



New Zealand Government

ASB House
101-103 The Terrace
PO Box 1020
Wellington, New Zealand
Tel +64 4 470 2600
Fax +64 4 819 4601
fish.govt.nz
8800 4 POACHER

S8587

10 July 2008

Minister of Fisheries

FISHERIES AMENDMENT BILL (SECTION 13): APPROVAL TO DISCUSS BILL DRAFTING AND EXPLANATORY NOTE WITH THE NEW ZEALAND SEAFOOD INDUSTRY COUNCIL

Purpose

1 This paper seeks your agreement to discuss the explanatory note and drafting of the proposed amendment to section 13 of the Fisheries Act 1996 with representatives of the New Zealand Seafood Industry Council (SeaFIC) and Te Ohu Kaimoana Trustee Limited (TOKM).

Background

2 In February 2008, the High Court decision in Anton's Trawling Company Limited v The Minister of Fisheries (CIV 2007-485-2199) is that a key provision of the Fisheries Act – Section 13: Total Allowable Catch – is not available for use in management decisions for many fish stocks.

3 The Court found that before a TAC decision can be made under section 13(2), the Minister must be provided with an estimate of both current biomass and the biomass that can produce the maximum sustainable yield (MSY). For a majority of New Zealand's 629 quota management stocks, this specific information is not available.

4 Cabinet Policy Committee considered this matter in March following initial analysis of the problem identified by the High Court. The Committee noted that discussions would be held with government agencies, the fishing industry and other stakeholders to develop a remedy to allow catch limits to be set for all stocks [POL Min (08) 4/1].

5 A remedy has been developed in consultation with SeaFIC and TOKM, including indicative drafting of an amendment to section 13. Cabinet Policy Committee and Cabinet have approved the policy change and indicative wording for drafting by Parliamentary Counsel Office (PCO). A paper has been prepared for your approval for submission to Cabinet Business Committee for its meeting of 14 July seeking approval to introduce an amendment bill into the House.

Issue

6 SeaFIC and TOKM have confirmed their support for the Bill and the indicative drafting provided to PCO, but are keen to see and discuss the PCO drafting and explanatory note to the draft Bill before it is sent to a select committee.

7 The Bill drafting will be provided to officials this afternoon (9 July 2008) for review and will be submitted to CBC with the paper seeking approval to introduce the Bill into the House.

8 The Cabinet Manual section 7.4 provides that:

"At every stage of its development, draft legislation is confidential and must not be disclosed to individuals or organisations outside government, except in accordance with the Official Information Act 1982 or Cabinet-approved consultation procedures. Any such release or disclosure must first have the approval of the Minister concerned. Unauthorised or premature disclosure of the contents of a draft bill could embarrass the Minister, and imply that the role of Parliament is being usurped. Cabinet, government caucus(es), and Parliament must always retain the freedom to amend, delay, or reject a bill."

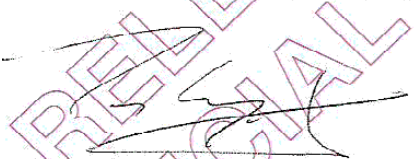
9 PCO drafting may vary from the wording provided to Cabinet. Officials consider that discussions with the two groups would be useful to enable them to confirm that PCO has retained the intention of the wording that has been agreed by Cabinet and supported by SeaFIC and TOKM. PCO has confirmed it has no objections to officials discussing the PCO drafting with sector interests.

10 Before officials are able to enter into discussions with SeaFIC and TOKM the Cabinet Manual requires that you give permission for such discussions to take place.

Recommendation

11 It is recommended that you:

- a) **Agree** to officials discussing the drafting of the amendment to section 13 with representatives of the New Zealand Seafood Industry Council and Te Ohu Kaimoana Trustee Limited.



Terry Lynch
for Chief Executive
Ministry of Fisheries

~~AGREED/NOT AGREED/AGREED AS AMENDED~~



Hon Jim Anderton
Minister of Fisheries

10 / 7 / 2008