

SouthMAC 14 Meeting  
21 November 2001  
Hobart

## MINUTES

### Attendance

#### Members

Mr Bill Nagle – Chair  
Mr Geoff Richardson, AFMA  
Dr Keith Sainsbury, CSIRO  
Ms Margaret Moore, WWF  
Mr Martin Exel, Austral Fisheries  
Mr Les Scott, Petuna  
Mr Joseph Pirrello, Everfresh  
Mr Dennis Witt, DPIWE  
Mr Ian Hay, AAD  
Ms Sarah Scott - Executive Officer

#### Observers

Ms Viki O'Brien, AFMA  
Mr Quentin Hanich, Greenpeace  
Mr Dave Williams, HIMI (Longlining)  
Fishery Management Ltd (HIMILL)  
Mr James Mace, HIMILL  
Dr Andrew Constable, AAD (Agenda  
item 4 only)

The Chair welcomed members and observers to the meeting. Given that one of the major agenda items was to discuss the HIMI Management Plan and Strategic Assessment public comments, the Chair invited major respondents of comments to attend SouthMAC as observers.

A public meeting of SouthMAC was held on the afternoon of 20 November 2001. Approximately 25 people attended the meeting including SouthMAC and SAFAG members and representatives from Defence, ABARE, University of Tasmania, Acquaro & Co, the commercial fishing industry and Greenpeace. Following the Chairman's Report to the public meeting, AFMA and AAD representatives explained their roles and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) operating framework. This was followed by presentations from CSIRO and AAD scientists on ecosystem management in the CCAMLR context, the tagging program, and the research and stock assessments programs for the Macquarie Island and HIMI fisheries. Attendees expressed their appreciation for the contributions and found the session to be informative and highly valuable.

### Apologies

Apologies were received from Mr Mark Flanigan, permanent observer from Environment Australia (EA) who was unable to attend due to the need to brief the new Environment Minister. Mr Garth Evans from Tasman Sea Fishing Company P/L and a major respondent to the draft Management Plan was unable to attend due to other commitments.

### **Declaration of interests**

Messrs Exel, Scott and Pirrello declared their conflicts of interest on all Agenda items. Dr Sainsbury also declared his conflict of interest as a scientist.

### **Adoption of Agenda**

The Agenda was adopted with the following additional item:

- Other business – United Nations Fish Stocks Agreement (UNFSA) – implementation by AFMA

### **Agenda Item 1 – Adoption of minutes from SouthMAC 13**

The draft minutes from SouthMAC 13 were circulated to members on 9 October 2001. Comments were received from Mr Nagle and incorporated into the minutes presented to the Committee. The minutes were amended accordingly.

Mr Richardson moved that the minutes of SouthMAC 13 be accepted as a true and accurate record of the meeting. Ms Moore seconded this motion.

### **Agenda Item 2 - Action Arising from SouthMAC 13**

The Committee noted that the suggested changes to the draft HIMI Management Plan and Strategic Assessment Report had been incorporated.

There were no other actions arising from SouthMAC 13.

### **Agenda Item 3 – Correspondence**

The Committee noted the correspondence from the AFMA chair Dr Wendy Craik to Mr Nagle on the outcomes of the 86<sup>th</sup> AFMA Board meeting held in Canberra on 23-24 August 2001.

The key outcomes of this meeting were that the Board agreed to:

- adopt all recommendations from SouthMAC 12 and 13;
- agreed to the interim management arrangements for the period from 1 December 2001 to 30 November 2002, which mirror management arrangements and allocations under the draft Plan;
- a carry over limit of 20 tonnes of toothfish per operator under the Plan and that for every kilogram caught in excess of an operator's quota holdings 2 kilograms be deducted from that operator's allocation for the subsequent year; and
- the release of the draft Management Plan for public comment from 1 September 2001 to 1 October 2001.

The Board congratulated SouthMAC for its efforts in developing the draft Plan within a very tight timetable.

## **Agenda Item 4 – Report on the outcomes of CCAMLR XX**

AFMA provided the Committee with a written report entitled *Report on the Key outcomes of the twentieth meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR XX)*. Ms O'Brien and Mr Hay verbally briefed SouthMAC on the outcomes of CCAMLR XX which they attended in Hobart from 22 October to 2 November 2001. SouthMAC noted that the Australian delegation achieved their key objectives. It was also noted that the introduction of a centralised Vessel Monitoring System (VMS) for all member countries will be an objective of the Australian delegation at future meetings. The key outcomes of CCAMLR XX for Australia was the prescription of TACs for Patagonian toothfish and mackerel icefish, a reduction in the move-on provision for any bycatch species (other than grey rockcod or unicorn icefish) to 1 tonne and 3 approved new and exploratory fisheries in Area 58.4.2.

Mr Hay noted the error on page 3, that is, the reported catches from Area 51 in the last financial year for Russia was 2,500 tonnes not 250 tonnes as stated in the report. This also changes the total reported catches from Area 51 in the last financial year to 12,520 tonnes.

SouthMAC is concerned about illegal, unreported and unregulated (IUU) fishing particularly the increased catch from Area 51 (outside the CCAMLR area adjacent to the Kerguelen Islands). CCAMLR considered and SouthMAC agreed that this catch was probably misreported and coming from within the CCAMLR area within the EEZ of France and Australia. SouthMAC endorses Australian agencies examining other methods to tackle IUU including the establishment of a centralised VMS system. SouthMAC noted the importance of getting IUU under control for target species as well as bycatch species including seabirds (98% of bird bycatch is believed to be taken by IUU fishers). SouthMAC agreed that the IUU issue is a problem environmentally, economically, and legally.

SouthMAC agreed that at CCAMLR Consultative Forum there should be a recommendation that DFAT liaise with other member countries of CCAMLR to get support for centralised VMS before CCAMLR XXI

Mr Mace noted that he had information to suggest that 3 further longlining vessels in Spain had been fitted for IUU fishing. Mr Mace agreed to provide information on this activity to AFMA.

