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MARITIME & COMMERCIAL LAWYERS

**The establishment of the South
Pacific Regional Fisheries
Management
Organisation (*SPRFMO*) and the
effect of closures of high seas.**

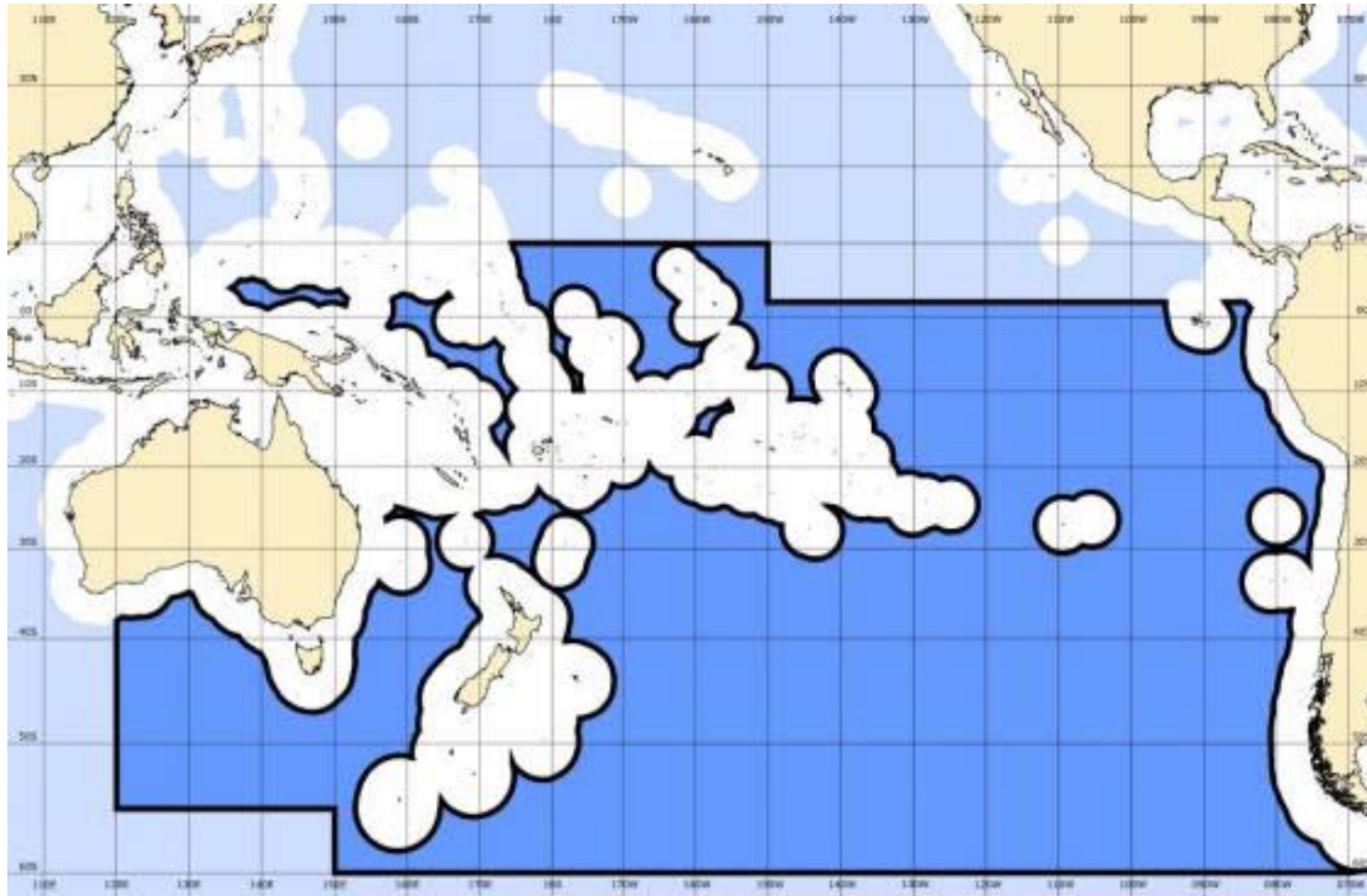


UNGA 61/105

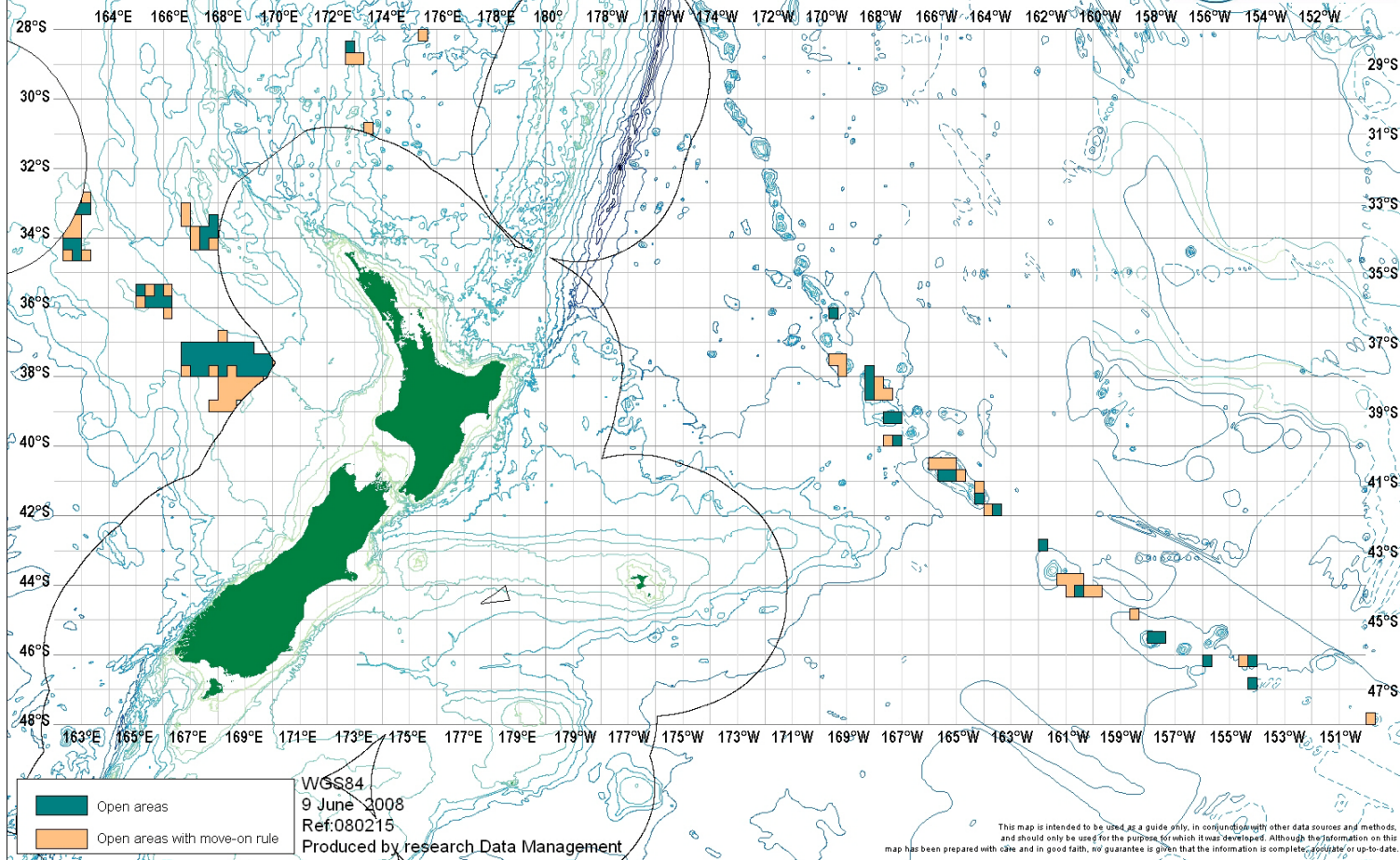
- *Calls upon regional fisheries management organizations or arrangements with the competence to regulate bottom fisheries to adopt and **implement measures**, in accordance with the precautionary approach, ecosystem approaches and international law, for their respective regulatory areas as a matter of priority, but not later than 31 December 2008 ...*



