

The Southern Indian Ocean Fisheries Agreement (SIOFA) 6<sup>th</sup> Meeting of the Parties  
01-05 July 2019

Pearle Beach Resort & Spa conference centre, Flic en Flac, Mauritius

## MoP6-Prop14

# General Rules for the Management of Bottom Fishing in the Agreement Area

*Relates to agenda item: CC 4.2, MoP6 12*

Proposal  Working Document  Information Paper  Other Document

## Delegation of AUSTRALIA

### Abstract

#### **This CMM in a snapshot**

This CMM covers the general rules associated with bottom fishing. Significantly, it differentiates between established and new or exploratory fisheries. Bottom fishing in an established fishery would be open to all existing CCPs, while fishing in a new or exploratory fishery would require MoP approval. The CMM also provides a range of definitions, proposes clearer arrangements for new entrants and includes observer coverage requirements

The MoP will need to consider how this CMM will interact with proposals for measures regulating new and exploratory fisheries, and research activity.

#### **What has changed from CMM 2018/01?**

- New definitions as required
- New joint bottom fishing footprint – ie footprints that are commonly open to all CCPs, rather than an individual footprint. It also proposes differentiating these footprints by gear (which is the direction of the SC's advice and considerations) and the rules required to manage this.
- Determines the boundaries of and general rules for fishing within established fisheries
- More clarity in requirements for new entrants – the proposal is for managed entry requirements where established fisheries are only open to new entrants where they satisfy certain conditions.

- New review timeframe proposed

**What is unchanged from CMM 2018/01?**

- Preambular text
- The objective
- Existing definitions are unchanged
- General management conditions
- Observer coverage
- Cooperation with other States
- Position reporting

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## **Recommendations** *(proposals only)*

### **1. That the Meeting of the Parties adopt the proposed CMM**

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## CMM XX-2019

### General Rules for the Management of Bottom Fishing in the Agreement Area

#### **The Meeting of the Parties to the Southern Indian Ocean Fisheries Agreement;**

*RECOGNISING* that Article 4(a) of the *Southern Indian Ocean Fisheries Agreement* (the Agreement) calls on the Contracting Parties, in giving effect to the duty to cooperate, to adopt measures on the basis of the best scientific evidence available to ensure the long-term conservation of fishery resources, taking into account the sustainable use of such resources and implementing an ecosystem approach to their management; [source: PP01 CMM 2018/01];

*FURTHER RECOGNISING* Articles 4(c), (e) and (f) of the Agreement which call on the Contracting Parties to apply the precautionary approach, that fishing practices and management measures shall take due account of the need to minimise the harmful impact that fishing activities may have on the marine environment and noting that biodiversity in the marine environment shall be protected; [source: PP02 CMM 2018/01];

*FURTHER RECOGNISING* Articles 6(1)(d) and (e) of the Agreement which provides that the Meeting of the Parties shall adopt conservation and management measures (CMMs) for ensuring the long-term sustainability of fishery resources, taking into account the need to protect marine biodiversity, based on the best scientific evidence and adopt generally recommended international minimum standards for the responsible conduct of fishing operations; [source: PP03 CMM 2018/01];

*MINDFUL* of Article 16 of the Agreement that calls on Contracting Parties, acting jointly under the Agreement, to cooperate closely with other international fisheries and related organisations in matters of mutual interest; [source: PP04 CMM 2018/01];

*NOTING* United Nations General Assembly (UNGA) Resolution 61/105 and subsequent resolutions of UNGA that call 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 (VMEs), 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; [source: PP05 CMM 2018/01];

*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 VMEs; [source: PP06 CMM 2018/01];

*FURTHER NOTING* UNGA Resolution 66/68 which encourages RFMOs to consider the results available from marine scientific research, including those obtained from seabed mapping programs concerning the identification of areas containing VMEs, and to adopt conservation and management measures 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 conservation and management measures 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 United Nations Convention on the Law of the Sea; [source: PP07 CMM 2018/01];

*AWARE* of the steps being taken by the Meeting of the Parties to address the impacts of large-scale pelagic drift nets and deepwater gillnets in the SIOFA Area of Application (the Agreement Area) through the adoption of CMM 2016/05; [source: PP08 CMM 2018/01];