SouthMAC agreed that the Chair with assistance from AFMA and Mr Hay will write to the AFMA Board requesting that the Chair of AFMA write to portfolio Minister's seeking some recommendations to reduce IUU. The letter should note that good management by Australia will not protect the target and bycatch species if IUU continues at current levels. The *South Tomi* arrest should also be commended in the letter but highlight that this demonstrates the lack of Australia's enforcement capability.

SouthMAC congratulated AAD on the improved consultation process they undertook to review their stock assessment work in the lead up to CCAMLR this year. The Committee thanked AAD for their efforts.

Dr Constable attended the meeting for a short time, to table his document titled *Preliminary evaluation of longline fishing for Dissostichus eleginoides at Heard Island & McDonald Islands*. The paper addresses two questions

- What would the sustainable long-term annual yields be for a longline fishery compared to a trawl fishery?
- What might be the consequences be of the current illegal longline fisheries operating on the Kerguelen Plateau ?

The paper considers these questions by examining how the status of the spawning stock will change under a number of different scenerios on the introduction of longline and IUU fishing.

The Committee noted from this paper the relative potential long term yields from a trawl and longline fishery in the area.

SouthMAC thanked Dr Constable for his report.

### **Agenda item 5 – Setting of the TAC for HIMI**

The Committee supported the following TACs which were prescribed by CCAMLR XX and supported by SAFAG for the HIMI Fishery for the 2001/2002 season:

<b>Species</b>	<b>2001/2002</b>
Patagonian toothfish	<b>2,815 t</b>
Mackerel icefish	
- Heard Island Plateau	<b>885 t</b>
- other areas	Directed fishing prohibited
Grey rockcod	<b>80 t</b>
Unicorn icefish	<b>150 t</b>
Other species (each)	<b>50 t</b>

CCAMLR XX also prescribed that as an interim precautionary measure for the forthcoming year the bycatch of *Macrourus spp.* and skates and rays for all CCAMLR fisheries should be limited to reduce the potential for local depletion of these species groups. This decision was taken in light of the high bycatch levels being recorded in a number of longline fisheries.

With respect to *Macrourus spp.* and skates and rays, the Commission agreed that if any vessel catches more than 1 tonne of a bycatch species in a longline set or haul, it should move on. Similar bycatch provisions to those for *Macrourus spp.* were adopted by CCAMLR XX for the HIMI Fishery, that is:

- if in the course of directed fishing, the bycatch in any one haul of an assessed bycatch species (that is, grey rockcod or unicorn icefish) is equal to, or greater than 2 tonnes then the vessel must move on 5 n miles for a period of five days; or

- if in the course of directed fishing, the bycatch in any one haul of any other bycatch species (that is, other than grey rockcod or unicorn icefish) is equal to, or greater than 1 tonne then the vessel must move on 5 n miles for a period of five days; or

The move on limit for all bycatch species in the HIMI Fishery was previously set at 2 tonnes for all bycatch species.

- **The Committee noted the TACs and bycatch measures prescribed by CCAMLR XX and supported by SAFAG and agreed to recommend that these be approved by the AFMA Board.**

## **Agenda Item 6 - New and Exploratory (N&E) Fisheries**

The Committee noted that CCAMLR's Working Group on Fish Stock Assessment (WG-FSA) and Scientific Committee (SC) had assessed and supported Australia's three applications for new and exploratory fisheries in the Convention area for 2001/2002. The following proposals were approved by CCAMLR:

- (1) An exploratory bottom trawl fishery in Division 58.4.2 between 40°-70° E and south of 64°S, targeting Patagonian toothfish. The Commission supported Australia's proposal and approved a 500 tonne TAC for Patagonian toothfish;
- (2) An exploratory midwater trawl fishery in Division 58.4.2 between 40°-70° E for *Chaenodraco wilsoni* (spiny icefish), *Lepidonotothen kempi* (striped-eyed rockcod), *Trematomus eulepidotus* (trematomus) and *Pleuragramma antarcticum* (Antarctic silverfish), where catch limits at 500 tonnes for *C. Wilsoni* and 300 tonnes each for each other target species; and
- (3) An exploratory bottom trawl fishery in Division 58.4.2 between 40°-70° E and south of 64°S, targeting *Macrourus* spp. The Commission supported Australia's proposal and approved a 150 tonne TAC for this fishery.

Both the *Austral Leader* and *Southern Champion* have been nominated to participated in the above fisheries.

The Committee noted that at CCAMLR XX there was criticism of the large number of N&E of applications received and the small amount of fishing that actually occurs. This causes problems given the time needed to have these applications considered and assessed by the SC. SouthMAC noted that the Australian delegation at CCAMLR XX was concerned that there were proposals from other member countries to fish in areas where stocks are depleted. SouthMAC also noted that this year a number of overseas based companies had entered into joint ventures with Australian companies and had put forward proposals for access to N and E fisheries, which were not sufficiently well developed to progress at CCAMLR XX. While Australia did not submit these proposals to CCAMLR, it is possible that these companies will re-apply next year.

AFMA indicated that it was aiming to improve next year's process for calling for applications for N&E fisheries. The new process is aimed at providing industry with more information and time to develop their proposals with the aim of increasing the quality and reducing the number of applications submitted which are unlikely to be supported. A graduate at AFMA is currently completing a handbook to assist industry with future applications. The book will be available early in 2002 with an information

session for potential applicants to be held in March 2002. SouthMAC noted that Australia will only submit proposals where significant tangible benefits to Australia can be demonstrated. The proponent must demonstrate that they have links to Australia which are stronger than to any other state.

It was agreed that AFMA needs to clarify further what are the criteria for being an Australian flagged vessel and whether a proponent's past history fisheries around the world can be considered (eg have they been involved in IUU fishing operations in other countries, do they have a past record of cooperation and active research work with Flag states etc). Mr Hanich questioned whether AFMA could consider proponents past history as he believed it was possible to do so under the EPBC Act. Mr Richardson did not think that the powers of the *Fisheries Management Act* enabled this sort of past history to be taken into account when considering applications for N and E fisheries, however, agreed that AFMA would investigate this issue further in light of the recent signing of the UNIA agreement.

