

# South Pacific Regional Fisheries Management Organisation Performance Review Questionnaire

## Section 1: Conservation and Management

### 1.1 Ecosystem approach

- i. Do SPRFMO decisions fully incorporate the ecosystem approach to fisheries management in accordance with Article 3(2) of the SPRFMO Convention?

Yes	No	Partly X
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Please explain further:

We think we are on a positive trajectory but we have significant gaps.

The squid fishery is the 'least-managed' fishery even though it is the largest fishery by volume.. Generally speaking, squid activities are only subject to the requirements to be on the Record of Vessels and the data collection/reporting obligations. The substantive elements of the seabirds measure (mitigation measures) and the transshipment measures (observer verification and notification requirements) excludes the squid fishery.

Our broader views on this issue are that (i) squid fisheries should be effectively managed, (ii) management across fisheries should be consistent to the extent practical and (iii) unnecessary "carve-outs" for squid fisheries should be resisted.

We are consciously working towards implementing a better bottom fishing measure. We acknowledge progress has been slow, but there are reasons for this: it is a small fishery but also very data limited. This makes setting catch limits and spatial management very challenging and a very costly exercise – millions have been invested to date. The major advantages of our new approach (as described in the papers provided to the Commission in January 2018) are:

- improved scientific understanding of VME habitats and impacts on the benthic environment from bottom fishing
- greater confidence that we can prevent significant adverse impacts (SAIs) on VMEs (as is called for in the Convention, UNGA Resolutions and the FAO deep sea guidelines etc)
- This measure is based on a cumulative impact assessment (as was emphasised in the bottom fishing paras of the 2016 UNGA sus fish resolutions). This is an improvement on our existing arrangement which is based on individual impact assessments we operate under now
- and, in addition to the above, still provides improved opportunity for industry access to the fishery – it is a fishing organisation after all!

- ii. Are there gaps or changes which would improve implementation of the ecosystem approach?

Yes	X	No	Partly
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Please explain further:

SPRFMO's bycatch measures are principally concentrated around data collection and reporting (including specific arrangements for 'species of concern') and seabird mitigation.

The seabird measure is operating effectively with little cause for concern from our perspective. At least in the demersal fishery, seabird bycatch is very low. The measure does, however, provide an opportunity to apply fewer mitigation measures providing the observer coverage requirements have been met and the recorded seabird mortality rate has not exceeded the prescribed threshold. It would be preferable to delink observer coverage compliance from these requirements as it bears no relationship to the purpose of the rule.

We haven't analysed it closely but we aren't confident that this measure applies to all fisheries – we think it should.

We are undertaking a sharks ERA through the SC. Should the SC make recommendations in respect of this ERA, we hope the Commission responds positively.

We do think that moving towards harvest strategies and reference points would be a positive move if sufficient information and resources exist to implement a regulatory framework under which these management objectives can be met.

We also consider there is a need to take greater account of impacts of climate change given the susceptibility of some SPRFMO species to climate-related impacts. The ecosystem modelling group in the SC may play a positive role in this.

Excluding trawl fisheries, all others are only required to have 20% or less scientific observer coverage. While this may be sufficient for catch verification of target species it is likely to be insufficient for detection of rarer captures (such as marine mammal, reptile, bird and shark interactions) of higher order predators where low interaction rates may still impose significant risks to those species and ecosystem structure and functions. Similarly 20% coverage may be insufficient for detection of encounters with VMEs for line fisheries.

## 1.2 Data collection

- i. How effective are the SPRFMO data collection formats, specifications and timeframes?

Formats:	Excellent	Good X	Acceptable	Inadequate
Specifications:	Excellent	Good X	Acceptable	Inadequate
Timeframes	Excellent	Good X	Acceptable	Inadequate

Please explain further:

There are no major constraints to meeting the formats and timeframes that are specified. There is some level of time-cost with providing data in the correct formats.

The formats could be improved by separating year:date:time fields to make data interrogation simpler.

- ii. How accurate, timely and complete is the collection of data by Members and CNCPs individually or through SPRFMO?

Members:	Very	Not at all	Partly
CNCPs:	Very	Not at all	Partly
SPRFMO:	Very	Not at all	Partly

Please explain further: Seems to be adequate for jack mackerel and bottom fisheries. Effective management of the squid fishery is likely to require much more accurate and timely data provision.

- iii. Are there any gaps in data collection necessary for effective stock assessment?

Yes	X	No	Some
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Please explain further:

It depends on what is meant by effective stock assessment and the tradeoff between an efficient regulatory framework and SPRFMO's appetite for risk. For example, orange roughy is one of the more information 'rich' species in the bottom fishery and yet there is still inadequate data to do an age-structured stock assessment informed by acoustic indices (i.e. the 'preferred standard' for orange roughy assessments of fisheries targeting spawning aggregations).

If effective stock assessment is deemed to be that which keeps stocks above a highly precautionary threshold, then it is possible that low-information assessments could be undertaken using existing data, but this would require a forgone catch to those participating in the fishery that may be unnecessary. Generally, key information gaps are with the biological data (e.g. age, length, sex etc.).

In general, if we invest heavily in good, robust and regular science you can push a stock a little bit harder, confidently knowing that it's still sustainable. If you don't have that, it necessitates a much higher level of precaution (and example of this has been the low catch limits in the bottom fisheries which are a result of precautionary catch limits in the absence of data to form a more compressive assessment).

- iv. Are there any gaps in data collection necessary for ensuring best scientific advice is available?

Yes	X	No	Some
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Please explain further:

As above.

v. How effective are SPRFMO's efforts in addressing any gaps in data collection?