*COMMITTED* to ensuring that bottom fishing undertaken in the Agreement Area is consistent with the long-term sustainability of deep sea fish stocks and the protection of the marine environment; [source: PP09 CMM 2018/01];

**ADOPTS the following CMM in accordance with Article 6 of the Agreement:**

**Objective**

1. The objective of this CMM, together with [CMM VME Protection] and [CMM Stocks] is to promote the sustainable management of deep-sea fisheries resources in the Agreement Area, including target fish stocks and non-target species, and to protect the marine ecosystem, including, *inter alia*, the prevention of significant adverse impacts on vulnerable marine ecosystems. [source: OP1 CMM 2018/01]

**General provisions and definitions**

2. This CMM applies to all fishing vessels flying the flag of a Contracting Party, cooperating non-Contracting Party, participating fishing entity or cooperating non-participating fishing entity (collectively CCPs) to the Agreement engaging or intending to engage in bottom fishing in the Agreement Area. [source: OP2 CMM 2018/01, modified]

3. For the purposes of this CMM and, where applicable, [the other CMMs]:

- (a) 'vulnerable marine ecosystem' (VME) means a marine ecosystem identified using the criteria outlined in paragraph 42 of the *FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas* (FAO, 2009). [source: OP3(a) CMM 2018/01]
- (b) 'bottom fishing' means fishing using any gear type likely to come in contact with the seafloor or benthic organisms during the normal course of operations [source: OP3(b) CMM 2018/01] and includes fishing by the following methods:
  - i. 'bottom trawl' which is defined as fishing using a trawl net that is designed to be pulled through the water and to come into contact with the seabed
  - ii. 'mid-water trawl' which is defined as fishing for benthic-pelagic species using a trawl net that is designed to be pulled through the water near the seabed and designed not to come into extended contact with the seabed.
  - iii. 'bottom line' which is defined as fishing using a line to which a hook or hooks (whether baited or not) are attached and rigged to sink and fish on or near the seabed. This includes, but is not limited to, longlines, hand lines, drop lines, trot lines, and dahn lines. [source: paragraph 3 of SPRFMO CMM 03-2019].
  - iv. 'traps' or 'pots' which are defined as enclosures or devices that fish, crustaceans or molluscs enter voluntarily, or are entangled in, but from which they are prevented from escaping.
- (c) 'SIOFA Bottom Fishing Footprint' means an area described in paragraph [7] [source: OP3(c) CMM 2018/01, modified.]
- (d) 'electronic observer program' means a program that uses electronic monitoring

equipment in place of, or in conjunction with, a human observer or human observers on board a vessel and that is capable of generating, storing and transmitting data to competent authorities. [source: OP3(d) CMM 2018/01]

- (e) 'Established Bottom Fishing Fisheries' means only those fisheries specified in paragraph [5] of this CMM. [New]

4. This CMM shall be interpreted consistently with [CMM VME Protection] and [CMM Stocks]. [New]

### **Established Bottom Fishing Fisheries**

5. The Meeting of the Parties hereby establishes the following Established Bottom Fishing Fisheries:

- (a) an orange roughy fishery which is targeted with bottom and mid-water trawl gear
- (b) an alfonsino fishery which is targeted with mid-water trawl gear
- (c) a toothfish fishery which is targeted with bottom line and traps
- (d) a deepwater shark fishery which is targeted with bottom set gillnets and bottom line
- (e) Saya de Malha Bank mixed species fishery encompassing all fishing activity defined in [area to be defined] and caught with bottom trawl, traps, and bottom line methods. [New]
- (f) a mixed species fishery targeting mostly deep-sea teleost species typically caught south of 25°S using bottom line gears.<sup>1</sup> [New]

*[for discussion – Australia has consistently given the view that it is difficult to determine what fisheries are new or exploratory without considering which fisheries are established. In our view, a new or exploratory fishery would be one that is not listed above – including, using a new gear type not mentioned above for that target species, or fishing outside the yet-to-be-established SIOFA footprint].*

6. The Meeting of the Parties may in future decide to establish additional Established Bottom Fishing Fisheries, based on advice from the Scientific Committee. [New]