### **Agenda Item 7 - SAFAG 13 Chairman's report**

Dr Keith Sainsbury, Chair of SAFAG provided a summary of SAFAG 13, which was held in Hobart on 20-21 November 2001. The Meeting was well attended by both members and observers. Major issues considered by the group included:

***Heard Island and McDonald Islands*** - 2001/2002 CCAMLR TACs were noted (as addressed by SouthMAC at agenda Item 5). SAFAG noted that the process for reviewing the preliminary TACs has worked well this year and thanked AAD for their efforts. The group also considered CCAMLR's assessment results and bycatch limits.

***Macquarie Island*** – As discussed in agenda item 8 SAFAG discussed the status of the stock around Macquarie Island and recommended TACs for the 2001/2002 season.

***SAFAG Research Planning Sub-Group*** – this group is scheduled to meet on 22 November 2001 to develop the 2001/02 research activities for Macquarie Island and HIMI.

Mr Mace noted with great interest the genetic work being undertaken by CSIRO (Sharon Appleyard) and agreed to provide Patagonian toothfish flesh from Crozet and Kerguelen Islands for genetic sampling.

In line with SouthMAC's previously agreed timetable and assessment process for CCAMLR the Committee endorsed the SAFAG nominee (Keith Sainsbury/Geoff Tuck) to attend WG-FSA in 2002.

SouthMAC noted the difficulties caused by the short time between SAFAG and WG-FSA. SouthMAC suggested a possible refinement of the timing of events would be useful.

Dr Sainsbury was thanked for the timeliness and clarity of the chairman's report.

### **Agenda Item 8 – Setting of the TAC for Macquarie Island**

### ***Northern Valleys TAC for 2002***

SouthMAC noted that during 2001 only about 2% of the 420 tonne TAC was taken from the Macquarie Island Fishery's Northern Valleys Fishery.

SAFAG has developed two hypotheses for the Macquarie Island Fishery toothfish stocks outside of Aurora Trough. One based on all fish being part of a single stock, including those that may be regarded as resident on the trawl grounds and those that may be regarded as transient to the trawl grounds. The second hypothesis is based on there being a resident local stock in the Northern Valleys and a transient stock occasionally available to the Fishery. These two hypotheses have very different yield implications.

The Committee noted that the overall the situation for the Northern Valleys is largely unchanged from that reported last year. There is no indication that the transient fish under either hypothesis have been seen since the 1996/97 season.

SAFAG recommended that the TAC be set at 242 tonnes which is a constant annual yield of 10% of the initial (unfished) available biomass of the resident stock. The available biomass is that available to the trawl fishery, and consists of a relatively restricted number of year-classes of mainly immature fish. Some population parameters were altered to be consistent with most recent CCAMLR assessments including using a natural mortality rate of 0.16.

The previous TAC for the stock in the Northern Valley was set at 420 tonnes. This level was higher than the sustainable yield for the resident stock, however, it was considered acceptable as the catch rates in the fishery just of resident stocks would not be high enough to make it economically viable to take this amount of toothfish unless transient stocks moved into the region. The TAC was set at this level (420 tonnes) to allow enough fish to be taken to trigger the higher TAC which would apply if the transient stock reappeared. After re-examination, SAFAG determined that it was possible to trigger the higher TAC while still remaining within the sustainable yield for the resident stock. – essentially all that was required was a faster mechanism to determine the upward movement of the TAC when it was triggered.

To allow the transient stock to be fished, if it becomes available, SouthMAC also recommends that a TAC of 782 tonnes be triggered if catch rates reach a threshold of an average catch rate of 10 tonnes/square km over 3 consecutive fishing days. This was a conservative TAC for the combined transient and resident stocks set at 10% of the lower 95% confidence interval of the abundance estimated to be initially present (ie in 1996). If catch rates were to fall below this 10 tonnes/ square km over 3 consecutive days the TAC would revert back to 242 tonnes or if more than 242 tonnes had already been taken the Fishery would be closed.

- **SouthMAC agreed to recommend to the AFMA Board that the toothfish TAC for the Northern Valleys for the period 1 January 2002 to 31 December 2002 be set at 242 tonnes.**
- **SouthMAC agreed to recommend to the AFMA Board that a TAC of 782 tonnes be triggered if catch rates reach a threshold of an average catch rate of 10 tonnes/square km over 3 consecutive fishing days.**

### *Aurora Trough*

SouthMAC noted SAFAG's advice that there has been a modest positive recruitment to Aurora Trough's toothfish population in each of the last three years. The biomass is now estimated either at or below the target level needed to allow for commercial fishing to resume. However, there is a large amount of uncertainty associated with these estimates as a result of the low number of trawls and the fact that there was only a few tagged fish recaptured from the research take in 2000. Additional constraints on fishing were also applied to taking this research catch - including that only one trawl per day was permitted. SAFAG recommended that these restrictions be removed to encourage the full research TAC of 40 tonnes to be taken. If the full TAC is taken it should lead to additional tags being recovered, improved information on the stocks, and increased certainty in future stock assessments.

- **SouthMAC agreed to recommend to the AFMA Board that the Aurora Trough remain closed to commercial fishing and that a research TAC of 40 tonnes be set for the coming year and that current restrictions placed on the taking of this quota be removed.**

### **Agenda Item 9 - Review of comments on draft Management Plan and Strategic Assessment Report**

Messrs Exel, Pirrello and Scott re-iterated their conflict of interests.

At its meeting on 23-24 August 2001, the AFMA Board agreed to the release of the draft HIMI Management Plan and Strategic Assessment Report for public comment from 1 September 2001 to 1 October 2001. Eight submissions were received during this period from TRAFFIC Oceania (TRAFFIC), Greenpeace (GP), Humane Society International (HSI), Shellack Pty Ltd (Shellack), Phillip Fox Lawyers (Pfox), Austral Fisheries (Austral), Tasman Sea Fishing Company P/L (TasSea), HIMI (Longlining) Fishery Management Ltd (HIMILL). The submissions were summarised into a document together with AFMA's draft initial response comments and considered by the Committee.