Very	Not at all	Partly X
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Please explain further:

Our impression is that, in general, the Commission has been very responsive to addressing issues identified by the Scientific Committee and decisions to amend the Data Standard (the mechanism through which data collection is mandated) have generally been uncontroversial.

Observer coverage for the squid fishery has been an exception

vi. Are there any gaps in CMM 16-2018 (Observer Programme) which need to be filled to fully reflect the requirements of Article 28 (1) of the SPRFMO Convention?

Yes X	No	Some
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Please explain further:

There are several components to Art 28(1) of the Convention. As far as the obligation to collect verified catch and effort data is concerned, this is progressing satisfactorily as it is largely captured by the data collection and verification provisions of the data standard. However, noting that not all fisheries have any mandated observer coverage (eg the squid fishery has no mandatory observer coverage) there is arguably a gap in the verification of this data. Our view is that observer coverage should be linked to data and verification needs, though we are open to alternate ways of achieving verification (like electronic monitoring).

CMM 16-2018 is significantly deficient in achieving the other aspects of Art 28. It does not contain provisions for accreditation or observer safety, nor procedures for accrediting/maintaining accreditation of observer programs or observer placement. We have comfort that this issue is being addressed intersessionally by the Chairperson and are optimistic we can adopt a more comprehensive, useful measure in 2019.

### 1.3 *Quality and provision of scientific advice*

i. How effective are SPRFMO's efforts to receive and act on best scientific advice relevant to the fishery resources it covers?

Very X	Not at all	Partly
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Please explain further:

We think this has been a real strength of the Commission – a willingness to act on SC advice (as referenced in the Chair's opening speeches in 2017 and 2018). We think this is an area where other RFMOs have been challenged but SPRFMO to date has a good record.

- ii. How effective are SPRFMO's efforts to receive and act on best scientific advice relevant to the effects of harvesting, research, conservation and associated activities on the marine ecosystem?

Very	Not at all	Partly X
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Please explain further:

The Commission's effectiveness in this area is a function of the advice the SC provides, which is in turn a function of what the SC is resourced to do. SC advice is generally funded from within the Members (and supplemented with some small seed funding from the Commission budget). The focus has been, necessarily, on rebuilding the jack mackerel stock and now the SC can start focussing on other areas. There has been significant scientific work undertaken for bottom fishing and VMEs. We think the governance of SC work assists in this (with research plans and the SC work plan adopted by the commission). It means there is room to improve in time on the other areas mentioned but we are not immediately concerned because we consider the SC is focussing on the immediate priority issues.

#### 1.4 Adoption of conservation and management measures

- i. Has SPRFMO has adopted an effective range of Conservation and Management Measures (CMMs) for fishery resource management that ensure the long-term conservation and sustainable use of those resources and are based on the best scientific evidence available?

Yes	No	Partly X
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Please explain further, noting any gaps or suggested improvements:

SPRFMO has adopted a range of measures – the pace is impressive given the relatively young age of the Commission. The approach has been positive so far – we consider the Commission is open-minded and prepared to have policy discussions. We think there has been a considered effort to be best-practice and learn lessons from other RFMOs. This is aided by the mix of Members – some are in many RFMOs (like Australia, the EU, China) and others are only a part of SPRFMO so far (Chile) so there is a good mix of good institutional knowledge and practice in RFMOs coupled with fresh perspective. The legal resourcing of the Commission is good from within its Membership and its chairpersons – the importance of well-drafted measures has been consistently emphasised and the quality of the measures reflects this in many areas. This has been implementation and compliance smoother.

Of the CMM principles and approaches outlined in Article 3, we think that in general our measures conform with this Article, with Article 3(1)(x) a notable exception (as there are no measures on pollution, waste, discards etc).

However, we do think that the absence of arrangements for the squid fishery is problematic (as outlined above) and derogates from the principles outlined in Article 3, particularly Art 3(2)(a). Generally speaking, squid activities are only subject to the requirements to be on the Record of Vessels and the data collection/reporting obligations.

We do think is a gap in our understanding of the compatibility of measures in ABNJ for stocks straddling the SPRFMO Convention Area. We think this applies to Australia (two straddling stocks – alfoncino over Lord Howe Rise and orange roughy on the South Tasman Rise), New Zealand (orange roughy on Westpac bank) and jack mackerel (Peru, Ecuador). We are mindful of our obligations to enact compatible measures and intend to disclose these, for transparency, in due course; but we think it would be helpful to understand how straddling stocks are managed within EEZs across the board.

- ii. Has SPRFMO sufficiently applied a precautionary approach in line with the requirements of Article 3 (2) of the SPRFMO Convention and the Code of Conduct for Responsible Fisheries?

Yes	No	Partly X
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Please explain further, noting any gaps or suggested improvements:

As addressed above, not in respect of squid.

For jack mackerel, this is a real success story for the Commission. The only reason the stock has rebuilt is because of the cooperation and willingness of those Members to take cuts to their fishing effort –while this was biologically necessary, we are under no illusions about the ‘tough sell’ this would have been back home for those Members.

For the bottom fisheries we consider we are highly precautionary. We know we are operating in a data poor environment which has necessitated restraint. We have limited our catch to average annual catch between 2002-2006 and a spatial footprint over that same period. We think that as we get more data and better science we will be able to develop the fishery, sustainably, rather than keeping our industry under permanent restraint (the current catch limits make it difficult to develop a viable industry). Until then, we consider we need to exercise precaution until we have data that supports different management decisions.

- iii. Has SPRFMO sufficiently applied precautionary reference points as called for in Article 20 (2) of the Convention?

Yes	No	Partly X
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Please explain further:

We understand that the jack mackerel rebuilding strategy is based on a limit reference point though this is not necessarily easy to find.

There are no reference points for squid.