SPRFMO Area



SPRFMO Areas Open to Bottom Trawling



MFV AMALTAL COLUMBIA



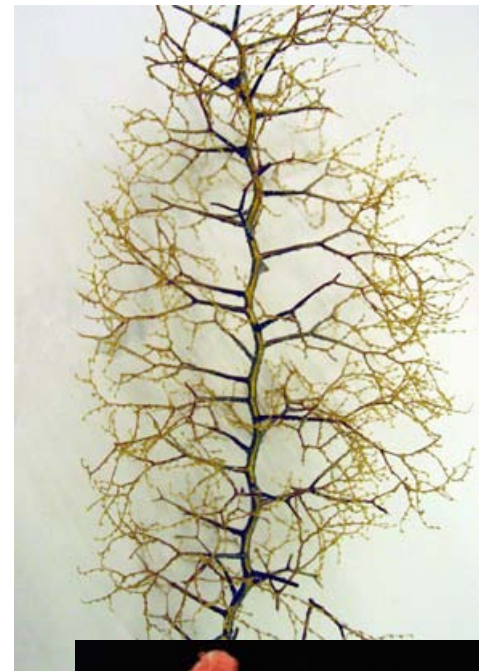
Talley's



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UNGA 61/105 Article 83

- **Assess** whether bottom fishing would have Significant Adverse Impacts (SAIs) on Vulnerable Marine Ecosystems;
- **Identify** VMEs and impact of bottom fishing;
- **Close** VMES
- **Move on** where VME's encountered.



Interim Measures

- The *assessment* on whether bottom fishing would have significant adverse impacts on vulnerable marine ecosystems (VMEs);
- To *identify* VMEs and the adverse impact that bottom fishing would have on these VMEs;
- To *close* VMEs including sea mounts on the basis of best available scientific information;
- To *require* members of RFMOs or to cease bottom fishing activities where VMEs are encountered;



Definitions?

- *Vulnerable marine ecosystems;(VME)*
- *Significant adverse impacts; (SAI)*
- *Ecosystem approach;*
- *Precautionary principle;*
- *Sustainable management.*