Greenpeace and HIMILL, who provided original submissions, attended the meeting and were invited by the Chair to provide additional verbal comments to the MAC.

Mr Hanich's (Greenpeace) main concern was the level of fishing that had been reported in Area 51.

Mr Mace (HIMILL) stated that the HIMI Fishery is well managed with good mitigation of bycatch. HIMILL's main concern is there had not been the opportunity for a similar approach to be applied to longlining. The existing environmental impacts of trawling have been assessed but impacts of longlining has not been done. HIMILL believes that a strategy to access longlining needs to be included in the Management Plan.

Mr Hay asked HIMILL to reveal principals of the company. Mr Williams responded that HIMILL is an Australian registered company.

Mr Scott requested that SouthMAC note a factual error in Tasman Sea Fishing Company’s submission (page 7, paragraph 2) which incorrectly states that Everfresh will be allocated 20% of SFRs and Petuna 9%. Under the draft Management Plan Everfresh will receive 9% whilst Petuna would receive 20%. Mr Scott also stated that Pescanova has no interests in Petuna Management.

Mr Exel expressed his disappointment that no submission was received from the Department of the Environment and Heritage.

As detailed below the MAC considered in detail all comments received on the HIMI Management Plan and Strategic Assessment Report.

## 1 Issue: allocation of fishing access rights

1.1	TasSea	Seeks access to the fishery based on Navalmar’s experience in other toothfish fisheries.
1.2	TasSea	Considers the IAP operated beyond its terms of reference by not only identifying “eligible operators” but also the companies its considered eligible. Considers the IAP Report “ultra vires and inconsistent”.

SouthMAC considers that AFMA has undertaken a fully transparent consultation process in developing the draft HIMI Management Plan. The Committee supports the open consultation process undertaken by the HIMI Independent Advisory Panel (IAP) in developing its report of advice on the proposed statutory fishing rights allocation formula. Mr Evans participated in this process, attending the IAP’s Sydney meeting and making a written submission.

**Action:** SouthMAC does not consider it appropriate for them to comment on issues relating to the allocation of SFRs.

1.3	TasSea	Tradeability of SFRs is no substitute for fair and open access and the recommended eligibility criteria raises a permanent barrier to the entry of new participants to the fishery.
1.4	TasSea	Petuna and Everfresh cannot exert a competitive threat upon Austral or Kailis and France as they do not hold the 25.5% of SFRs required to operate separately in the fishery. Their allocations barely make fishing economically viable. Parties involved need to collaborate with each other rather than compete, which equates to anti-competitive behaviour. The proposed allocations will lead to a Austral/Kailis monopoly of the fishery.

SouthMAC does not agree with comment 1.3. The introduction of fully transferable SFRs will allow new operators to buy or lease into the fishery and will not create a permanent barrier to new entrants to the fishery as suggested by the Tasman Sea Fishing Company. Mr Exel requested clarification on which company made the submission i.e. Tasman Seafishing Company P/L or Tasman Sea Fishing Pty Ltd.

**Action:** SouthMAC recommends that no amendments be made to either the draft Strategic Assessment Report or management Plan in response to these comments.

1.5	TasSea	Supports allocation of the 51% although believes that new operations should be able to access the residual 49% based on certain criteria.
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As stated under comments 1.1 and 1.2 above SouthMAC does not believe it is appropriate for them to comment on issues related to the allocation of SFRs.

**Action:** SouthMAC does not consider it appropriate for them to make recommendations on this issue.

1.6	TasSea	Will seek to have the Federal Court hear their case on the basis of a clear breach of competition policy and the Trade Practices Act by the industry parties and potentially by AFMA itself.
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**Action:** SouthMAC does not consider it appropriate for them to recommendations on this issues.

1.7	HIMILL	Criticises the proposed allocation of all SFRs to trawl operators. Considers that Management Plan has discriminated against longline operators by virtue of the more rigorous application of the precautionary principle to them.
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SouthMAC agrees that stronger environmental constraints have been placed on the development of a longline fishery than those required for the trawl fishery. SouthMAC consider that they have had little control over this issue and noted it was the Government's legislative process involving the listing of longline fishing as a key threatening process for

seabirds under the (then) *Endangered Species Protection Act* which prohibits the use of longliners in the fishery. SouthMAC noted that the Management Plan is not method specific.

**Action:** SouthMAC recommend that no action be taken or amendments made on either the draft Strategic Assessment Report or Management Plan in response to this comment.

1.8	HIMILL	Considers that the framework for allocations of SFRs has been influenced by the perceived scale of the resource, that is the yield from a longline fishery targeting adult toothfish is potentially much greater than from a trawl fishery targeting juveniles.
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SouthMAC again noted that the framework for the allocation of fishing rights falls outside the scope of the Committee, however, does not consider that the perceived scale of the resource has influenced the proposed allocation of SFRs.

**Action:** SouthMAC does not consider it appropriate for them to make recommendations on this issue.

## 2 Issue: management approach

2.1	HIMILL	Believes the Management Plan is deficient as: <ul style="list-style-type: none"> <li>- it fails to provide an adequate evaluation of alternative management approaches (eg longlining); and</li> <li>- only limited information is available on stock assessment &amp; TAC calculation</li> </ul>
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SouthMAC considers that a range of options was examined in developing the Plan. These options were first canvassed publicly in the Discussion Paper on the Future Management of the HIMI Fishery, which was released for public comment in December 1999. Since that time there had been numerous iterations and opportunities for comment to be provided by members of the public and interested parties, including open annual public meetings of the MAC, as well as the draft management plan development process. With more than two years of consultation and development all views provided had been taken into account by SouthMAC and AFMA in finalising the draft management plan. The MAC considers the process was open and flexible.

