



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

INTERNATIONAL AFFAIRS AND MARKETS
Regional Fisheries Organisations

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Mr Bill MANSFIELD
Chair
South Pacific Regional Fisheries
Management Organisation
New Zealand

**Subject: 6th Meeting for the establishment of a new South Pacific RFMO –
(Canberra, 6/11 October 2008)**

Dear Mr. Mansfield,

First of all, we would like to thank you for your letter of 1st September 2008 enclosing the fourth revision of your text, which we have studied with much interest.

It is our opinion that this Draft could be helpful in moving Participants closer to get a consensus and we share your suggestion to keep on working in a smaller working group mode as we already did in Guayaquil.

The European Community remains very keen on focusing the discussion on the main outstanding and key issues notably:

Structure of the Organisation (current Article 12)

Notwithstanding our initial (confirmed) position of considering a simple structure the best way to allow the Organisation to meet its basic management objectives, we are considering your new proposal related to the creation of two subcommittees. Our concern remain, if one refers to the different status that the future Organisation's Members will assume within the subcommittees, according to the presence (or absence) of their fleets with the specific subcommittee's area of competence (Members/observers).

Balance of interests between Parties

We are pleased to see that a specific article 4 on compatibility has been included in your Draft text, as it was the case for the EC Draft Text tabled in September 2007 during the 4th meeting (Noumea). We are ready to work with other participants on this basis.

Convention/Agreement and Secondary legislation

We believe it is important to ensure a good framework in the new Convention/Agreement which allows for an efficient and flexible RFMO. Therefore, we believe that we should not include detailed provisions in relation to conservation and management measures in the Convention. These types of provisions must have sufficient flexibility to adapt to changing situations. Their inclusion in a text which would require ratification by all Parties if later modifications were necessary makes it an inflexible instrument. Conservation and management measures are best addressed through the adoption of annual or multi annual measures, as in other RFMOs.

Decision making (current Article 15)

As you are aware, in the EC view, the Conference would have to keep on exploring other processes for decision making, in particular taking into account of the EC suggestion to introduce a mechanism which could foresees firstly, decision making by consensus, secondly, by majority voting coupled with a well defined procedure for Parties to object the measures or, thirdly, by a mixture of consensus as the objective, with a fall back to majority vote and properly ring-fenced objection procedure.

Dispute settlement provisions (current article 34)

We believe that that the provisions in the current text are insufficient. In particular, we believe that mechanism for 'in house resolution' of disputes though the creation of an ad hoc panel should be provided for in order to better cater for the different situations that might occur.

Amendment, ratification accessions etc

We believe that these provisions will require some further consideration in order to ensure consistency in the approach taken. We do for example not believe it is logic that amendments to the Convention should require the ratification by all States before entering into force, when the entry into force of the Convention itself only would require the ratification of six Parties.


The European Community would also like to draw your attention on the need to ensure that all participants to the forthcoming Canberra meeting will be officially accredited by their proper governmental authorities, providing you with an official communication on their participation, the composition of their delegations and the titles of their representatives.

We would also be pleased to receive, in advance of the meeting, by the Interim Executive Secretary, an update on the catch and effort 2007 data situation, following the commitment taken by all participants during the Guayaquil meeting.

We look forward working with you and other delegations at the up-coming meeting in Canberra.

I would be grateful if this correspondence is circulated to other participants as soon as possible.

Yours sincerely,



Constantin ALEXANDROU
Head of Unit

C.c: Dr. Robin Allen – SPRFMO Interim Executive Secretary