

РОССИЙСКАЯ ФЕДЕРАЦИЯ
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ПО РЫБОЛОВСТВУ
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«14» June 2013 г. № 303-602

To: Sarah Grimmer,
Senior Legal Counsel
Permanent Court of Arbitration,
The Netherlands

Re: Information for submittal to the Review Panel in support of Objection of the Russian Federation to the conservation and management measure for *Trachurus murphyi* (CMM 1.01) under the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean

Dear Madame,

In accordance with the deadline stipulated by the agreed upon Procedural Timetable we are enclosing herewith the information in support of our Objection to the conservation and management measure for *Trachurus murphyi* (CMM 1.01) under the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean.

Kindly ask you to forward this information to the Review Panel.

With best regards,

A handwritten signature in blue ink, appearing to read 'Sergey V. Simakov'.

Sergey V. Simakov,
Head of International
Cooperation Department

Enclosure: 3 pages

**Substantiation and Proposals Concerning Establishing of the Catch Limit for
Jack Mackerel *Trachurus murphy* for the Russian Federation in the
Regulatory Area of the South Pacific Regional Fisheries Management
Organization (SPRFMO)**

Calculation of the Russian jack mackerel's catch limit for 2013

Conservation and Management Measure for *Trachurus murphyi* (further referred to as CMM 1.01) was adopted at the First session of SPRFMO (28 January – 1 February, 2013, Auckland, New Zealand).

In accordance with paragraph 6 "Management of Catches" of this document the total catch of the parties concerned in 2013 is limited by 360 thousand tonnes. Members and CNCPs are to share in this total catch in the same proportions as their 2010 catches.

The catch limit applies to the high seas of the Regulatory area of SPRFMO and the EEZ of Chile, which in accordance with Article 20.4.a.iii of the Convention voluntarily agreed to extend the management measures to its EEZ (paragraph 1 of CMM 1.01). In accordance with paragraph 7 of CMM 1.01 Parties agreed to transfer 10% of their catch limits to Chile.

The Russian catches in 2010, being formally submitted to the SPRFMO Secretariat, have not been included into the calculation, because the Russian fisheries statistical data for that year were incomplete. The Russian delegations at all the SPRFMO meetings (including sessions of the Working Group on Science and the Working Group on Data and Information, sessions of the Preparatory Conference and the First Session of the Commission) have given detailed explanations and have noted that lack of a part of data can not serve as a reason for exclusion of the Russian 2010 catches taken in 2010 from the calculation. The explanations and objections of the Russian delegations on this issue were reflected in all the protocols of SPRFMO events.

The calculation of the Russian jack mackerel's catch limit for 2013 totaling to 19 944 tonnes is given in the table below.

Table. Calculation of catch limits for 2013 in accordance with CMM 1.01

Party	Catch in 2010 on the high seas, tonnes*	Percentage of the total catch, %	Catch limit for 2013, tonnes	Catch limit for 2013, with account of 10 % transfer to Chile, tonnes
Belize	2240	0.30	1080	972.0
Vanuatu	45908	6.16	22176	19958.4
European Union	67497	9.05	32580	29322.0
Peoples Republic of China	63606	8.53	30708	27637.2
Republic of Korea	8183	1.1	3960	3564.0
Peru	40516	5.43	19548	17593.2
The Russian Federation	41315	5.54	19944	17949.6
The Faroe Islands	11643	1.56	5616	5054.4
Chile	464808**	62.33	224388	237949.2
Total	745716	100.00	360000	360000.0

Notes: * - the catch in 2010, with the exception of Russia, is given in accordance with the document COMM-01-INF-07;

** - the catch of Chile includes the high seas and the national EEZ.

General objections

The 2010 catch can not be used as the basis for determining of national quotas for the following reasons.

1. The 2010 catch was obtained in the time when the Revised Interim Measures for Pelagic Fisheries were in force, and in accordance with paragraphs 3 and 4 of these Measures “the management measures in these Interim Measures in no way special or a precedent should serve as a reference for future management decisions of the Commission” and “are not to be considered the precedents for

future allocation or other decisions taken by the Commission in accordance with Article 21 of the Convention, relating to participation in fisheries for *Trachurus* species”.

Besides, according to paragraph 5 of the Second Interim Measures, the Interim Measures were voluntary and non legally-binding in accordance with international law.

In this regard the Commission had no grounds to refer to this document, which was not legally-binding for the Parties to the Convention and was agreed before the Convention entered into force.

Furthermore, the Commission is not authorized to examine the data submitted by the Parties for the period preceding entering the Convention into force.

2. The Second Interim Measures have limited the catch and effort, and therefore 2010 catches do not reflect the real potential of the Parties.

3. When using the 2010 catches as the basis for determining of the national quotas, Article 21.1 of the SPRFMO Convention is violated, which says: "When taking decisions regarding participation in fishing for any fishery resource, including the allocation of a total allowable catch or total allowable fishing effort, the Commission shall take into account the status of the fishery resource and the existing level of fishing effort for that resource and the following criteria to the extent relevant:

- (a) historic catch...;
- (j) contribution to the conduct of scientific research with respect to fishery resources...”.

4. No Regional Fisheries Management Organization is using a particular year as a key while allocating the Total Allowable Catch (TAC) into national quotas, especially taking into account the 41-years-duration of international fisheries in the South Pacific (since 1972).

5. The use of a randomly selected year as a key for quota distribution discriminates to a certain extent the fishing rights of many countries.