SouthMAC does not agree that there is only limited information available on the stock assessment and TAC setting processes in place in the Fishery. Aside from SouthMAC papers and direct information available from AFMA and AAD, this information is in the public domain and can be obtained from the CCAMLR Secretariat or the CCAMLR website. Amongst other documents available, the reports from meetings of CCAMLR's Working Group on Fish Stock Assessments can be purchased from the CCAMLR Secretariat.

**Action:** SouthMAC recommend that no action should be taken on either the draft Strategic Assessment Report or Management Plan in response to these comments. Mr Hay offered to provide stock assessment documents to HIMILL on behalf of AAD, if they so requested.

2.2	HIMILL	Requests that the Management Plan be withdrawn until: <ul style="list-style-type: none"> <li>- a clear and concise stock assessment has been released</li> <li>- an analysis has been carried out to determine the potential scale and extent of the fishery under a range of alternative strategies, including longlining</li> <li>- the potential of a longline fishery has been fully evaluated</li> <li>- allocation strategies have been considered that reflect the potential long-term yield of the fishery rather than the limited fishery developed to date.</li> </ul>
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SouthMAC does not agree with the withdrawal of the Management Plan for the reasons they have stated under 2.1 above. The Committee noted that they believed that the current timetable is appropriate.

**Action:** SouthMAC recommend that no action should be taken on either the draft Strategic Assessment Report or Management Plan in response to these comments.

### 3 Issue: IUU/enforcement concerns

3.1	TRAFFIC	The TRAFFIC analysis ( <i>Patagonian toothfish – are conservation and trade measures working? M. Lack and G. Sant</i> ) found CCAMLR to be grossly underestimating IUU catch.
3.2	HSI	Acknowledges that while CCAMLR has reduced the level of IUU fishing occurring and states that IUU catches are underestimated and still make up a large percentage of the total.

IUU estimates for the HIMI Fishery are undertaken annually by AFMA and are independent of CCAMLR's estimates. While the accuracy of estimates of IUU in other CCAMLR areas may be questionable, the MAC is confident in the figures provided by AFMA for IUU removals from the HIMI Fishery. SouthMAC recognises that the impact of IUU fishing on adjacent toothfish stocks may impact on the recruitment rates to the HIMI Fishery and, pending further research into whether a shared stock exists, is adequately dealt with in the present stock assessment process. Research on the question of a shared stock is a high priority.

SouthMAC continues to support refinements to CCAMLR's catch documentation system and the implementation of a centralised vessel monitoring system for all CCAMLR fisheries.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

3.3	TRAFFIC	Whilst Australia has shown enormous amounts of effort in deterring IUU, questions whether the surveillance and enforcement program has been sufficient to deter IUU fishers.
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SouthMAC wishes to acknowledge AFMA's enforcement efforts in the HIMI Fishery which have seen a reduction in estimated IUU removals from 17,000 tonnes in 1996/97 to 1649 tonnes in 2000/01. SouthMAC expressed concern at the wider trend of significant increases in IUU catches in the CCAMLR and adjacent areas. They noted the very large IUU catches which have come from Area 51 (but whose exact origins cannot be determined) and the likelihood that much of these had been taken in the adjoining French EEZ around Iles Kerguelen. SouthMAC considered that until further research is conducted on the extent to which HIMI and Kerguelen stocks are shared, the impact of high IUU catches in the French EEZ cannot be calculated but its potential should not be overlooked. The Committee acknowledges the short falls of the current enforcement program and supports the calls for the earliest possible introduction of greater enforcement capacity in the region and the continuation of other measures to combat IUU fishing.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

3.4	TRAFFIC	Would like the document to state AFMA's level of confidence in the estimates of IUU catch.  Questions whether the document is overly confident in the effectiveness of Australia's efforts to deter IUU fishing.
3.5	TRAFFIC	Draft report paints a picture of security in the resource, however, this may be over optimistic, primarily because of the confidence of the long term sustainability of the resource and the threat of IUU fishing.

SouthMAC agreed with AFMA's suggested amendments to the Strategic Assessment Report and to amendments which incorporate the outcomes of CCAMLR's twentieth meeting. SouthMAC again stresses the urgent need to improve the enforcement capabilities in the region.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

3.6	GP	Level of IUU fishing occurring in southern oceans – suggests that CCAMLR's CDS database highlights the failure of the scheme to combat IUU Fishing.
3.7	HSI	Cites limitations with the CDS and states that it cannot be said that it has secured the protection and sustainable management of toothfish.

3.8	HSI	Cites limitation of the CDS which enables IUU caught toothfish to be laundered through Area 51, which is outside of the CCAMLR area.  Requests that these external factors be addressed and that the fishery be suspended in the mean time.
3.9	TRAFFIC	Expressed concern that the document presents an overly optimistic picture of the CDS's success.

SouthMAC continues to support the development and refinement of CCAMLR's CDS. The Committee considers the CDS to be a useful tool in the range of enforcement measures that are in place. The main aim of CDS is to document catches (stocks and origins).

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

3.10	GP	Stresses that Australia needs fisheries patrols with boarding capacity.
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SouthMAC continues to support AFMA's enforcement efforts in the region and their calls for additional funding for the continuation and extension of their current enforcement capacity in the region.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or draft Strategic Assessment Report in response to these comments.

3.11	GP	Requests that applicants for SFRs be able to prove that all their beneficiaries have not been involved in IUU fishing.
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SouthMAC consider this a useful proposal, however, acknowledges that it is not appropriate to include in the Plan. This issue will be examined further as part of the review of entry standards for operators wishing to participate in CCAMLR's new and exploratory fisheries. SouthMAC noted AFMA's ability under the *Fisheries Management Act 1991* to cancel an operator's fishing rights for breaches in other fisheries.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or draft Strategic Assessment Report in response to these comments.

3.12	TRAFFIC	Noted that the major importer of toothfish in Japan underestimates the imports from Australia.
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SouthMAC noted AFMA's comments that Japan was alerted to this issue at CCAMLR XX and agreed to look in more detail at their border control.

