

CMM 03-2018¹

Conservation and Management Measure for the Management of Bottom Fishing in the SPRFMO Convention Area

The Commission of the South Pacific Regional Fisheries Management Organisation;

RECOGNISING that Article 3(1)(a)(i) and (vii) of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (the Convention) call on the Commission, in giving effect to the objectives of the Convention, to adopt Conservation and Management Measures (CMMs) that take account of international best practices and protect the marine ecosystem, particularly ecosystems with long recovery times following disturbance;

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

MINDFUL of Article 31(1) of the Convention that calls on the Commission to cooperate with other regional fisheries management organisations (RFMOs), the Food and Agriculture Organization of the United Nations (FAO), other specialised agencies of the United Nations and other relevant organisations on issues of mutual interest;

RECALLING that in 2007, Participants in the International Consultations on the Establishment of the South Pacific RFMO adopted voluntary interim management measures, including *inter alia*, for the management of bottom fisheries in the Convention Area;

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

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

FURTHER NOTING UNGA Resolution 66/68 which encourages RFMOs to consider the results available from marine scientific research, including those obtained from seabed mapping programmes concerning the identification of areas containing VMEs, and to adopt CMMs to prevent significant adverse impacts from bottom fishing on such ecosystems, consistent with the FAO Deep-sea Fisheries Guidelines, or to close such areas to bottom fishing until such CMMs are adopted, as well as to continue to undertake further marine scientific research, in accordance with international law as reflected in Part XIII of the Convention;

¹ CMM 03-2018 supersedes CMM 03-2017

AWARE of the steps already taken by the Commission to address the impacts of large-scale pelagic driftnets and all deepwater gillnets in the Convention Area, through the implementation of CMM 08-2013 (Gillnetting);

COMMITTED to ensuring that bottom fishing is consistent with the long term sustainability of deep sea fish stocks and the protection of ecosystems;

ADOPTS the following CMM in accordance with Article 8 and Article 20 and with reference to Annex III of the Convention:

OBJECTIVE

1. To promote the sustainable management of bottom fisheries including target fish stocks as well as non-target species taken as bycatch, in these fisheries, and to protect the marine ecosystems in which those resources occur, including *inter alia*, the prevention of significant adverse impacts on vulnerable marine ecosystems.

GENERAL PROVISIONS

2. This CMM applies to all fishing vessels flying the flag of a Member or Cooperating non-Contracting Party (CNCP) to the South Pacific Regional Fisheries Management Organisation (SPRFMO) engaging or intending to engage in bottom fishing in the Convention Area.
3. For the purposes of this CMM, the term “vulnerable marine ecosystem” (VME) means a marine ecosystem that has the characteristics referred to in paragraph 42 and elaborated in the Annex of the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas (FAO, 2009; FAO Deep-sea Fisheries Guidelines).
4. For the purposes of this CMM, the term “bottom fishing” is defined as fishing using any gear type likely to come in contact with the seafloor or benthic organisms during the normal course of operations.
5. To assist in the review of this CMM, including *inter alia*, the development of spatial management arrangements and sustainable catch levels, the Commission requests the Scientific Committee, by no later than the third meeting of the Scientific Committee in 2015, to:
 - a) undertake an assessment of the likely impact of specific gear types, particularly trawl, on VMEs, to further inform the definition of bottom fishing;
 - b) undertake stock assessments of principal deep-sea fishery resources targeted, and, to the extent possible, taken as bycatch and caught incidentally in these fisheries, including straddling resources;
 - c) develop and provide advice and recommendations to the Commission on criteria for what constitutes evidence of an encounter with a VME, in particular threshold levels and indicator species;
 - d) develop and provide advice and recommendations to the Commission on the most appropriate response to a VME encounter, including *inter alia* closing particular areas to a particular gear type or types;
 - e) review and streamline the SPRFMO Bottom Fishery Impact Assessment Standard (SPRFMO BFIAS) agreed by the Scientific Working Group in 2011 to take account of the latest scientific information available;
 - f) provide advice on the appropriate spatial resolution and time period for footprint mapping; and
 - g) develop maps of VME distribution in the Convention Area.
6. For the purpose of this CMM, the term “bottom fishing footprint” means a map of the spatial extent and distribution of historical bottom fishing in the Convention Area of all vessels flagged to a particular Member or CNCP over the period 1 January 2002 to 31 December 2006.

7. The provisions of this CMM and those of the 2007 Interim Measures for bottom fisheries are not necessarily to be considered precedents for future allocation or other decisions in accordance with Article 21 of the Convention relating to participation in bottom fisheries in the Convention Area and adjacent areas of national jurisdiction in the circumstances provided for in Article 20(4)(ii) and (iii) with the consent of the relevant coastal State Member or Members.