We think this is the right time to consider reference points for the demersal fishery and would like this work to progress.

- iv. Has SPRFMO sufficiently incorporated the criteria established under Article 21 (1) of the SPRFMO Convention, in the adoption of measures relating to the allocation of the total allowable catch or total allowable fishing effort?

Yes X	No	Partly
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Please explain further, noting any gaps or suggested improvements:

Our Memorandum into the last Review Panel hearing addresses this – we feel, in short, yes. However, we accept that we may need to approach allocation differently in future (in the conduct of the negotiations or the way in which the outcome/deliberations are recorded, or both). We think that is difficult and have no specific ideas on how to achieve this, but we are confident that the goodwill and cooperation we have seen in SPRFMO makes it possible to negotiate a fair outcome if the 5 year % shares are reopened.

We would like to see the Commission maintain % shares over a period of time to avoid the need to have an allocation discussion at every meeting – that gives us space in the agenda to deal with increasingly complex matters on MCS and in other fisheries, and also provides Members and their industries with a greater sense of certainty.

- v. How effective are the SPRFMO CMMs adopted to cover previously unregulated fisheries, including new and exploratory fisheries?

Very	Not at all	Partly X
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Please explain further, noting any gaps or suggested improvements:

We think the exploratory fisheries measure could be effective if it was applied. The last and only opportunity to apply it was the lobster exploratory fishery when this measure was not necessarily followed.

We note that there are likely to be three exploratory fisheries proposals for 2019 (cook islands, EU and NZ) and our full expectation is that this process will be used – or, if there are issues with this measure (which can understand can arise when a measure is tested for the first time) that these be identified promptly.

- vi. Has SPRFMO adopted CMMs which specifically address the conservation of marine biological diversity?

Yes	No	Partly X
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If Yes, or Partly: are these effective?

Please explain further, noting any gaps or suggested improvements:

The bottom fishing measure is intended, among other things, to address this. The seabirds measure and gillnets measure go some way to addressing this also.

- vii. Has SPRFMO adopted CMMs which specifically aim to minimise adverse impacts of harvesting, research, conservation and associated activities on fishery resources and its marine ecosystems?

Yes	No	Partly X
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If Yes, or Partly: are these effective?

Please explain further, noting any gaps or suggested improvements:

There are no measures which regulate research and it is not clear to us if this is impeding research or research is being undertaken without visibility.

We think our answers given above answer this question otherwise.

- viii. Has SPRFMO adopted CMMs which specifically aim to minimise pollution, waste, discards, catch by lost or abandoned gear, catch of non-target fishery resources, and impacts on associated or dependent species?

Yes	No	Partly X
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If Yes, or Partly: are these effective?

Please explain further, noting any gaps or suggested improvements:

Yes – gillnets and seabirds come to mind. The data standards improves our information about this but it is not 'specifically aimed' at this. Catch of non-target fishery resources is not well accounted for – though bycatch is included in the bottom fishing catch limits. We hope the sharks ERA addresses this in some way.

### 1.5 Capacity management

- i. Are SPRFMO fishing capacity levels appropriate to support long-term conservation and sustainable use of its fisheries resources?

Yes	No	Partly X
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Please explain further:

Two of SPRFMO’s main fisheries (the demersal fisheries and the jack mackerel fishery) are managed through output controls which works well and is generally our preferred means of managing a fishery. We consider that alternative approaches, such as regulating fishing effort is less effective at pursuing sustainable fisheries management objectives if there is no limit to the amount of fish that the vessels can take.

The third fishery (squid) is not managed under any input or output controls so, in this respect, there are no constraints on fishing capacity. Given the number of vessels active in this fishery, and noting that we understand this to be the highest volume fishery by catch, this is unlikely to be consistent with supporting long-term and conservation and sustainable use without intervening management measures. We are optimistic that that will not always be the case.

- ii. How effective have been actions taken by SPRFMO to prevent or eliminate excess fishing capacity and effort?

Very X	Not at all	Partly
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Please explain further:

Our view is that SPRFMO has been successful in preventing and eliminating excess fishing capacity, with the first such successful measure being the GT limits implemented in the jack mackerel fishery in its first CMM (CMM 1.01) which we consider contributed to the positive trajectory of this stock rebuilding. Since the fishery is now managed under output controls, we do not consider this is relevant any longer. However, we appreciate this is not necessarily a shared view. Our main concern with retaining the effort restrictions in the jack mackerel fishery is that it does not preclude new entrants from catching their tonnage. As we explained in our memorandum to the allocation Review Panel (para 25), we consider that the insertion of the word ‘relevant’ and ‘such’ in paragraph 4 of CMM 2018-01 overcomes this issue provided these words are retained in future adaptations of the measure.

However, as noted above, there have been no actions taken by SPRFMO to manage the risks of excess fishing capacity and effort in the squid fishery.

- iii. How effective are efforts made by SPRFMO to monitor levels of fishing effort?

Very X	Not at all	Partly
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Please explain further:

We think these arrangements work well, and the measure for this so far has been that no fisheries have exceeded their catch limits. However, we also appreciate that the challenge in the future will be monitoring fishing effort/catch for Olympic fisheries or fisheries with small TACs (which may be the case for the demersal fisheries). Regular data submission or other means of monitoring will be necessary to ensure that sustainable catch levels are not exceeded which is likely to have an impact on the Secretariat.

## Section 2: Compliance and Enforcement

## 2.1 *Flag State duties*

- i. Do Members and CNCPs have a clear understanding of their flag state duties?