**Action:** SouthMAC have recommended no action in response to this comment.

#### 4 Issue: stock assessment

4.1	GP	Criticises the robustness of the stock assessment methods used in the absence of a stock- recruitment relationship and in view of perceived underestimates of IUU fishing.
4.2	TRAFFIC	Asks whether the stock assessment process suitably accounts for the indicative levels of IUU catch.
4.3	Shellack	Considers Australia has under estimated the IUU removals from the fishery and hence that the stock assessment methods employed by Australia threatens the sustainability of the toothfish stocks at HIMI.

SouthMAC considers the stock assessment methods used in the fishery to be extremely robust. This involves directly assessing the number of recruits to the fishery through regular surveys. Through analysis of annual recruitment regular assessments are made of the stock-recruitment relationships. The impacts of IUU fishing are reflected in the reduced number of new recruits to the fishery.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

4.4	TRAFFIC	a) Expressed concern that the lack of a stock recruitment relationship being used in assessing stock status and projections has been raised as a serious issue in CCAMLR. b) Asks whether there is general scientific agreement outside of AAD that the stock assessment process addresses CCAMLR concerns.
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SouthMAC considers that the statement made in 4.4a) reflects a concern raised by the CCAMLR's Scientific Committee in relation to longline fishing in area 48.3 and is not relevant to the HIMI Fishery where a considerable amount of data is available because of almost annual surveys of the trawl fishery.

In relation to 4.4b) SouthMAC noted these concerns, however, considers the external review process currently in place, which involves SAFAG, SouthMAC and CSIRO to be working well.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA in relation to 4.4b).

4.5	HIMILL	Considers that the risk to the stock is exacerbated if toothfish at HIMI and Kerguelen are the same stock.
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SouthMAC recognises that this is a potential problem and considers that if further research into toothfish in HIMI and Kerguelen region shows that they are the same stock this would be addressed in the stock assessment process and the TAC adjusted accordingly. SouthMAC noted the bilateral agreement in place with France to undertake collaborative research and re-iterated its support for research to resolve this issue. Should genetic links between HIMI and other locations be identified appropriate management action will be implemented.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to this comment and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by SouthMAC and AFMA.

4.6	HSI	Suggests that toothfish worldwide should be attributed a “Data Deficient” conservation status and that this status is not one on which to base a “sustainable” fishery”.
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SouthMAC considers the information base for the HIMI Fishery high by any world wide standard and that this suggestion by HSI is not an accurate statement. Where information gaps are found SouthMAC noted that they are being addressed.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

4.7	HSI	Claims that a wide range of experts predict the potential for the species to be exploited beyond level which recovery will be possible.
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SouthMAC is unaware of any other suggestions that the stock of toothfish could be fished down to a level beyond which they will not recover, however, acknowledges the global IUU threats to toothfish could see stocks reduced to levels where commercial fishing is not viable.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

4.8	TRAFFIC	Considers the statement under Guideline 1.1.9, “the Management Plan provides more secure access right which encourages economic, biological and ecologically responsible behaviour”, strange as industry is required to comply with the Management Plan or face prosecution.
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SouthMAC noted these comments.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to this comment.

## 5 Issue: trophic relationship/bycatch species/benthic environment

5.1	GP	Considers that ecosystem impacts does not appear to consider trophic relationships with seals, mammals of birds. Urges that high priority be given to the bycatch risk assessment identified in the Sub-Antarctic BAP.
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5.2	HSI	States that the SAR makes little mention of the impacts on the region's ecosystem, eg impact on the food chain of removing target and non-target species. In particular the implications for listed threatened species such as the sub-antarctic and southern elephant seals.
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The trophic impacts of the fishery on the ecosystem are taken into account in the fishery's stock assessment model. This is reflected in the different escapement levels set for the two target species to allow for the needs of prey species (eg 50% escapement for toothfish compared with 75% escapement for icefish). This is reflected in the Strategic Assessment Report.

Ecosystem interactions were examined as part of the Macquarie Island Management Strategy Evaluation project undertaken by CSIRO. This study identified little interaction between toothfish and other species. Toothfish are not a prey species and this has led to the setting of a lower escapement rate than icefish, which are known to be one of the prey species for seals at HIMI.

SouthMAC noted that this was a priority area of research and would be further addressed through CSIRO's risk assessment project for Commonwealth fisheries.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by SouthMAC and AFMA.

5.3	HSI	Points out that the SAR admits that sharks, in particular sleeper sharks, are a significant bycatch in the Fishery and criticises that mitigation measures are not being examined.
5.4	TRAFFIC	Expressed concern at the confidence within the document that bycatch of sharks, in particular sleeper sharks, and skates have a high survival when they are returned to the ocean.

Undertaking a risk assessment for sleeper sharks was the highest priority identified in the Sub-Antarctic Bycatch Action Plan and is currently under way.

The Committee noted that while there have been no tagged skates or rays recaptured in the HIMI Fishery they are considered to have a high survival rates, on the basis of their good recapture rates in other similar fisheries.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

5.5	HSI	Requests that bycatch mitigation techniques become a high priority for the fishery given the 308 bycatch species that are currently taken.
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SouthMAC consider that comments 5.4 and 5.5 are based on the theory that no mitigation measures are in place, however, a range of mitigation measures are already in place including CCAMLR requirements such as bobbins, bycatch limits, bycatch move-on provisions and minimum mesh size.

The Fisheries major bycatch species have been assessed and appropriate catch limits set.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested above by AFMA.

5.6	HSI	Expressed concern that there have been no studies into the impacts of trawling on the benthic environment at HIMI.
5.7	TRAFFIC	Expressed concern that the impacts of trawling on the benthos are not reflected in the document: <ul style="list-style-type: none"> <li>- considers it irrelevant that benthic bycatch is low compared to overall catch rates</li> <li>- in the absence of good biological information on these benthic communities even a very small amount of catch may be unsustainable</li> <li>- how do present catch rates compare with first trawls across grounds.</li> </ul>
5.8	HIMILL	Acknowledges that while the fishery is well managed, the benthic impacts of trawling cannot be escaped, in particular the size and weight of bobbins.

