

1st Meeting of the Southern Indian Ocean Fisheries Agreement (SIOFA) Scientific
Committee

21-14 March 2015, Esplanade Hotel, Fremantle

SC-01-07 (02) 01)

Draft CMM for the management of bottom fishing in the SIOFA Area

Relates to agenda item: 7

Working paper info paper

Delegation of Australia

Abstract

Australia presents a draft CMM for the management of bottom fishing in the SIOFA Area for the Scientific Committee's consideration. This CMM seeks to implement the recommendations made by Australia in SC-01-07 (01).

Recommendations *(working papers only)*

1. That the Scientific Committee consider the scientific elements of this draft CMM before it is presented to the Meeting of the Parties.
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Australian Proposal for (Scientific Committee consideration)
Draft Conservation and Management Measure for the Management of Bottom Fishing in
the SIOFA Area

Contracting Parties to the Southern Indian Ocean Fisheries Agreement;

Recognising that article 4(a) of the Agreement calls on the Meeting of the 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;

Further recognising articles 4(c), (e) and (f) of the Agreement which call on the Meeting of the 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;

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;

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;

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 authorized 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 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;

Aware of the steps being considered by the Meeting of the Parties to address the impacts of gillnets in the Area;

Committed to ensuring that bottom fishing is undertaken in the Area consistent with the long term sustainability of deep sea fish stocks and the protection of the marine environment;

Adopts the following CMM in accordance with Article 6 and 8 of the Agreement:

Objective

1. To promote the sustainable management of bottom fisheries including target fish stocks and non-target species to protect the marine ecosystem, including *inter alia*, the prevention of significant adverse impacts on vulnerable marine ecosystems.

General provisions and definitions

2. This CMM applies to all fishing vessels flying the flag of a Contracting Party, cooperating non-Contracting Party (CNCP) or participating fishing entity (PFE) to the Agreement engaging or intending to engage in bottom fishing in the Area.

3. For the purposes of this CMM, the term '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; FAO Deep-sea Fisheries Guidelines).

4. For the purposes of this CMM, '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. 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 Area of all vessels flagged to a particular Contracting Party, CNCP or PFE over the period 1 January 1999 to 31 December 2009 expressed as grid blocks of 20 minute resolution.

6. The provisions of this CMM are not necessarily to be considered precedents for future allocation or other decisions in accordance with articles 6(2),(3) and (4) of the Agreement relating to participation in bottom fisheries in the Area and adjacent areas of national jurisdiction, as appropriate.

Scientific Committee work on bottom fishing

7. The Scientific Committee shall, by no later than the meeting of the Scientific Committee in 2017:

(a) develop and provide advice and recommendations to the Meeting of the Parties on criteria for what constitutes evidence of an encounter with a VME, in particular threshold levels and indicator species;

(b) develop and provide advice and recommendations to the Meeting of the Parties on the most appropriate response to a VME encounter, including *inter alia* closing particular areas to a particular gear type or types; and

(c) develop a SIOFA Bottom Fishery Impact Assessment Standard (BFIAS) which takes account of the latest scientific information available.

8. The Scientific Committee shall, by no later than the meeting of the Scientific Committee in 2018:

(a) develop maps of VME distribution in the Area;

(b) commence 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.

Bottom fishing activity currently undertaken in the Area

9. Any Contracting Party, CNCP or PFE that authorises or is seeking to authorise a vessel or vessels that flies its flag to bottom fish in the Area shall prepare and submit to the Scientific Committee a bottom fishing footprint as defined in paragraph 5 at least 30 days before the 2017 meeting of the Scientific Committee.

10. Any Contracting Party, CNCP or PFE that authorises or is seeking to authorise a vessel or vessels that flies its flag to bottom fish in the Area shall prepare and submit a bottom fishing impact assessment (BFIA) to the Scientific Committee at least 30 days before the 2017 meeting of the Scientific Committee. If, at the Meeting of the Parties in 2020, any Contracting Party, CNCP or PFE who is a Contracting Party, CNCP or PFE when this CMM is adopted has not submitted a BFIA to the Scientific Committee, then that Contracting Party, CNCP or PFE is prohibited from authorising its vessels to undertake bottom fishing in the Area until it submits a BFIA to the Scientific Committee, in accordance with the requirements in paragraph 12 unless otherwise decided by the Meeting of the Parties.