### **SIOFA Bottom Fishing Footprints**

7. The Meeting of the Parties hereby establishes the following SIOFA Bottom Fishing Footprints:

- (a) the Bottom Trawl Footprint;
- (b) the Midwater Trawl Footprint; and
- (c) the Bottom Line Footprint;

the coordinates for which are provided at [Annex X- to be included pending SC advice]. [New]

8. The Meeting of the Parties may in future establish, disestablish, or adjust the boundaries

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<sup>1</sup> Typically: Blue-eye trevalla (*Hyperoglyphe antartica*), bass groper (*Polyprion americanus*), Hapuku (*Polyprion oxygeneios*), ocean blue-eye trevalla (*Schedophilus velaini*), reef ocean perch (*Helicolenus percoides*), Rubyfish (*Plagiogeneion spp.*) and yellowtail kingfish (*Seriola lalandi*).

of any SIOFA Bottom Fishing Footprint, based on advice from the Scientific Committee. [New]

### **New or exploratory fishing**

9. Bottom fishing activity undertaken or proposed to be undertaken:
- (a) in a manner not accounted for in one of the categories in paragraph [5];
  - (b) outside a SIOFA Bottom Fishing Footprint;
  - (c) inside a SIOFA Bottom Fishing Footprint using methods other than bottom trawl, midwater trawl, bottom line fishing or traps; or
  - (d) in the Midwater Trawl Footprint using bottom trawl gear or in the Bottom Line Footprint using bottom trawl or midwater trawl gear;
- shall be considered to be new or exploratory fishing. [New]

10. CCPs shall only authorise vessels flying their flag to engage in new or exploratory fishing with the approval of the Meeting of the Parties and in accordance with such precautionary rules as the Meeting of the Parties determines necessary to manage new or exploratory fisheries. [New]

11. The Meeting of the Parties may decide that bottom fishing in new or exploratory fisheries can take place on terms other than those required by this CMM.

### **New entrants**

12. Subject to paragraph [13], only States and regional economic integration organisations that became a CCP at or before the ordinary Meeting of the Parties in [2018] may authorize vessels flying their flag to fish in an Established Bottom Fishing Fishery. [New]

13. Unless the Meeting of the Parties decides otherwise, any State or fishing entity that became a CCP after the ordinary meeting in [2018] shall only be permitted to authorise vessels flying their flag to bottom fish in an Established Bottom Fishing Fishery when:

- (a) where that CCP has previously engaged in bottom fishing in the Agreement Area, that CCP has submitted relevant data on its historical bottom fishing catch and effort and, if available, observer data, in accordance with paragraph 19 of CMM 2018/02; and
- (b) that CCP has submitted a bottom fishing impact assessment in accordance with the requirements of [CMM VME Protection]; and
- (c) that CCP has provided any other relevant data and information necessary to contribute to a cumulative bottom fishing impact assessment; and
- (d) that CCP has provided all relevant vessel information required by CMM 2017/07. [New]

### **General management and conditions for bottom fishing in the Agreement Area**

14. Each CCP shall only authorise vessels flying its flag to bottom fish in the Agreement Area:

- (a) in accordance with the provisions of the Agreement, this CMM and all other applicable CMMs, and shall ensure that such vessels do not engage in any activity which undermines the effectiveness of these measures; [source OP25, CMM 2018/01]

- (b) where it has submitted a bottom fishing impact assessment in accordance with the requirements of [CMM VME Protection] [New]
- (c) where it is able to exercise its responsibilities as a flag State under the Agreement, this CMM and all other applicable CMMs; [source OP27, CMM 2018/01]

15. Each CCP shall ensure that all vessels flying its flag that participate in bottom fishing in the Agreement Area:

- (a) engage in bottom fishing only within a SIOFA Bottom Fishing Footprint;
- (b) participate only in Established Bottom Fishing Fisheries;
- (c) adhere to the following gear restrictions:
  - i. bottom trawling shall only occur in the Bottom Trawl Footprint;
  - ii. midwater trawling shall only occur in the Midwater Trawl Footprint or the Bottom Trawl Footprint;
  - iii. bottom lining and trapping shall only occur within a SIOFA Bottom Fishing Footprint. [source: new]
- (d) are equipped and configured to comply with all relevant CMMs [source OP26, CMM 2018/01]
- (e) provide the minimum required data to the Secretariat in accordance with the SIOFA Data Standards CMM (CMM 2018/02). [source OP28, CMM 2018/01]