Yes	No
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Please explain further:

We think this is difficult to assess objectively. However, we consider that mechanisms adopted by the Commission can aid in this assessment (like the CMS). For example, we consider that when there is a Member or CNCP which persistently or seriously disregards CMMs (resulting in compliance breaches) or its flagged vessels engage in IUU Fishing and no effective action is taken. However, we think in general SPRFMO's compliance record for most Members and CNCPs is very good, and we note that in general the compliance issues identified in the Draft Compliance Report often resolve at the meeting – so there are fewer compliance infringements in the Final Compliance Report. We also think that the importance of providing an implementation report (required by the Convention and the CMS) cannot be understated – this is one of the key ways flag States can demonstrate their responsibility over their vessels and compliance with measures. This is essential in managing a public resource.

- ii. Have there been any situations where a Member or CNCP has not fulfilled its flag state duties?

Yes X	No
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If yes, please explain further:

We will continue to be concerned by Members that do not withdraw the fishing licences of vessels on the IUU list. We observe that one Member failed to withdraw the licence for FV Mys Marii, despite its inclusion on the SPRFMO IUU List. We consider that permitting these vessels to fish elsewhere does nothing to solve the problem of IUU fishing and instead simply contributes to a balloon effect by transferring the problem elsewhere.

At the last two annual meetings, the Commission spent considerable time considering applications for CNCP status. In particular, a number of Members raised strong concern over Panama's performance in the Commission, citing its persistent failure to comply with SPRFMO measure, significantly its failure to provide data, as materially undermining the effectiveness of SPRFMO's convention and its rules. Many noted the importance of holding CNCPs to the same standard, observing that others such as Liberia have good compliance records. Ultimately, all CNCP applications were accepted (Panama, Liberia, Curacao), but with strong "last chance" warnings to Panama. In our view, the organisation is stronger with all States with an interest in the fishery 'in the tent' but that cooperation has to be genuine to be effective.

- iii. If a Member or CNCP has not fulfilled its flag state duties, what do you think the reason for this is? (e.g., lack of capacity, lack of knowledge of its duty, lack of political will, etc.)

Please explain:

Clearly the reasons will be mixed. However, we do observe that SPRFMO is not a subsistence fishery for many Members – particularly those involved in transshipment who are participating in SPRFMO because of commercial incentives. In this respect, we think it is appropriate to have a higher expectation on states operating for commercial rather than subsistence purposes to ensure they can adequately fulfil their responsibilities. Lack of will is not a sufficient reason. We think lack of knowledge of their duties would be difficult to justify as these are well publicised, but we accept capacity may genuinely be an issue. In this respect, we consider that there could be greater emphasis on identifying where a capacity issue has contributed to non-performance and to consider the steps that could be taken to remedy the issue and build the capacity. The Commission has not been explicit in these steps in the past.

- iv. Are there ways that Members and CNCPs could better fulfil their flag state duties?

Yes X	No
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If Yes, please explain further:

International cooperation is a key ingredient to this, because this can lend itself to exchange in information and practices which can ultimately lead to improvements. However, resourcing issues can make this difficult in practice.

Stronger remedial actions for failure to adequately fulfil flag State duties is crucial – ‘naming and shaming’ is clearly insufficient as an incentive.

The key platform for this should be the CMS, as this is what gives structure to the examination of compliance issues, such as failure to fulfil flag State duties, and consistency in our assessment.

## 2.2 Port State measures

- i. Have Members implemented the SPRFMO port state measure fully?

Yes	No X
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If No, please explain further why they have not been fully implemented (e.g., lack of capacity, lack of knowledge of its duty, lack of political will, measure not clear, too complicated or too onerous, etc.):

We think that in general compliance with this measure is good, but not all Members and CNCPs have provided the information required by the measure (specifically designated ports and contact points) – possibly because they do not operate as port States for foreign flagged vessels. The compliance reports demonstrate this and it is addressed under the CMS, but the information remains outstanding in some cases.

ii. Is the port state measure adopted by SPRFMO effective?

Yes X	No
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If No, please explain further why not:

Yes, it is effective, but improvement would be useful.

Our view is that port inspection regimes should be compatible with the Port State Measures Agreement which entered into force on 5 June 2016 and SPRFMO should strive to maximise that compatibility and make improvements based on lessons learned from other RFMOs. The FAO [produced a review](#) of RFMO implementation of port inspection measures and their consistency with the PSMA in 2016 entitled *Implementation of Port State Measure: A legislative template; Framework for Procedures; the Role of RFMOs* (which is already out of date following the adoption of SIOFA’s port inspection regime in mid-2016).

We conducted our own review of the consistency of CMM 07-2017 with the PSMA and identified one key aspect that could be amended for better alignment with the PSMA, relating to clarifying the obligations of port States to allow/deny port entry and port services in respect of vessels that may have engaged in IUU fishing. The measure would ideally have two streams of obligations – one in respect of vessels for which there is information that the vessel may have engaged in IUU fishing and another for non-IUU vessels. For potential IUU vessels, the PSMA obligation is to deny port entry, but entry can be allowed for the purposes of an inspection, provided port services are denied. The SPRFMO CMM allows a port State to choose whether to allow/deny port access to a potential IUU vessel and if access is allowed, the State must follow specified inspection procedures. However, the inspection procedures do not differentiate between potential IUU and non-IUU vessels (e.g. para 15 says members should inspect at least 5% of vessels, but it should differentiate so that all potential IUU vessels have to be inspected), representing a potentially significant departure from the PSMA. Also, the inspection procedures do not include a requirement to deny port services to potential IUU vessels.

We also think the Secretariat’s report, required by the measure, is useful but it could be improved if it clearly set out whether any vessels had been denied entry into port (under paragraph 13 of the CMM), and the basis for this decision (even if this necessitates restricting access to the paper, as the information is useful, particularly for sharing information about IUU listed vessels, or potential IUU vessels, but easily accessible at present).