SouthMAC was conscious of the benthic impacts of trawling when developing management arrangements for the fishery. These arrangements include limiting the number of vessels in the fishery and closing to fishing in all waters within 1 nautical mile of the 12 nm territorial sea around the islands which was already closed to fishing. SouthMAC noted that fishing to date has only occurred in a small area of the fishery.

A number of benthic surveys were undertaken by AAD in research cruises in 1990, 1992 and 1993. These surveys along with the benthic survey work undertaken by commercial operators in the fishery form the basis of the proposed HIMI Marine Protected Area. It is understood that the need for benthic habitat protection has been and is being considered in the development of an MPA.

SouthMAC acknowledges that low bycatch levels are not an indicator of sustainability, however, considers that these concerns will be addressed by CSIRO's bycatch risk assessment project.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan in response to these comments and that the draft Strategic Assessment Report be amended to incorporate the comments suggested by AFMA.

## 6 Issue: trawling v longlining

6.1	GP	Notes that the primary threat to the benthic environment of the HIMI region is bottom trawling – Longlining should not be considered for the region unless zero bycatch and mortality of seabirds can be achieved.
6.2	HSI	Remain strongly opposed to longlining unless mitigation measures are introduced which can ensure zero seabird bycatch.
6.3	HSI	Expresses concern over the damage trawling caused to benthic habitats

		and the potential for bycatch of marine mammals, sharks and seabirds.
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SouthMAC considers that these issues will be addressed through the development of mitigation measures for longlining under the Threat Abatement Plan and are not addressed in detail in the Strategic Assessment Report. SouthMAC considers that while any future longline fishery should aim for zero bird bycatch it was unrealistic to expect that no birds would be taken. The Committee noted that any measures developed should be consistent with the requirements of other Acts. It was also noted that there is an extensive consultation process which needs to be completed to introduce longlining, this includes consultation with SAFAG, SouthMAC, the AFMA Board, the CCAMLR Consultative Forum, Australia's whole of Government delegation to CCAMLR and CCAMLR.

SouthMAC also expressed concern at very long delays caused by Environment Australia in developing a draft proposal for longlining mitigation measures in the HIMI fishery (see section 7).

**Action:** SouthMAC recommend that no action should be taken on the Management Plan, the draft Strategic Assessment Report be amended to incorporate the comment suggested by AFMA.

6.4	HIMILL	Requests that the draft Management Plan be withdrawn and longliners invited to carry out experimental fishing in HIMI to establish if longlining can be carried out without unacceptable environmental impacts and to determine stock dynamics of a longline fishery.
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SouthMAC does not agree with the withdrawal of the Management Plan.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to these comments.

6.5	HIMILL	Cites higher environmental impacts of trawling compared to longlining, in particular size and weight of bobbins.
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The weight of the bobbins reported as being used in the HIMI Fishery by HIMLL was 100kg. This is incorrect and bobbins weigh much less. The requirement to use bobbins was imposed by CCAMLR as a measure to reduce benthic impacts.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to these comments.

## 7 Issue: TAP development

7.1	HIMILL	Criticises the slow development of mitigation measures under the TAP and considers this has disadvantaged the longlining sector.
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SouthMAC indicated its disappointment at the slow development of mitigation measures under the Threat Abatement Plan by Environment Australia and recommend a speedy resolution.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to these comments.

## 8 Issue: drafting concerns

8.1	GP	Cites the Management Plan as minimalist in order to primarily manage the fishery through regulations, and therefore minimise consultation and assessments.
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SouthMAC recommend that the approval processes agreed to previously by SouthMAC be made public to reaffirm AFMA's commitment to consultation. It is suggested that these form an attachment to the Strategic Assessment Report.

**Action:** In response to these comments, SouthMAC recommend that no action should be taken on the Management Plan and that the approval processes agreed to by SouthMAC be attached to the Strategic Assessment Report.

8.2	GP	Requests clarification on enforcement implications for over catches (ie the 20 tonne over catch allowance for operators).
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SouthMAC recommended that the relevant language in the Strategic Assessment Report be clarified.

**Action:** In response to these comments SouthMAC recommend that no action should be taken on the Management Plan and that the Strategic Assessment Report be amended to clarify this issue.

8.3	GP	Concerned that the declaration of additional target species can be made without consultation outside of SAFAG, CCAMLR and SouthMAC.
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**SouthMAC's comment:** See comment under 8.1.

**Action:** As per comment 8.1.

8.4	Austral	Strongly supports the structure on the Management Plan, believing it ensures stability and security for operators while being flexible enough to rapidly implement any changes that may flow from management, environmental, or scientific requirements as they develop.
8.5	Pfox	Suggests changes to the Plan, which are only of a drafting nature.

Comment's noted.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to these comments.

## 9 Issue: consultation process

9.1	Austral	Considers the Plan and SAR accurately reflects what has been developed over the past 5 years of management in the HIMI Fishery. Both documents take significant account of CCAMLR's Conservation Measures and in many instances exceed them.
9.2	Austral	Considers there has been significant scope for input to the Plan and SAR from interested parties and believes these documents have adequately dealt with all the various inputs and issues raised.

Comment noted.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to these comments.

## 10 Issue: general comment

10.1	TRAFFIC	Excellent conservation measures have been introduced and implemented in the Fishery.
10.2	TRAFFIC	Commended the effort involved in collecting suitable data from the fishery, and the cooperation of industry in doing so.

Comments noted.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to these comments.

10.3	Austral	Raises concerns over the bycatch regulations in the HIMI Fishery as set by CCAMLR, in particular any new operators could create major management concerns under the competitive TAC approach to managing bycatch that is being implemented.
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This issue will be considered by AAD and AFMA in the lead up to CCAMLR.

**Action:** SouthMAC recommend that no action should be taken on the Management Plan or Strategic Assessment Report in response to these comments.

