

**PCA Case No. 2023-33****REVIEW PANEL ESTABLISHED UNDER ARTICLE 17 AND ANNEX II OF THE  
CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGH SEAS FISHERY  
RESOURCES IN THE SOUTH PACIFIC OCEAN**

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**QUESTIONS FROM THE REVIEW PANEL**

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*For the Russian Federation:*

1. In its letter of objection of 10 April 2023, the Russian Federation adverts to an alternative approach pursuant to which individual Members could show good faith and transfer part of their quota to another Member. Would such a transfer entail any cost to the recipient?
2. In light of Article 16, paragraph 2, of the Convention, what is the legal basis for the Russian Federation's argument that a reduction in its percentage allocation requires its consent?
3. When did the Russian Federation first learn that Chile intended to seek an increase in its allocation at the 11<sup>th</sup> session or that allocations for new recipients would be considered at the 11<sup>th</sup> session? When did the Russian Federation first object to consideration of either or both of these matters on procedural grounds?
4. Does the Russian Federation wish to comment on the observations of the EU to the effect that there was no reduction in the allocation to the Russian Federation in 2017?

*For the Republic of Chile:*

5. When did Chile first give notice of its intention to seek an increase in its allocation? Could Chile explain why it did not submit a written proposal to that effect in conformity with the rules of procedure?
6. For a number of years, Chile has been the recipient of transfers under paragraph 8 of CMM 01-2023 and its predecessors. Could Chile explain why it sought an increased allocation that entailed a concomitant reduction in the percentage allocations of others and may have contributed to the decision to increase the TAC beyond the recommended level in order to soften the impact on tonnage allocations? Could Chile explain to what extent, if any, the answer to that question is related to the question of the availability or cost of transfers under paragraph 8 of CMM 01-2023 and its predecessors?

*For the Russian Federation and the Republic of Chile:*

7. In the context of participation in fishing for a straddling fish stock:
  - a. Of what relevance is paragraph 3 of Article 21 of the Convention?
  - b. Bearing in mind that most of the provisions of the Convention, including Article 21, have been drafted in light of the general exclusion of areas of national jurisdiction from the Convention Area, where express consent has been granted by the coastal State under paragraph 2 of Article 21 notwithstanding that exclusion, may the factors relevant to the allocation to that State include the reference in Article 62 of UNCLOS to the harvesting capacity of the coastal State within its exclusive economic zone, taking into account the references to UNCLOS in Articles 17(2)(c), 20(4)(c), and 33(1) of the Convention?
  - c. Of what relevance is paragraph 3 of CMM 01-2023 and its predecessors?
  - d. Bearing in mind the geographic limitation in Article 1(f) of the Convention, should the references to developing States “in the region” in paragraphs 1 and 2 of Article 19 and paragraph 1(e) of Article 21 of the Convention be understood, in the context of new members or new entrants, in light of the reference in Article 11(j) of the 1995 Agreement to “developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur”?
  - e. Has the provision for transfers under paragraph 8 of CMM 01-2023 and its predecessors led in some instances to the monetization of allocations received under Article 21 of the Convention as between Members? If so, what provision(s) of the Convention contemplate or authorize the creation or perpetuation of such a financial interest under Article 21?
  - f. What explains the number of transfers and other unused allocations of jack mackerel over the last several years?