## International Consultations on the Establishment of the South Pacific Regional Fisheries Management Organisation

9 March 2007

Participants in the Second International Meeting on the Establishment of the proposed South Pacific Regional Fisheries Management Organisation

## **Dear Colleagues**

The Second International Meeting on the Establishment of the proposed South Pacific Regional Fisheries Management Organisation discussed the draft text of an Agreement (SP/02/WP01) that I had prepared and circulated at the request of the First Meeting. Following this discussion the Second Meeting requested me as Chair to prepare a revision of the draft text of the Agreement taking into account the comments participants had made on SP/02/WP01 and to circulate that revision well in advance of the Third Meeting.

I have now completed this revision and it is attached to this letter. It is also being posted on the website ( <a href="https://www.southpacificrfmo.org">www.southpacificrfmo.org</a>).

The revision contains a number of changes that I hope may bring us closer to a consensus text.

Structurally the main changes from the first draft result from the sense of the discussions at the Second Meeting that we should provide for a "fully fledged organisation" with an international legal personality separate from its member states.

You will recall that at the First Meeting many delegations suggested that the organisation should be bureaucratically light and that its formal institutions should be allowed to evolve as necessary. Accordingly I prepared SP/02/WP01 as a minimalist text that followed the model of the South Indian Ocean Agreement, the most bureaucratically light of existing RFMO agreements. Decisions were to rest with meetings of the parties, a minimum of subsidiary bodies were to be established at the outset and additional bodies, including a permanent secretariat, were to be established only as the need for them became apparent to the meeting of parties.

But at the Second Meeting the great majority of delegations made it clear they were in a position to support from the outset a "fully fledged" organisation with a commission and a permanent secretariat and enjoying separate legal personality. The revised text reflects this development in the position of delegations.

At the same time the revised text continues to respond to the concerns expressed by many delegations that costs and bureaucratic layering should be kept to a minimum. Accordingly the number of subsidiary bodies to be established from the outset is kept small and it is open to the Commission to decide that it is not necessary for a particular subsidiary body to meet in any one year. The provision for a permanent secretariat emphasises the need to utilise the capacity of existing regional institutions to carry out certain technical secretariat functions and to secure services through contractual arrangements rather than by the appointment of permanent staff where this is more cost effective. (Without limiting the power of the Commission to allow the Secretariat to develop as necessary the implication is that initially it may comprise a permanent staff of one – the Executive Secretary.) The article on the budget also contains strictures on the need for cost effectiveness.

With the introduction of an article to create the Organisation, including a Commission, it seemed appropriate to slightly re order the articles and insert all the more mechanical provisions relating to the structure, including the provisions relating to subsidiary bodies, before moving on to conservation and management measures. (In most cases these changes have been drawn from the EC non-paper that was circulated prior to the Second Meeting and which in turn was drawn from work being undertaken to revise the Convention for the Northwest Atlantic Fisheries Organisation (NAFO).) For ease of reference therefore I am attaching a table that lists the articles in the revised text together with, where applicable, the number of the equivalent article in SP/02/WP01.

In recognition of the size of the area to be managed by the organisation, SP/02/WP01 contained the idea (Article 12(1)) that subsidiary bodies might include sub-regional management units. The role of such units in decision-making was dealt with in Article 16(5). In light of the trend of the comments by those who spoke on this issue at the Second Meeting the revised text provides in a separate article for the establishment of two such units with the terms of reference foreshadowed in SP/02/WP01. It may not be necessary for each of these units to meet annually and the text allows flexibility in this regard.

The other more minor changes in the revised text represent my best attempt to take account of our Second Meeting in ways that I hope may bring us closer to a consensus text.

As with SP/02/WP01 I have not attempted to draft a text for the article on the Area of Application. This issue was not discussed at the Second Meeting and

the revised text simply retains the indicative outline included in the report of the First Meeting. Nor have I made changes to other articles in SP/02/WP01, such as Article 27, which were not opened for discussion at the Second Meeting but which remain to be discussed and negotiated.

I would like to recall that I was not asked to prepare a revision of the draft interim measures discussed at our Second Meeting. But the adoption of effective interim measures remains an urgent and important task. I hope delegations, taking into account the call made by the United Nations General Assembly in resolution 61/105 of 8 December 2006, are already working together on proposals that will enable us to agree such measures at our Third Meeting scheduled to be held in Chile from 30 April to 4 May 2007.

May I also remind you that in the Report of our Second Meeting participants were encouraged to provide relevant information to the Science Working Group in a timely manner and to involve their respective scientists in its planned work. In that regard the Report records that the Data and Information Working Group will meet in Chile on 23 and 24 April and on the morning of 25 April and that the Science Working Group will meet during the afternoon of 25 April and on 26 and 27 April.

I look forward to the discussions at our Third Meeting. I was encouraged by our discussions in Hobart. I hope the revised text will bring us closer to consensus and I would encourage delegations to come to Chile prepared to negotiate to agreement on all the issues.

Kind regards

Bill Mansfield

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Chair

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