- For example, in 2018, the paper indicates that Korea denied port services to one vessel, and “detected infringements” (without specifying how many and/or if it was in relation to the vessel denied services or another vessel). The restricted section of the website indicates that Korea inspected the *Mys Marii* (Russia) which is on the SPRFMO IUU list,

so it is presumed this is the reason it was denied port services (although denial of port services in this situation is not required by the CMM, it is required under the PSMA which Korea has acceded to). The paper further indicated that Chile denied port services to a vessel but there was no information to indicate the date, vessel or flag. This lack of information is challenging but we think can be addressed through the Secretariat's report.

- We also think this lack of clarity about when Members are allowing/denying entry, conducting inspections and allowing/denying port services reflects a lack of clarity in the CMM about when Members should do, particularly in respect of suspected IUU vessels (see below).

iii. Are there additional port state measures that are needed?

Yes	No
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If Yes, please explain further:

Addressed above.

### 2.3 *Monitoring, control and surveillance*

i. Are SPRFMO's MCS measures well-tailored to enable monitoring of and ensure compliance with SPRFMO's conservation and management measures?

Yes X	No
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Please explain further:

SPRFMO's suite of MCS measures is reasonably comprehensive in that all the critical areas that need a measure are provided for. However, the measures vary in their effectiveness. We expand on this below.

ii. Are there additional MCS measures that are needed to enable monitoring of and ensure compliance with SPRFMO's conservation and management measures?

Yes X	No
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Please explain further:

Current gaps in SPRFMO's MCS measures (which exist in other RFMOs of which we are a member) relate to measures for the control of nationals, vessel marking and identification and

NCP vessel sightings (which can inform outreach efforts and assist in combatting IUU). Additionally, there are no current measures for lost/abandoned/discarded gear.

iii. Are there improvements that should be made to the existing MCS measures?

Yes X	No
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Please explain further:

CMMs should always be reviewed regularly and improved where they can – taking into account issues in implementation or advances in other RFMOs or in other influential multilateral processes (FAO COFI, UNGA Resolutions).

We think there are three measures with critical deficiencies:

- **Observer Program:** the current measure is largely devoid of substance and will be comprehensively reviewed this year. Prior to its entry into force, arrangements for selecting the accreditation provider, obtaining, maintaining and revoking accreditation must be finalised; as well as ensuring the rights and duties established for observers and crew on board fishing vessels are appropriate.
- **VMS:** The VMS measure has been progressing well over the last few years but work remains. Most critically, arrangements for accessing VMS data from the Secretariat without flag State consent (including the spatial/temporal aspects) needs to be clarified. In our view, as a coastal State, the measure would be more effective if coastal States had restricted access to VMS data that allows them to receive near real-time information about vessels on the high seas within 100nm of their EEZs, for MCS purposes (similar to WCPFC). We need to ensure we have arrangements in place to prevent tampering of ALCs –However, it is not clear which method Members are using to prevent tampering by their vessels (including manufacturer-sealed units or tamper-evident seals). The manual reporting procedure and minimum standards for ALCs are suitable.
- **Transshipment:** SPRFMO’s transshipment measure has a number of critical gaps, including in its scope (excludes squid), absence of reporting arrangements for transfers and no follow-up reporting of transshipments undertaken. Lack of observation and visibility of transshipments may also pose an issue. Of critical importance, in our view transshipments of SPRFMO-managed species should occur only between vessels on the Record of Authorised Vessels, regardless of where it occurs – otherwise the effectiveness of this measure is undermined. However, the text of the current measure suggests that this is not required, though there are reasonable opposing views on this. Further, there are differing views about the policy outcome. The policy intent and ambiguity in drafting should be clarified as soon as possible. Critically, we consider that SPRFMO should ensure full visibility of transshipment operations but is open to other mechanisms to achieve this for transshipments outside the Convention Area. The FAO’s initiative to develop global transshipment guidelines may be useful here. We know the transshipment measure will be reviewed in 2019 because we couldn’t resolve this identified policy/legal issue in 2018.

We also consider other MCS measures are working well but could be improved

- **IUU Vessel List:** (as alluded to above) Further thought should be given to the obligations on the flag State when a vessel is IUU listed – particularly with respect to revocation of licences. There are clearly differing views in the Commission about the policy outcome and the legal effect of the current IUU measure. In our view IUU listing should result in revocation of the vessel’s license to fish everywhere, not just in the SPRFMO fisheries, otherwise the effectiveness of the measure is undermined (failure to do so simply creates a balloon effect). The IUU vessel list would benefit from review to address some drafting issues including: clarifying that the modification procedure applies intersessionally *and* at the Commission meeting<sup>1</sup>; and clarifying the modification threshold (paragraph 9).<sup>2</sup>
- **Port inspection:** Views given above
- **Boarding and Inspection:** SPRFMO’s existing HSBI arrangements are those described in Articles 21 and 22 of the UN Fish Stocks Agreement. These procedures are suitable in our view though we think efforts should continue towards a contemporary SPRFMO-specific regime – though we appreciate the diplomatic tensions that make this difficult.
- **Compliance Monitoring Scheme:** In practice, this measure is operating effectively and SPRFMO has established a positive compliance culture. The substance of the measure is appropriate though, as flagged above, further consideration could be given to Annex I to reconsider the compliance statuses and the effectiveness of the ‘compliance review’ and ‘compliance action plan’ requirements given the confusion and uncertainty about their form and substance. Greater emphasis could be given to whether follow-up action required following a non-compliant status and what it should be, which could be facilitated through a clearer Provisional/Final compliance report template which made space for those considerations. Additionally, the implementation report template itself could be improved and modernised, as it is currently a barrier to completion for some developing State Members. Minor administrative adjustments could improve the process. SPRFMO should be guided by the practice of other RFMOs who are reviewing/developing their CMSs (WCPFC, SIOFA) as well as CCAMLR.