## **Agenda Item 10: Regulatory Impact Statement**

Prior to approval of the draft HIMI Management Plan a Regulatory Impact Statement needs to be prepared to ensure that the arrangements meet the requirements of the National Competition Policy. A draft Regulatory Impact Statement was prepared by AFMA and sent to the Office of Regulation Review (ORR) in September 2001 for comment. The ORR responded raising some concerns including needing more information on the basis for allocating rights and analysis of the detail of the recommended option. ORR consider that the draft RIS will satisfy the National Competition Policy as the restrictions are justified on environmental grounds.

Members were given an opportunity to comment on the draft Regulatory Impact Statement (RIS) for the HIMI Fishery. Mr Exel provided comments at the meeting. The RIS will be updated to incorporate SouthMAC's suggestions (eg including the IAP process) prior to seeking endorsement of the RIS by the Office of Regulation Review (ORR). Members noted the ORR's initial positive response to the draft RIS.

## **Agenda Item 11: Management Arrangements for 2001/02 season**

At its meeting of 23-24 August 2001, the AFMA Board agreed to interim management arrangements for the HIMI Fishery for the period from 1 December 2001 to 30 November 2002, which mirror management arrangements and allocations proposed under the draft Plan.

During the interim period, AFMA will issue fishing permits to those eligible to receive quota under the draft Plan. It will be a condition of these permits that 25.5% of quota remains nominated against the vessel while in the HIMI fishery. Quota transfers would be allowed, however, if an operator fishes with less than 25.5% of quota against their vessel they would be in breach of their permit conditions.

Other conditions included on the draft permit, mirror current arrangements in place in the Fishery.

SouthMAC noted the interim management arrangements for the HIMI recommended by the AFMA Board to cover the period from 1 December 2001 to 30 November 2002.

Mr Scott requested permit transfer forms at the meeting. Ms O'Brien indicated that the transfer forms were being developed by AFMA's Licensing section and will be forwarded as soon as possible.

## **Agenda Item 12: HIMI Marine Protected Area**

In January 2000 Environment Australia (EA) released for comment a report prepared by AAD and entitled "*Conservation of Marine Habitats in the Region of Heard Island and the McDonald Islands*". This report formed the basis of the HIMI marine reserve proposed by EA. Comments on this proposal were sought by 2 April 2001.

On 21 June 2001, Mr Frank Meere, Managing Director, AFMA wrote to Dr Conall O'Connell, First Assistant Secretary, Marine and Water Division, EA:

- inviting a member of their MPA Section to attend SouthMAC 12; and
- expressing concern over the recent reduction in the level of consultation being undertaken by EA on the identification, declaration and management planning of MPAs.

EA accepted AFMA's invitation to attend SouthMAC 12.

On 20 September 2001, Dr O'Connell wrote to Mr Meere;

- responding to AFMA's comments concerning the conservation assessment report for the HIMI Marine Reserve.
- noting that CSIRO has completed an independent assessment of the conservation report, and the supporting scientific data used in drafting the conservation report.
- explaining that the Minister is expected to make his decision shortly on the HIMI declaration after account of the recommendations and findings in the CSIRO report.

On 5 November 2001 Dr O'Connell wrote to Mr Meere seeking comments on CSIRO's draft independent assessment of the conservation report on the HIMI region by 21 November 2001. SouthMAC members noted the update on the proposed HIMI Marine Protected Area and agreed to provide comments on CSIRO's report.

Dr Sainsbury noted that the objective of the CSIRO report was not to address whether the MPA boundaries were in the right place but to examine the science underpinning the conclusions and recommendations contained in the AAD report. Mr Exel noted that he was meeting with the CSIRO authors on Friday 23 November 2001 to seek clarification and express his concerns.

### **Agenda Item 13: Environment Update**

SouthMAC noted the Environment update provided by AFMA's Environment Section and agreed that these updates were useful.

### **Agenda Item 14: 2001/02 Levy Base**

SouthMAC noted the Sub-Antarctic fisheries draft levy calculations for 2001/02.

Mr Scott questioned why the components of the SouthMAC budget as attributed to the HIMI, Macquarie Island and N&E fisheries did not add up to the separate SouthMAC budget. Ms O'Brien responded that this was caused by part of the separate SouthMAC budget being attributed to the krill fisheries which was not provided to SouthMAC.

Mr Exel questioned AFMA's ability to recover costs for high seas fisheries, such as N&E fisheries under the Commonwealth cost recovery policy. AFMA agreed to investigate further particularly in light of the recent ratification of UNFSA.

## **Agenda Item 15 – Expenditure Report**

SouthMAC noted the expenditure report provided by AFMA on Sub-Antarctic Fisheries for the four months ended 31 October 2001.

### **Other Business**

#### **United Nations Fish Stocks Agreement (UNFSA)**

SouthMAC was asked out-of-session to comment on implementation of the United Nations Fish Stocks Agreement (UNFSA) with a response sought in a short timeframe.

SouthMAC noted that when UNFSA comes into effect AFMA will have the responsibility of monitoring the operations of Australian flagged fishing boats on the high seas. This will mean that boats fishing on the high seas will need to obtain authorisation from AFMA and be issued with a high seas fishing concession. As an interim measure AFMA proposes to restrict high seas fishing permits for straddling or highly migratory fish stocks to applicants who are already fishing in that high seas area while consultations with MACs and other stakeholders are conducted.

However, the Committee asked that AFMA provide further clarification on elements of the interim arrangements for implementation of UNFSA relating to:

- Cost recovery in relation to existing government cost recovery policy
- AFMA clarify application of EPBC to high seas fishing including when catch is landed in Australia and subsequently exported (export permit sought under section 3.03B)
- Implementation of new conservation controls (until discussed on a fishery by fishery basis).
- Carry of observers should be explicit (should include observers and DCO)
- Trans-shipping authorisation
- CCAMLR cooperation in area (clarification with AMLR Act)

SouthMAC criticised the short timeframe given to comment on the implementation of UNFSA.

### **Next Meeting**

It was agreed that the next meeting of SouthMAC would be held probably in late March 2002. The aim of this next meeting is to discuss the draft budget agreed by the AFMA Board.

The meeting closed at approximately 4.30 pm