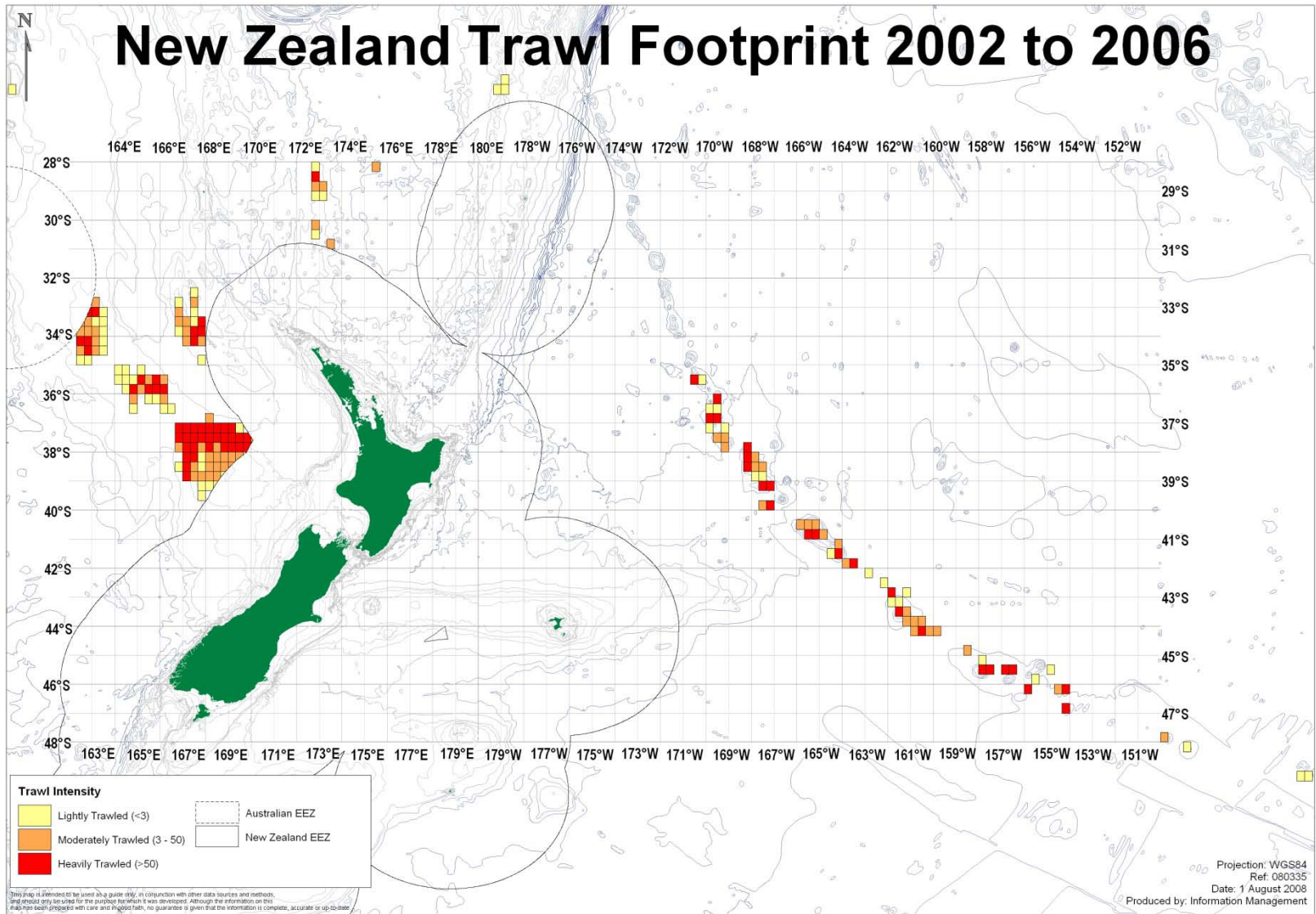


Interim Measures: 30 Sept 2007

- States to take measures “in accordance with their laws and regulations” to limit bottom trawling;
- Have regard to
 - *ecosystem approach* to fisheries management;
 - and
 - the *precautionary approach*;
- To achieve:
 - *sustainable management of fish stocks*
 - *Protection of VME’s*



New Zealand Trawl Footprint 2002 to 2006



Interim Measures Order.

- The *limitation* of bottom trawl effort to existing levels (2002 to 2006 levels);
- A complete *closure* of some areas previously fished;
- *Closure* of areas where VMEs are known to occur ;
- *Closure* of 5 nautical miles of any site in the SPRFMO area where evidence of VMEs are encountered;



UNGA order;

- **Assess** whether bottom fishing would have Significant Adverse Impacts (SAIs) on Vulnerable Marine Ecosystems;
- **Identify** VMEs and impact of bottom fishing;
- **Close** VMES
- **Move on** where VME's encountered.



Flaws:

- SPRFMO has not been formally constituted
- The measures are interim;
- Scientific assessments not in;
- No internal assessment and management protocols



Flaws ctd.

- 2002 to 2006 catch years were arbitrarily chosen;
- ill-defined concepts such as VMEs and SAIs
- Assessments based on selective information and modelling



Grounds for Review

- Interim measures out of step with UNGA;
- Irrelevant considerations;
 - Flawed science;
 - Measures are voluntary;



Conclusion

- Look through the 'green' rhetoric;
- Get some rigour into the definitions;
- Build in flexibility.



THANK YOU



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DAWSON & ASSOCIATES
dawsonlaw.co.nz

Peter Dawson

m +64 27 2299624

e peter@dawsonlaw.co.nz

p +64 3 544 1967 f +64 3 544 1968