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<sup>1</sup> there is no separate paragraph setting out the criteria for CTC to consider the removal of a vessel from the current IUU List during the annual meeting (as opposed to the intersessional period process). Under paragraph 11(b) the CTC shall examine the current IUU List and recommend to the Commission which, if any, vessels should be removed ‘after assessing whether the requirements of paragraph 19 are met’. Although the measure does not expressly indicate the process by which information relevant to this consideration should come before CTC, Australia’s view is that the same standard of ‘suitably documented information’ (paragraph 19) is required.

<sup>2</sup> Paragraph 19 is not clearly drafted. Due to the use of ‘and’ following the first two categories of information, and ‘and/or’ following the third category of information, Members may have different views as to which of the above categories of information need to be demonstrated by the flag State. Australia’s interpretation is that the Member, CNCP or non-Member needs to demonstrate three ‘categories of information’ due to the use of the term ‘and’ following the first two categories of information. (ie. A Member needs to demonstrate both Category (i), and (ii) and either one or both of categories (iii) and (iv)). However, due to the use of the term ‘and/or’ after the penultimate category of information, some Members may seek to argue that the change of ownership for the vessel is by itself is enough to meet the requirements of paragraph 19.

iv. Are the SPRFMO MCS measures effective and integrated?

Yes X	No
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Please explain further:

In general we think they are effective subject to the improvements we consider should be made.

v. Have Members and CNCs implemented the SPRFMO MCS measures fully?

Yes X	No
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If No, please explain further why they have not been fully implemented (e.g., lack of capacity, lack of understanding, lack of political will, measure not clear, too complicated or too onerous, etc.):

We observe that the biggest compliance issues –or most frequent compliance issues –occur with MCS issues.

#### 2.4 *Follow-up on infringements*

i. Do Members and CNCs follow up on alleged infringements of conservation and management measures?

Yes	No X
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Please explain further:

Some do, some do not. It is not clear to us why not. Is it not clear to us where the Secretariat follows up where its appropriate intersessionally (we think they might). The Secretariat's papers on 'follow up actions from the last compliance meeting' presented to each CTC are important papers and a good initiative from the Secretariat. This at least gives visibility to where the issues are. We also think its critical to retain a 'follow up from last year' item on the CTC agenda.

Our answers to point (ii) and (iii) below are given in our response to other questions in this questionnaire (or, at least, the logic applies).

ii. If Members and CNCs do not follow up on alleged infringements, please explain what is the reason or reasons (e.g., lack of capacity, lack of understanding, lack of political will, etc.):

- iii. Is there something that could be done to improve efforts to follow up on alleged infringements? Please explain:

2.5 *Cooperative mechanisms to detect and deter non-compliance*

- i. Has SPRFMO established cooperative mechanisms to monitor compliance, detect and deter non-compliance and remedy compliance issues?

Yes X	No
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If Yes, please describe those cooperative mechanisms:

See above for our response on the CMS but remedying compliance issues continues to be an area where we and other RFMOs struggle.

We could give greater emphasis to including direct remedies in our measures (like no data = no fish).

If No, please described what cooperative mechanisms are needed:

- ii. If there are cooperative mechanisms, are they effective in monitoring compliance, detecting and deterring non-compliance and remedying compliance issues?

Yes	No
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If No, please explain:

We think the answer is 'partly'. Our responses to other questions will give you a sense of our feeling on this.

- iii. Are the cooperative mechanisms being used effectively?

Yes	No
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If No, please explain what could be done to improve their effective use and what you think the reason is for their lack of effectiveness:

As above.

- iv. Are there additional cooperative mechanisms needed?

Yes	No
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If Yes, please explain:

As above

### 2.6 Market-related measures

i. Are there market-related measures that SPRFMO should adopt?

Yes X	No
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If Yes, please describe the measures:

We would like to have a discussion about whether there is benefit in a CDS.

ii. Please explain why SPRFMO has not adopted market-related measures (e.g., not necessary, lack of capacity, lack of political will, measure not clear, too complicated or too onerous, etc.):

We're a young RFMO – we're only 6 years old this August. In this area our feel is that absence of measures is simply a product of our youth and the Commission's desire to tackle the 'big' issues first (we we've done – well, we think). We can't see any specific or glaring problems facing us here and, while we think we should be in the business of forecast and prevent, if we have to choose we'd rather prioritise ensuring the fisheries are well-managed as our first step and moving to market measure after – we don't think there is a high IUU risk for the species we're targeting in SPRFMO. We're not opposed to action though.

## Section 3: Decision-making and Dispute Settlement

### 3.1 Decision-making

i. How do you assess SPRFMO decision-making process and practices?

Good					Poor	
1 X	2	3	4	5	No answer	

Please explain further:

SPRFMO's decision-making processes are excellent – and the voting and objections procedures were recognized in the 2016 UNFSA States Parties consultations. It is critical that we be able to vote in SPRFMO. It is hard to see how we could adequately fulfil our duties under international law to cooperate in the conservation and management of stocks by relying exclusively on

consensus. We think that the ability to vote is a useful lever to encourage efforts towards consensus, but we also think its important that SPRFMO is 'not afraid to vote.'

ii. Are the processes and practices inclusive and transparent?

Yes X	No	Partly
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Please explain further:

We think SPRFMO is inclusive and transparent. Our information is generally publicly available and observers can and do actively participate in the Commission's work. It is positive that plenary is generally held in open session with a few justified exceptions (eg any matter dealing with staff appointment, salaries, performance etc should be dealt with in a closed session). We think transparency is a necessary condition in an organization that deals with managing the commons.

iii. Could they be improved?

