee and Commission at least every three years and/or when a substantial change in the fishery has occurred, such that it is likely that the risk or impact of the fishery may have changed.

## **Marine Scientific Research**

This section addresses paragraph 119(b) (res 64/72), paragraphs 129(b) and 133 (res 66/78), and paragraph 180(a) (res 71/123).

### **A Marine scientific research in CCAMLR bottom fisheries**

New Zealand has continued to undertake scientific research to identify where VMEs are likely to occur, and to verify areas classified as either potential or designated VMEs in the Ross Sea region. Information collected by New Zealand vessels participating in the Ross Sea exploratory fishery, data collected by observers on the vessels, and information from New Zealand's scientific research voyages to the Ross Sea all feed into New Zealand's scientific contribution to CCAMLR on this topic.

This information helps to inform management decisions within CCAMLR. New Zealand has also contributed to improving procedures within CCAMLR for evaluating, reviewing, and revising assessments, and continues to be an active member in discussions regarding VMEs both at the Scientific Committee and Commission, and intersessionally.

### **B Marine scientific research in SPRFMO bottom fisheries**

New Zealand has conducted a significant amount of research, including habitat suitability modelling to predict the distributions of ten VME indicator taxa for the Southwest Pacific, to inform SPRFMO's bottom fishing measure (CMM 03-2022). The decision-support software package, Zonation, was used to combine these predicted maps of suitable habitat for VME indicator taxa and the historical distribution of fishing to identify and prioritise areas to be opened to fishing that would result in the prevention of significant adverse impacts on VMEs.

Additional research to inform the development of the measure included analysis of historical VME bycatch weights in bottom trawl operations to develop appropriate thresholds to identify encounters with potential VMEs.

New Zealand has also conducted a significant amount of research for estimating orange roughy biomass and stock structure. Detailed information on scientific research for deep-sea stocks is contained in the 'Sustainability of deep-sea stocks' section below.

## **Encounter Measures for VMEs**

This section addresses paragraphs 119(c) (res 64/72) and 129(c) (res 66/78).

### ***A CCAMLR VME encounter measure***

CCAMLR has adopted a VME encounter measure (CM 22-07) which is described in New Zealand's 2009 report.

### ***B SPRFMO VME Encounter Notification Template***

SPRFMO's bottom fishing measure (CMM 03-2022) includes a VME encounter protocol. If there is an encounter, the area of the encounter is immediately closed to all bottom fishing. Information on any encounters is submitted to the SPRFMO Secretariat immediately.

This information is then reviewed by SPRFMO's Scientific Committee to determine whether an encounter was consistent or inconsistent with VME habitat suitability model predictions and other relevant information. The Commission will consider advice from the Scientific Committee and determine appropriate management actions for each encounter area which may include the closing of some areas to some or all bottom fishing gear, temporal or spatial restrictions, and reopening areas.

CMM 03 will be reviewed in 2023, to ensure that it is meeting the objective of the SPRFMO Convention, which is being supported by a focussed intersessional SPRFMO working group process to consider potential improvements. The measure is subject to further reviews at least every three years with a subsequent review planned for 2024 to take account of any relevant outcomes from the UNGA Bottom Fishing review.

The SPRFMO Scientific Committee also reviews the SPRFMO Bottom Fishing Impact Assessment Standard every five years to ensure that it reflects, as appropriate, best practice.

## **Sustainability of Deep-Sea Stocks**

This section addresses paragraph 119(d) (res 64/72), paragraph 129(d) (res 66/68), and paragraphs 183 and 186 (res 71/123).

### ***A Long-term sustainability of CCAMLR deep-sea stocks***

The CAMLR Convention prescribes three principles of conservation (Article II, paragraph 3) which have resulted in the adoption of precautionary harvest rules for CCAMLR stocks.

CCAMLR has a robust set of CMs to ensure the long-term sustainability of its deep-sea fish stocks and non-target species. Measures are based on the best scientific information available and are established consistent with the precautionary approach. These measures are supported by a comprehensive Monitoring, Control, and Surveillance (MCS) regime.

New Zealand implements CCAMLR CMs through conditions on permits issued to New Zealand citizens and vessels fishing in the CCAMLR Convention Area under the Antarctic Marine Living Resources Act 1981.

New Zealand is a flag state and a port state for CCAMLR toothfish fisheries and undertakes pre-trip and post-trip port inspections of vessels that are going to fish, or have fished, in the Convention Area to ensure operators adhere to CCAMLR's CMs.

New Zealand also implements the CCAMLR Catch Documentation Scheme for toothfish through domestic regulations under the Fisheries Act 1996. This ensures the origin of toothfish is able to be verified and that all toothfish trade in and out of New Zealand is tracked.

New Zealand also undertakes aerial and surface patrolling in the Convention Area, reporting all sightings of illegal, unreported and unregulated (IUU) fishing to the relevant States and the CCAMLR Secretariat.