11. For any State or fishing entity that becomes a Party to the Agreement, a CNCP or PFE after the date this CMM is adopted, that Contracting Party, CNCP or PFE shall prepare and submit a BFIA to the Scientific Committee, in accordance with the requirements in paragraph 12, within two years of becoming Party to the Agreement, or becoming a CNCP or PFE. If, after three years of becoming Party to the Agreement, or becoming a CNCP or PFE, that Contracting Party, CNCP or PFE has not submitted a BFIA to the Scientific Committee then that Contracting Party, CNCP or PFE shall not authorise its vessels to undertake bottom fishing in the Area until it prepares and submits a BFIA to the Scientific Committee, in accordance with the requirements in paragraph 12 unless otherwise decided by the Meeting of the Parties.

12. All BFIAs shall:

(a) be prepared in accordance with the FAO Deep-sea Fisheries Guidelines, if submitted after 2011;

(b) meet the standards of the SIOFA BFIAS, if submitted after the BFIAS is developed by the Scientific Committee;

(c) take into account areas identified where VMEs are known or suspected to occur in the area to be fished;

(d) take into account the information provided pursuant to paragraph 32 of this CMM;

(e) be 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;

(f) address whether the proposed activities achieve the objectives described in paragraph 1 of this CMM and Article 2 of the Agreement; and

(g) be made publicly available on the SIOFA website, once developed.

13. The Scientific Committee shall consider each BFIA it receives at its next meeting and provide advice in its meeting report as to whether that BFIA meets an appropriate standard in light of international standards and the SIOFA BFIA, once developed. If the Scientific Committee's advice is that a BFIA is not adequate, the Contracting Party, CNCP or PFE who submitted that BFIA shall redevelop its BFIA and shall resubmit a revised BFIA to the next meeting of the Scientific Committee.

Proposals to undertake bottom fishing activities in the Area outside a bottom fishing footprint, in excess of average catch levels or using a new gear type

14. A Contracting Party, CNCP or PFE seeking to permit a vessel or vessels flying its flag to:

- (a) undertake bottom fishing in the Area outside its footprint established pursuant to paragraph 9; and/or
- (b) in a fishing season, exceed the average annual level of bottom fishing catch in the Area of that Contracting Party, CNCP or PFE over the period 1 January 1999 to 31 December 2009; and/or
- (c) undertake bottom fishing in the Area with a gear type not addressed in that Contracting Party, CNCP or PFE's BFIA;

shall submit to the Scientific Committee, 30 days before a Scientific Committee meeting, a proposal to undertake that activity or activities. This proposal shall include an assessment of the impact of the proposed fishing activity in accordance with paragraph 12, any proposed measures to mitigate that impact, and any other information as required by the Scientific Committee to undertake the assessment in paragraph 15.

Scientific Committee consideration

15. On receipt of any proposal developed pursuant to paragraph 14, the Scientific Committee shall, at its next meeting:

- (a) assess, on the basis of the best available scientific information, whether the proposed bottom fishing would have significant adverse impacts on VMEs;
- (b) if it is assessed that these activities would have significant adverse impacts, consider what measures should be taken to prevent such impacts, or, if those impacts cannot be appropriately mitigated, whether the proposed bottom fishing should proceed or not;
- (c) assess, taking into account, *inter alia*, the cumulative impacts of other fishing occurring in that area, where such information is available, whether the proposed activities are compatible with the sustainable management of bottom fisheries, including target fish stocks and non-target species, and the protection of the marine environment, including *inter alia*, the prevention of significant adverse impacts on vulnerable marine ecosystems;
- (d) provide recommendations and advice to the Meeting of the Parties in its meeting report on each of these matters, as applicable.

Meeting of the Parties consideration

16. The Meeting of the Parties shall, taking into account the recommendations and advice of the Scientific Committee, decide whether or not to authorise bottom fishing in accordance with a proposal made pursuant to paragraph 14 of this CMM or if applicable, the extent to which such bottom fishing shall be authorised.

17. If applicable, the Meeting of the Parties shall also decide which measures or conditions shall be applied to any activity authorised pursuant to paragraph 16 to ensure that fishing activity is consistent with the objectives of article 2 of the Agreement and paragraph 1 of this CMM.

18. The decisions made by the Meeting of the Parties pursuant to paragraphs 16 and 17 of this CMM shall be made publicly available on the SIOFA website once developed.

Management and conditions for bottom fishing in the Area

19. Contracting Parties, CNCPs and PFEs shall only permit a vessel or vessels flying its flag to bottom fish in the Area in accordance with the provisions of this CMM.

20. Contracting Parties, CNCPs and PFEs shall not permit a vessel or vessels that fly their flag to undertake bottom fishing activities in the Area listed in paragraph 14 unless and until those activities have been authorised by the Meeting of the Parties in accordance with paragraphs 16 to 18.