Yes X	No	Partly
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Please explain further:

There are always ways to improve but we have not identified any specific actions. We are open to hearing ideas from the Panel and from observers about how to be more inclusive and transparent.

iv. Would SPRFMO benefit from the greater use of informal mechanisms of cooperation in its decision-making?

Yes	No	Partly X
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If Yes, what form might such an informal mechanism take? Please explain further:

It depends on the issue and purpose. We think we already use a lot of information mechanisms within the Commission, including working groups, that are informally established (VMS, observers, jack mackerel). What is important is that sometimes it is easier to reach consensus if we refrain from documenting (particularly in detail) outcomes of the working group's deliberations. Eg the jack mackerel negotiations have thus far not documented the deliberations of the working group. The VMS WG documented only the key recommendations to be adopted. Informal mechanisms are a great idea but can be easily spoiled if they embody 'formal' elements. There is obviously a place for formal mechanisms and proper documentation though.

### 3.2 Dispute Resolution

- i. Has the dispute resolution process used by SPRFMO been effective in resolving disputes?

Yes X	No	Partly
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Please explain further:

We think the dispute resolution process is effective. Of course, we hope that all issues and concerns held by any Member can be resolved within the Commission, but we recognize the right of any Member to pursue dispute resolution, and do not regard this as a disruptive activity. We think we can learn from these processes.

- ii. Has the SPRFMO dispute resolution process been expeditious?

Yes X	No	Partly
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Please explain further:

Absolutely. Its speed and short timeframes is an asset – necessarily so as the idea is to resolve issues quickly.

- iii. Do you have any concerns with the SPRFMO dispute resolution process, such as procedures or cost?

Yes	No X	Partly
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Please explain further:

We want to acknowledge the efforts of current and previous chairs who have made concerted efforts in engagement and outreach of all Members. This has contributed to the timely and effective resolution of a number of issues.

We think the procedures are good but we suggest it would also be prudent for the Secretariat to regularly provide the list of experts to Members for review/update so we can ensure we always have panel members available. We acknowledge it is on the website but sometimes we need a prompt.

Dispute settlement is costly and the commission bears 30%. The decision to pursue dispute settlement by a Member (we assume) is not taken lightly because the Member bears 70% of that cost. What we do need to ensure we do is not deplete the commission's reserves (contingency fund or accumulated surplus fund – the latter more significantly as it easier to access for a situation like this) so that we can fund future disputes should they arise.

If Yes, what suggested improvements could be made?

## Section 4: International Cooperation

### 4.1 Transparency

- i. Are relevant intergovernmental organisations and interested environmental organisations and fishing industry organisations able to effectively participate in all SPRFMO meetings?

Yes X	No	Partly
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Please explain further:

We think so. They can participate in subsidiary bodies and are invited to intervene.

- ii. Does SPRFMO facilitate consultations with non-governmental organisations, representatives of the fishing industry, and other interested bodies on SPRFMO conservation and management measures?

Yes	No X	Partly
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Please explain further:

Not that we can specifically recall – but we may have misunderstood the question.

- iii. Are all SPRFMO reports, conservation measures and scientific advice and other relevant non-commercial sensitive information made publicly available in a timely manner?

Yes X	No	Partly
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Please explain further:

Yes – the Secretariat is very timely with this.

- iv. How effective is the SPRFMO website making relevant information publicly available and easily accessible?

Yes	No	Partly X
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Please explain further:

Its fine if you are a Member – not if you're the general public.

Try finding the IUU Vessel List – impossible. Particularly when its updated (eg when a vessel changes ownership or name).

We also really need to have more accessible information on contact points – competent authorities etc (for port entry, HSBI etc). vessels may use the website as often as States do.

#### 4.2 Relationship with Cooperating Non-Contracting Parties (CNCP)

- i. Have there been efforts by SPRFMO to encourage CNCPs, either individually or collectively, to become SPRFMO Members?

Yes X	No
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Please explain further:

Our existing CNCPs are encouraged to continue participating and complying with our rules. There doesn't seem to be a lot of outreach to NCPs not engaged in SPRFMO but whose participation would be useful. It is not known to us if the Secretariat writes to NCPs or follows up on NCP vessel sightings but this could be explored with them.

- ii. Do CNCPs voluntarily implement SPRFMO measures?

Yes	No	Partly X
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Please explain further:

Compliance is clearly mixed as is evident from the compliance and meeting reports. We should take care not to hold CNCPs to different standards.

#### 4.3 Relationship with non-Members or non-CNCPs undermining the objectives of the Convention

- i. Does SPRFMO take effective measures to deter the activities of non-Members and non-CNCPs that undermine SPRFMO conservation and management measures?

Yes	No	Partly X
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Please explain further:

The only example we can think of is encouraging the Cape Flower (Bolivia) to cooperate with SPRFMO when it was engaged in fishing in SPRFMO.

In hindsight, being clearer than NCP vessels engaged in fishing constitutes IUU fishing would have been a better response.

- ii. Does SPRFMO encourage non-Members and non-CNCPs to become Members or CNCPs of SPRFMO?

Yes X	No	Partly
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Please explain further:

We think as and when the opportunity arises, this occurs. We are not sure of the proactive outreach by either the Secretariat or Members. We would be surprised if there was any State actively discouraged.

#### 4.4 Cooperation with international organisations

- i. Does SPRFMO have appropriate cooperation links with other international and regional fisheries management organisations?

Yes	No	Partly X
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Please explain further:

At the RFMO (and CCAMLR) level this appears to be working well, but we are realistic in that for SPRFMO to stay cost-effective, cooperation has to be largely 'on paper' rather than travelling to other RFMO meetings.