16. Nothing in this CMM shall affect the right of a CCP to apply additional or more stringent compatible measures to vessels flying its flag that are conducting bottom fishing. [source OP29, CMM 2018/01]

17. Nothing in this CMM exempts a CCP from complying with any other obligations in the Agreement or any CMMs adopted by the Meeting of the Parties. [source OP30, CMM 2018/01]

### **Scientific observer coverage**

18. Each CCP shall ensure that any vessel flying its flag and undertaking bottom fishing in the Agreement Area:

- (a) using bottom or mid-water trawl gear has 100 percent scientific observer coverage for the duration of the trip<sup>2</sup>; and
- (b) subject to paragraph [28(b)] of [CMM VME Protection], using any other bottom fishing gear type has 20 percent scientific observer coverage in any fishing year.<sup>3</sup> [source OP31, CMM 2018/01]

19. Consistent with paragraph 13 of the SIOFA Data Standards CMM (CMM 2018/02), the Scientific Committee shall review the observer coverage levels prescribed in paragraph [18] at its ordinary meeting in [2020] and provide advice to the Meeting of the Parties thereon. [source OP31, CMM 2018/01 noting review date is amended]

20. The scientific observer coverage levels outlined in paragraph [18] shall be fulfilled

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<sup>2</sup> And, where possible, 100 per cent of hauls unless this is not practical for a work health or safety reason

<sup>3</sup> For line fishing this should be expressed as the percentage of the total number of observed hooks or days. For pot/trap fishing this should be expressed as the percentage of the total number of observed hauls (lifts).

through the use of human observers, except to the extent the use of an electronic observer program is authorised by the Meeting of the Parties pursuant to paragraph [22(c)]. [New]

21. A CCP may submit a proposal to the Scientific Committee at least 30 days prior to its ordinary meeting seeking to fulfill, in part, its observer coverage requirements, or elements thereof, through the use of an electronic observer program as an alternative to, or in conjunction with, human observers. As part of this proposal, that CCP shall submit evidence of, and data relating to, a statistically robust trial of the program that demonstrates it meets the data requirements prescribed in the SIOFA Data Standards CMM (CMM 2018/02) and the *Guidelines for Evaluating and Approving Electronic Observer Programs*<sup>4</sup> (the Electronic Observer Guidelines).

22. Following the submission of the proposal by the CCP to the Scientific Committee:

- (a) The Scientific Committee shall review the proposal and provide recommendations and advice thereon to the Meeting of the Parties, taking into account the Electronic Observer Guidelines and whether the program will reliably collect all data required by the SIOFA Data Standards CMM (CMM 2018/02).
- (b) The Compliance Committee shall also review the proposal and provide advice and recommendations thereon to the Meeting of the Parties.
- (c) On receipt of the advice by the Scientific Committee and the Compliance Committee on the proposal, the Meeting of the Parties shall, at its next meeting, consider whether to authorise the use of that program by that CCP in place of the exclusive use of human observers. [source OP33, CMM 2018/01 with amendments to incorporate 2017 SC advice on electronic monitoring]

### **Position Reporting**

23. Each CCP shall, in respect of each vessel flying its flag which participates in bottom fishing in the Agreement Area, submit Vessel Monitoring System (VMS) reports in an electronic format to the Secretariat in accordance with any VMS CMM adopted by the Meeting of the Parties and CMM 2018/02-[source OP34, CMM 2018/01]

### **Cooperation with other States**

24. Contracting Parties resolve, individually or jointly, to request those States and fishing entities that are undertaking bottom fishing in the Agreement Area but are not currently CCPs to cooperate fully in the implementation of this measure and to consider participating in the work of SIOFA as a matter of priority. [source OP40, CMM 2018/01]

### **Review**

25. This CMM shall be reviewed no later than at the ordinary Meeting of the Parties in 2022. This review shall take into account, *inter alia*, the latest advice of the Scientific Committee. [source OP41, CMM 2018/01, modified]

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<sup>4</sup> As adopted by the Meeting of the Parties at its ordinary meeting in 2017