

DSCC Update - November 2008

13 November 2008

Update on the implementation of UN GA Res/61/105

With the sustainable fisheries negotiations resuming next week, below is a compilation of the latest news from recent RFMO meetings and their progress towards implementation of UNGA Resolution 61/105 paragraphs 83-86 on the protection of vulnerable marine ecosystems from high seas bottom fishing.

This is an update of the [DSCC review](#) circulated in September 2008. We urge you to consider these updates as you deliberate text for this year's sustainable fisheries resolution.

Northwest Atlantic Fisheries Organization (NAFO) falls far short of implementing UN GA Res/61/105 to protect vulnerable marine ecosystems (VMEs) from high seas bottom fishing

At its 30th Annual Meeting held in Vigo, Spain 22-26 September 2008, NAFO failed to implement important provisions of UN GA Res/61/105:

NAFO Contracting Parties failed to conduct impact assessments of individual bottom fishing activities on the high seas as called for in paragraph 83(a) of 61/105.

Furthermore, NAFO failed to close six deep-sea areas on the high seas identified by the NAFO Science Council as containing or likely to contain high concentrations of corals and other vulnerable species nor did NAFO adopt conservation and management measures to prevent significant adverse impacts to VMEs in these areas as called for in paragraph 83(c) of 61/105. NAFO also failed to adopt a meaningful encounter protocol and move-on rule consistent with paragraph 83(d) of 61/105. Instead, NAFO only requires that bottom fishing vessels move 2 nautical miles out of an area if they bring up more than 100 kilograms of live corals or 1000 kilograms of sponges in trawl nets, longlines or gillnets. These are ludicrously high quantities, far higher than those recommended by NAFO's own scientists. NAFO did agree to close two seamount areas in addition to the four seamount areas closed in 2006. However, these areas remain open to "exploratory" bottom fishing.

South Pacific (SPRFMO) Falling behind on Implementation of its Interim Measures

The 6th meeting to discuss the establishment of a South Pacific RFMO was held from 6 - 10 October, 2008 in Canberra, Australia. SPRFMO participants agreed to a set of interim measures in May 2007 which are widely regarded as being among the best adopted to date, but implementation has been patchy. So far, only New Zealand has made the regulations that it has promulgated to implement the interim measures publicly available, although even New Zealand's regulations lack key elements of the UN GA resolution. For example, they do not require impact assessments for any high seas bottom fisheries, nor have conservation and management measures been established to prevent significant adverse impacts in all areas where New Zealand's vessels are permitted to bottom fish on the high seas of the region, although New Zealand has established a move-on rule in some of the high seas areas where bottom trawlers are permitted to fish.

Other parties may have also adopted regulations for their flag vessels but, if so, none of them have made the regulations publicly available. In any event, as far as the DSCC is aware, no impact assessments have been conducted for any of the high seas bottom fisheries currently permitted in the South Pacific region. No specific measures have been established to prevent significant adverse impacts in any of the bottom fisheries (although New Zealand has closed approximately 40% of the area within its existing footprint to bottom trawl fishing by NZ flagged vessels). Moreover, no special measures have been established to ensure the long-term sustainability of the fish stocks.

Finally, no systematic identification of areas where VMEs are known or likely to occur has taken place although VMEs are believed likely to occur in most high seas areas of the South Pacific where bottom fishing has taken place (i.e. seamounts) in the past. With regard to closures, no formal implementation of the provisions in paragraph 83c has occurred, although participants have agreed to the "freezing of the footprint". This measure has a serious weakness but, nonetheless, has resulted in the temporary closure to bottom fishing of many areas of the high seas in the South Pacific where VMEs are known or likely to occur, including the seamount and ridge system areas in the high seas of Southeast Pacific off the coasts of Chile, Peru and Ecuador. (See the DSCC review of September 2008 for more detailed information). The next meeting will be in Lima, Peru from 18-22 May, 2009.

Northwest Pacific Negotiations Making Progress

The 5th meeting of the States involved in the establishment of a new North West Pacific Regional Fisheries Management arrangement took place in Tokyo 17 – 18 October and concluded with a commitment to meet the 31 December 2008 UN General Assembly deadline for protecting VMEs from Significant Adverse Impacts. Whether they will succeed in doing so remains to be seen.

The participants adopted a set of Standards and Criteria for impact assessments and determining Significant Adverse Impacts at the October meeting consistent with the UN FAO International Guidelines for the Management of Deep Sea Fisheries in the High Seas (adopted in August 2008). They have agreed to submit impact assessments in areas where their vessels plan to bottom fish in 2009 with a view to identifying Vulnerable Marine Ecosystems (VMEs) to the next meeting of the Scientific Working Group (SWG), scheduled for the first week in December 2008. At the December meeting, the SWG is expected to review the assessments, review any proposed management measures proposed by individual States to prevent SAIs on VMEs, and draft an exploratory fisheries protocol and VME encounter rules. A meeting of the participants to endorse the recommendations of the Science Working Group may follow this meeting.

Although poorly reflected in the report of the meeting, the States also agreed that they should declare that no high seas bottom fishing should occur in the North East Pacific until interim measures with respect to bottom fishing are agreed and in place. This is an important requirement of 61/105 that applies to all high seas areas.

The DSCC believes that progress is being made here, and there appears to be a genuine commitment to avoiding the mistakes and failures of other RFMOs.

Others:

The **South East Atlantic Fisheries Organisation (SEAFO)** met 6-9 October 2008. As indicated in the September 2008 DSCC review, SEAFO agreed in 2006 to temporarily close ten of thirteen seamount areas where VMEs (e.g. corals) are known to occur or likely to occur. In 2007, the Scientific Committee of SEAFO recommended temporarily prohibiting bottom trawling and bottom gillnet fishing throughout the SEAFO area. However, the DSCC has no information on whether this recommendation and/or other measures were adopted by the meeting of SEAFO in October 2008.

At the time of writing, **CCAMLR** is just completing its annual meeting, and the North-East Atlantic Fisheries Commission (NEAFC) will hold its Annual Meeting meeting 10-14 November. The DSCC hopes that NEAFC will succeed where NAFO has failed.

Watch this space for further developments...

European Union

Finally, the DSCC has critiqued the approach taken by the European Union to implement UN GA Res/61/105. In the context of the UN GA resolutions on high seas bottom fisheries, the EU has, at various points over the past two years declared the following:

- "fishing with bottom gears that may have adverse impacts on vulnerable ecosystems would need to be assessed before it is authorised" (November 2006);
- "rather than assuming that bottom fishing within the existing footprint is harmless to deep sea ecosystems unless it can be demonstrated otherwise, flag states and RFMOs will require clear evidence of the non-harmful nature of fishing activities for the vessels concerned to retain their licences" (November 2006);
- "The European Union is committed to taking expeditious action, in conjunction with its partners, in following up on what has been agreed by the General Assembly." (December 2006); and
- "It is important to underline that RFMO members can choose to apply stricter rules to their vessels and operators if they so wish. The EU should aim at ensuring that RFMO measures attain a high degree of protection and effectiveness in preventing destructive fishing impacts. However, the EU must reserve itself the right to adopt stricter rules for itself if it considers that the RFMO measures do not go far enough in this respect." (October 2007)

Unfortunately, the EU has so far failed to deliver on its stated commitments or the full and effective implementation of UN GA 61/105, particularly at the Annual Meeting of NAFO in September of this year as discussed above. Of all high seas bottom fishing nations, the EU most likely has the largest number of high seas bottom fishing vessels. The DSCC critique of the approach taken by the European Union to implement UN GA Res/61/105 can be found on the DSCC [website](#).