We do think there is scope to ensure the Secretariat can cooperate in larger multilateral processes – eg to ensure SPRFMO provides something into the next UNFSA States Parties meeting (April 2019) as the theme is 'RFMO performance reviews' as well as to cooperate with the PSMA as it increases its focus on information sharing and cooperation against IUU – there is a clear role for RFMOs here and a need to minimise duplication. Through those PSMA processes, we have suggested that the PSMA Secretariat engage closely with RFMOs and seek to establish MOUs to appropriate govern any information exchange.

- ii. How effective is the cooperation with other regional fisheries management organisations which have competency over stocks located in the Convention Area?

Very	Not at all X	Partly
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If Not at all or Partly, how can this be improved?

If we understand this question correctly, then IATTC and the WCPFC are the RFMOs referred to here.

We cannot pinpoint any specific cooperation with these RFMOs – neither in a formal sense (MOU) or in an operational/practical sense.

We think CCAMLR is relevant here though as evidently there are toothfish in the SPRFMO Area and cooperation with CCAMLR, as the key body managing toothfish and with the clearest understanding of its science, is crucial.

- iii. Does SPRFMO cooperate with relevant fisheries organisations specifically on the reduction and elimination of IUU fishing?

Yes	No X	Partly
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Please explain further:

Not to our knowledge but this could be occurring with the Secretariat

#### 4.5 *Special requirements of developing States*

- i. Does SPRFMO have appropriate mechanisms for recognising the special needs of developing States?

Yes	No	Partly
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Please explain further:

We do not have an explicit mechanism but the 'developing state' aspect is not generally raised by those states affected – that is, we cannot recall circumstances in which a Member has had difficulty with a CMM etc because of a capacity issue (and perhaps therein lies the problem?).

- ii. How appropriate and sufficient is the assistance that is provided to developing States by Members or CNCs either individually or through SPRFMO?

Very	Not at all	Partly X
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Please explain further:

We think that question is best answered, at least initially, by the developing States concerned. We are aware that there is a \$20k annual allocation for developing states which is accessed – last year's financial statements reflect that approximately half of this was spent.

If there is a view that it is not sufficient, we are open to fixing this. It would help us to have a clear articulation of the capacity needs and problems to help us work towards a solution.

## **Section 5: Financial and Administrative Issues**

### 5.1 *Availability of resources for activities*

- i. Is the level of funding available to the Secretariat sufficient to achieve the aims of SPRFMO and implement its decisions?

YesX	No	Partly
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Please explain further:

We are of the view that the Secretariat should be resourced to fulfil the functions asked of it. We are also of the view that the Secretariat should remain small and cost-effective – this is a small RFMO. The budget is increasingly difficult to negotiate so pragmatism and priority setting is also important.

We think, in general, the funding is sufficient to perform the tasks required. We think the Secretariat would like more funding for purposes such as travel and representation etc – this is not something we think should be prioritised unless there is a good reason for it. We do think the Secretariat is justified in asking for funding to ensure the database is maintained appropriately, and that salaries/benefits etc are fully funded, consistent with their rights under Staff Regulations etc. Staff salaries etc are the largest expense of the Commission. In this vein, we also think the Secretariat is operating a lean budget so further calls to reduce expenses (particularly when the majority of expenses are salary) need to be tempered – but unnecessary expenses should be avoided.

ii. Does the Secretariat have the requisite number of personnel to achieve the aims of SPRFMO and implement its decisions?

Yes	No	Partly X
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Please explain further:

We look at two things – number of staff required and whether the skills are right. We think the staffing level is appropriate but we do query the composition of staff/skill sets particularly when we foresee this workload increasing as the organisation matures and the management increases. We also query whether it has been appropriate/cost effective to fund a position, rather than outsource, functions such as IT and accounting. We are yet to be convinced this is the most cost-effective option or the better result.

iii. Does the SPRFMO budget process lead to the necessary financial resources being available to the SPRFMO Secretariat? If not, why not?

Yes	No	Partly X
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Please explain further:

The budget is difficult. Up until now this process has been challenging because of the structural issue in the budget formula. This was resolved in January 2018 and the new budget formula, when applied, should produce a result that is more equitable for Members which means we will not need to resort to ad-hoc negotiations of contributions. We are optimistic the next budget discussion will focus solely on the quantum of funds for the Secretariat’s operating budget and not on how it will need to be divided.

*5.2 Efficiency and cost-effectiveness*

i. Does SPRFMO efficiently and effectively manage the resources available to it?

Yes	No	Partly X
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Please explain further:

Addressed above. This could be improved. We are confident the new ES will be an asset here.

- ii. Does SPRFMO have the right organisational structure and working groups to efficiently undertake its work?

Yes	No X
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If No, how could this be improved?

Addressed above.

- iii. Is the SPRFMO schedule of meetings appropriate?

Yes	X	No
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If No, how could it be improved?

- iv. Is the organisation of SPRFMO meetings effective in achieving SPRFMO's objectives?

Yes	X	No
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If No, are there any suggestions you have for improvement?

Yes – the chairs are very attuned to the Members needs and goals, particularly for complex meetings like CTC and Commission so this is managed well for these meetings. We think the Scientific Committee meetings are a challenge though. We observe it is a real challenge for the (superhuman) Chair to manage the meeting and the stock assessment discussions. We also think there is a risk that the squid and demersal discussions do not get enough air time to be properly discussed, or they are discussed in full separately so that the final advice adopted by the SC often hasn't been discussed by the whole SC. We don't have a solution other than extending the meeting – separate meetings (as in, SC working group meetings meeting earlier in the year) would be difficult for us to afford to attend.