### ***B Long-term sustainability of South Pacific deep-sea stocks***

The SPRFMO deepwater species measure (CMM 03a-2021) limits bottom fishing catch levels. From 2019, conditions on high seas fishing permits issued to New Zealand flagged vessels intending to fish in the SPRFMO Convention Area have limited catch levels to the limits set out in CMM03a-2021. These include orange roughy specific catch limits for five orange roughy stock areas, and a catch limit for non orange roughy species based on the average non orange roughy catch taken between 2002 and 2006.

New Zealand has completed stock assessments for seven orange roughy stocks in the SPRFMO Convention Area, including one straddling stock that is also caught within New Zealand's EEZ. The assessments vary in complexity based on available data and fishing pressure, and have formed the basis of catch limits advised by the Scientific Committee and implemented through CMM03a-2020. Five stocks are scheduled for assessment updates in 2022.

Initially, New Zealand managed its precautionary catch limit allocation whereby only 85% of New Zealand's allocation was able to be harvested to ensure that catch did not exceed the allocation. To improve the implementation of Member allocations of orange roughy, the SPRFMO Commission in 2020 adopted amendments proposed by New Zealand and Australia to allow limited carry forward of under catch and the deduction of over catch for the subsequent fishing year. No further fishing is permitted once the catch limit has been reached.

### **Special Circumstances of Developing States**

This section addresses paragraph 121 (res 64/72), paragraph 134 (res 66/68), paragraphs 187 and 188 (res 71/123).

New Zealand recognises the special circumstances and challenges developing States face in fully implementing the relevant paragraphs of these resolutions and is open to exploring ways to accommodate these special circumstances and challenges. In particular, New Zealand has supported an exploratory potting proposal from the Cook Islands.

## **Developing and Implementing Regional Standards**

This section addresses paragraph 122 (a) (res 64/72).

The regional standard expected to be met by States is provided for in the CMs adopted by CCAMLR and in the CMMs adopted by SPRFMO. The respective scientific committees of the organisations review the best available information to assess whether the management decisions are achieving the objective of the measures. The CCAMLR and SPRFMO compliance committees monitor the performance of Members to ensure they uphold the agreed management actions, and, if required, procedures are put in place to improve future performance.

## **Monitoring and Compliance**

New Zealand implements paragraph 122 (d) (res 64/72) through conducting aerial and surface patrols in the Pacific and Southern Oceans and supplies detailed information on sightings of any IUU fishing to the relevant Flag States and the Secretariat of the relevant fisheries management body.

## **Coordination with Other Regional Fisheries Bodies**

This section addresses paragraph 156 (res 71/123).

New Zealand has shared knowledge and experiences on the development of measures to sustainably manage deep-sea fish stocks and prevent significant adverse impacts on VMEs in the following ways:

- Submitting multiple papers (averaging about 10 each year) to SPRFMO's Scientific Committee and its related workshops on stock assessment, seabirds, mammals and other species of concern, and VME-related issues, including papers developed jointly with scientists from other SPRFMO Members that also participate in other regional fisheries bodies (Australia and the European Union);
- Submitting progress reports and data on SPRFMO exploratory fisheries to CCAMLR committees and working groups when those fisheries have the potential to overlap management areas;
- Inviting scientists from other SPRFMO Members and a variety of stakeholders, many of whom overlap with other RFMOs or CCAMLR, to participate in New Zealand science review meetings and discussions during the development of scientific advice;
- Publishing multiple articles in scientific journals, including paying for open access to those articles, on the development of habitat suitability models for VME indicator taxa at a range of spatial scales, use of spatial decision-support software to design spatial

management areas, and data-informed approaches to setting threshold weights for VME encounter protocols on the high seas.

### **Areas Beyond National Jurisdiction Without RFMOs or Arrangements**

New Zealand flagged vessels are not permitted to conduct bottom fishing on the high seas outside the CCAMLR and SPRFMO Convention Areas (paragraph 124, res 64/72). All New Zealand flagged vessels fishing on the high seas require a high seas fishing permit, which sets out the regulations and conditions associated with high seas fishing in accordance with RFMO CMMs and international obligations.

### **Non-Bottom Fishing Human Activities**

This section addresses paragraph 184 (res 71/123).

New Zealand participates in the work of the International Seabed Authority (ISA) as a member of the Assembly and as an observer on the Council. It is not a sponsoring State of seabed mining in the Area.

In New Zealand's view, important steps need to be taken before mining can occur in order for VMEs to be protected from significant adverse impacts. To this end New Zealand is actively engaged in negotiations to develop exploitation regulations, standards and guidelines (known as the 'Mining Code') at the ISA. Our focus in these negotiations is advocating for a Mining Code that provides for high environmental protection, as required by Article 145 of the United Nations Convention on the Law of the Sea (UNCLOS).