MANAGEMENT OF BOTTOM FISHING AND FISHERIES

8. In respect of bottom fisheries, Members and CNCPs agree to:
- a) prepare and submit to the Scientific Committee a bottom fishing footprint as defined in paragraph 6, and a bottom fishing impact assessment, in accordance with paragraphs 10 to 15;
 - b) prohibit vessels flying their flag from participating in bottom fishing activities in the Convention Area, except in accordance with the provisions of this CMM;
 - c) except as provided for in paragraphs 16 to 20 below, limit bottom fishing catch in the Convention Area to a level that does not exceed the annual average levels of that Member or CNCP over the period 1 January 2002 to 31 December 2006;
 - d) except as provided for in paragraphs 16 to 20 below, restrict bottom fishing to within the bottom fishing footprint of that Member or CNCP established in accordance with sub-paragraph (a);
 - e) pending the development of an SPRFMO Observer Programme and until the Scientific Committee undertakes the assessments provided for in paragraph 5 (a) and (b) of this CMM:
 - i. for vessels using trawl gear in the Convention Area, ensure 100 percent observer coverage for vessels flying their flag for the duration of the trip;
 - ii. for each other bottom fishing gear type, ensure that there is at least a 10 percent level of observer coverage each fishing year;
 - f) until the Scientific Committee has developed advice on SPRFMO threshold levels pursuant to paragraph 5(c) of this CMM, establish threshold levels for encounters with VMEs for vessels flying their flag, taking into account paragraph 68 of the FAO Deep-sea Fisheries Guidelines;
 - g) require vessels flying their flag to cease bottom fishing activities within five (5) nautical miles of any site in the Convention Area where evidence of a VME is encountered above threshold levels established under sub-paragraph (f) in the course of fishing operations, and to report the encounter to the Secretariat of the Commission in accordance with the guidelines at Annex 1, so that appropriate action can be taken in respect of the relevant site;
 - h) notwithstanding sub-paragraphs (d) and (g) above, a Member or a CNCP may exclude part of its bottom fishing footprint from the application of sub-paragraph (g) by dividing its footprint into areas open to bottom fishing, areas closed to bottom fishing and areas to which sub-paragraph (g) would apply. These exclusions must have the purpose of preventing significant adverse impacts to VMEs.
9. Nothing in paragraph 8 shall affect the rights of Members and CNCPs to apply additional or more stringent compatible measures to their flagged vessels conducting bottom fishing.

ASSESSMENT OF BOTTOM FISHING

10. No Member or CNCP shall authorise their flagged vessels to engage in any bottom fishing within the Convention Area unless they have undertaken an assessment of the impact of their flagged vessels' bottom fishing. Any assessment carried out after 2011 must be done in accordance with the FAO Deep-sea Fisheries Guidelines, and taking into account the SPRFMO BFIAS and areas identified where VMEs are known or suspected to occur in the area to be fished. When preparing assessments, Members and CNCPs will take into account the information provided pursuant to paragraph 23 of this CMM.
11. Assessments by Members or CNCPs shall also address whether the proposed activities achieve the objectives described in paragraph 1 of this CMM and Article 2 of the Convention.

12. The Scientific Committee shall:

- a) assess, on the basis of the best available scientific information, whether the proposed bottom fishing would have significant adverse impacts on VMEs and if it is assessed that these activities would have significant adverse impacts, recommend measures to prevent such impacts, or recommend that the proposed bottom fishing should not proceed;
- b) assess, taking into account, *inter alia*, the cumulative impacts of other fishing occurring in the region where such information is available, whether the proposed activities are consistent with paragraph 1 of this CMM and Article 2 of the Convention;
- c) provide recommendations and advice to the Commission on the assessment.

13. The Commission shall:

- a) on the basis of these assessments and taking into account the recommendations and advice of the Scientific Committee, consider whether, and if applicable the extent to which, bottom fishing in the region of the Convention Area for which the assessment was conducted, can be authorised and which, if any, measures are required, to prevent significant adverse impacts on VMEs;
- b) make their determinations and any Scientific Committee evaluations publicly available.

14. Members and CNCPs shall ensure that assessments are updated when a substantial change in the fishery has occurred, such that it is likely that the risk or impacts of the fishery may have changed.

15. These assessments shall be made publicly available on the SPRFMO website.

FISHING OUTSIDE THE FOOTPRINT OR ABOVE REFERENCE PERIOD CATCH LEVELS

16. Notwithstanding paragraphs 8(c) and (d), a Member or CNCP may apply to the Commission to either:

- a) undertake bottom fishing in the Convention Area where they do not have a bottom fishing footprint;
- b) undertake bottom fishing in the Convention Area but outside their footprint established in accordance with paragraph 8(a); or
- c) exceed the average level of catch for bottom fishing established in accordance with paragraph 8(c).