21. All Contracting Parties, CNCPs and PFEs whose vessels participate in bottom fishing in the Area shall ensure that those vessels are equipped and configured to comply with all relevant CMMs.

22. Contracting Parties, CNCPs and PFEs shall only authorise their vessels to bottom fish in the Area where they are able to exercise their responsibilities as a flag State under the Agreement and all CMMs.

23. Contracting Parties, CNCPs and PFEs shall prohibit their vessels from undertaking bottom fishing pursuant to this CMM if the minimum required data have not been provided in accordance with any established SIOFA data standards, until that data has been provided.

24. Until the Meeting of the Parties has acted on the Scientific Committee's advice on SIOFA threshold levels pursuant to paragraph 7(a) of this CMM, Contracting Parties, CNCPs and PFEs shall establish and apply to their vessels threshold levels for encounters with VMEs, taking into account paragraph 68 of the FAO Deep-sea Fisheries Guidelines.

25. Until the Meeting of the Parties has acted on the Scientific Committee's advice on the most appropriate response to a VME encounter pursuant to paragraph 7(b) of this CMM, Contracting Parties, CNCPs and PFEs shall require vessels flying their flag to cease bottom fishing activities within five (5) nautical miles of any site in the Area where evidence of a VME is encountered above threshold levels established under 7(a) in the course of fishing operations. Contracting Parties, CNCPs and PFEs shall report any such encounter in their National Reports to the Scientific Committee in accordance with the guidelines at Annex 1, including any action taken by that Contracting Party, CNCP or PFE in respect of the relevant site.

26. Nothing in this CMM shall affect the rights of a Contracting Party, CNCP or PFE to apply additional or more stringent compatible measures to their flagged vessels conducting bottom fishing.

27. Nothing in this CMM exempts a Contracting Party, CNCP or PFE from complying with any other obligations in the Agreement or any CMMs adopted by the Meeting of the Parties.

Observer coverage

28. Pending the development of a SIOFA Observer Program of this CMM:

(a) 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.

(b) for each other bottom fishing gear type, ensure that there is at least a 10 percent level of observer coverage each fishing year.

29. The observer requirements outlined in paragraph 28 of this CMM shall be fulfilled through the use of human observers. However, a Contracting Party, CNCP or PFE may submit a proposal to the Scientific Committee seeking instead to use an observer program which uses, entirely or in part, electronic monitoring and /or a port sampling program. The Scientific Committee shall consider such a proposal and advise the Meeting of the Parties on whether it is satisfied that that program will adequately collect and verify all data required by SIOFA data standard requirements. On receipt of such a proposal, the Meeting of the Parties shall, at its next meeting consider whether to authorise the use of that program by that Contracting Party, CNCP or PFE in the place of the exclusive use of human observers.

Reporting

30. All Contracting Parties, CNCPs and PFEs whose vessels participate in bottom fishing in the Area shall, in respect of each of those vessels, submit VMS reports in an electronic format to the Secretariat in accordance with any VMS CMM and data standards CMM adopted by the Meeting of the Parties.

Vulnerable Marine Ecosystem closures

31. In respect of areas where VMEs are known to occur, or are likely to occur, based on the best available scientific information, the Meeting of the Parties shall take a decision to close such areas to bottom fishing by a particular gear type or types unless the Meeting of the Parties, taking into account advice provided by the Scientific Committee, determines that that such bottom fishing will not have significant adverse impacts on VMEs, unless a CMM has been established to prevent significant adverse impacts on VMEs.

32. The Meeting of the Parties shall cooperate to identify, on the basis of the best available scientific information, areas where VMEs are known or likely to occur in the Area and to map these sites, and provide such data and information to the Secretariat for circulation.

Cooperation with other States

33. Contracting Parties resolve, individually or jointly, to request those States that are undertaking bottom fishing in the Area but are not currently Parties to the Agreement, CNCPs or PFEs to cooperate fully in the implementation of this measure and to consider participating in the work of SIOFA as a matter of priority.

Review

34. This CMM shall be reviewed at the ordinary Meeting of the Parties in 2021. This review shall take into account, *inter alia*, the latest advice of the Scientific Committee, including advice on those matters listed in paragraphs 7 and 8 of this CMM and appropriate catch levels for principal target species, in accordance with the objectives described in paragraph 1 of this CMM.

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 but not limited to their relative density, absolute density, or weight (kg) and/or number of taxa.