17. The Member or CNCP shall prepare and submit to the Secretariat for consideration by the Scientific Committee 60 days in advance of a Scientific Committee meeting, an application outlining their proposal to commence bottom fishing or their proposal to fish outside their footprint or above reference year catch levels, in accordance with paragraphs 10 and 11. Such an application will take into account the results of any public consultation conducted by that Member or CNCP.

18. Assessments by Members or CNCPs shall be submitted to the Scientific Committee for review. The Scientific Committee will consider the assessments in accordance with paragraph 12.

19. The Commission shall consider the assessments in accordance with paragraph 13. These assessments shall be made publicly available on the SPRFMO website.

20. Members and CNCPs shall not permit bottom fishing to occur until it has been authorised in accordance with paragraphs 16 to 19.

21. The requirements in paragraphs 16 to 20 are in addition to the requirements in any other measures adopted under Article 22 of the Convention with respect to new and exploratory fisheries.

VULNERABLE MARINE ECOSYSTEMS

22. Subject to paragraph 8(h) of this CMM, in respect of areas where VMEs are known to occur or are likely to occur based on the best available scientific information, the Commission shall close such areas to bottom fishing by a particular gear type or types, drawing on advice from the Scientific Committee provided under paragraph 5, unless, based on an assessment undertaken in accordance with either paragraphs 10 to 15 or paragraphs 16 to 19 above, the Commission determines that such bottom fishing will not have significant adverse impacts on VMEs.

23. Members and CNCPs shall cooperate to identify, on the basis of the best available scientific information, areas where VMEs are known or likely to occur in the Convention Area and to map these sites, and provide such data and information to the SPRFMO Secretariat for circulation to all Members and CNCPs.

MONITORING, CONTROL AND REPORTING OF BOTTOM FISHING

24. All Members and CNCPs whose vessels participate in bottom fishing shall, *inter alia*:
- a) ensure that their vessels are equipped and configured so that they can comply with all relevant SPRFMO CMMs and shall only authorise their vessels to fish in the Convention Area where they are able to exercise their responsibilities as a flag State under the Convention and the CMMs;
 - b) ensure that vessels meet the level of observer coverage specified in paragraph 8(e) of this CMM to collect data in accordance with this and other CMMs;
 - c) prohibit their vessels from participating in bottom fishing if the agreed minimum required data submissions have not been provided in accordance with the agreed subset of the vessel identification data requirements;
 - d) require each of their vessels to operate a vessel monitoring system polling once every two hours for the duration of the trip², and report back to its flag state in accordance with the SPRFMO Data Standards or any other relevant CMM;
 - e) in respect of each vessel, submit VMS reports in an electronic format to the Secretariat in accordance with any VMS CMM adopted by the Commission; and
 - f) report, in an electronic format, the monthly catches of their flagged vessels to the Secretariat within 20 days of the end of each month, in accordance with the SPRFMO Data Standards.
25. The Executive Secretary shall circulate monthly catch reports (from data provided in accordance with paragraph 24(f)) aggregated by flag State, to all Members and CNCPs as soon as possible, once collated.

COOPERATION WITH OTHER STATES

26. Members and CNCPs resolve, individually or jointly, to request those States that are undertaking bottom fishing for fishery resources in the Convention Area but are not currently Members or CNCPs to the Convention to cooperate fully in the implementation of this measure and to consider participating in the work of SPRFMO as a matter of priority.

REVIEW

27. Noting the work done by the Scientific Committee at its annual meeting in 2017, as well as the information paper presented by Australia and New Zealand at the 2018 annual meetings of the Compliance and Technical Committee and the Commission, this CMM shall apply until the close of the annual Commission meeting in 2019 unless determined otherwise by the Commission. It shall be reviewed at the regular meeting of the Commission in 2019 with the aim of adopting a new bottom fishing CMM. Such review shall take into account, *inter alia*, the latest advice of the Scientific Committee, including with respect to appropriate catch levels for principal target species and/or appropriate reference periods, in accordance with the objectives described in paragraph 1 of this CMM.

² The term “duration of the trip” commences from the time the vessel departs from port, includes all times that it is in the Convention Area and concludes once it enters port.

Annex 1

Guidelines for the Preparation and Submission of Notifications of Encounters with VMEs

1. GENERAL INFORMATION

- Include contact information, nationality, vessel name(s) and dates of data collection

2. VME LOCATION

- Start and end positions of all gear deployments and/or observations
- Maps of fishing locations, underlying bathymetry or habitat and spatial scale of fishing
- Depth(s) fished

3. FISHING GEAR

- Indicate fishing gears used at each location

4. ADDITIONAL DATA COLLECTED

- Indicate additional data collected at or near the locations fished, if possible
- Data such as multibeam bathymetry, oceanographic data such as CTD profiles, current profiles, water chemistry, substrate types recorded at or near those locations, other fauna observed, video recordings, acoustic profiles etc.

5. VME TAXA

- For each station fished, provide details of VME taxa observed, including their relative density, absolute density, or number of organisms if possible