

From: Anna Falloon [mailto:Anna.Falloon@parliament.govt.nz]
Sent: Monday, 19 May 2008 2:53 p.m.
To: Hughes, Kim; Wilson, Brett
Cc: Cathie.Bell@parliament.govt.nz; Crocker, Barbara; Peacey, Jonathan;
Burnard, Russell
Subject: MR575 - Dom Post query
Importance: High

MR Number : MR575

Request for
Bullet points

Purpose / Subject
In answer to queries from Dom Post - see request below

Issues / Notes

Hi Cathie, this is for this Saturday's paper.

I need some answers to the questions below. Happy to call when convenient or get replies by email. Because of budget this week I have a Wednesday noon deadline. Please let me know if you cannot manage it by then.

I am writing a feature on the property rights enshrined in the Quota Management System and the potential effect of the Fisheries Minister's intended revamp of the Fisheries Act.

One aspect of the feature is based on Grimur Valdimarsson's speech on self-governance of the seafood industry at the Seafood Industry Council Conference last week, in which he referred to this document prepared by the United Nations FAO :

http://www.fao.org/fi/eims_search/1_dett.asp?calling=simple_s_result&lang=en&pub_id=241531

What is the current mix of information sources the Minister takes into account before setting TACs and then TACCs?
Is there an answer to solving the paucity of information surrounding fish stocks?

Is there any distrust of industry-generated figures? If not, can they be taken as fact?

The New Zealand QMS is celebrated around the world. Why, with scientific backstops put in place, could it not work as an industry self-governing regime?

Has a self governance model for commercial fishing under the QMS ever been considered?

If so, what was the outcome? If not, why not?
To what degree has the industry demonstrated it can manage fish stocks itself?
How can the government better evaluate the fish stocks if their information is no better/worse than the industry's data?

Is there not an ideal goal in which fishery stakeholders (commercial,

recreational, and customary) manage the resource themselves conjointly without a need for regulation? Could this ever happen?

Does the uncertainty around a Government's ability to set TAC as it sees fit devalue the property right of a quota holder?

Thanks, any queries let me know.
Regards,
Nick.

Nick Churchouse
Business Reporter

Form required
Normal

Due Date
10am, Wednesday 21 May

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OFFICIAL INFORMATION ACT

From: Ingleton, Tim
Sent: Wednesday, 21 May 2008 9:21 a.m.
To: 'Catholic Bell'; ex Falloon, Anna
Cc: Connor, Robin; Edwards, Mark; Crocker, Barbara; Hughes, Kim; Wilson, Brett
Subject: MR575/S8509 Response to questions from Nick Churchouse at Dominion Post

Attachments: Response to questions from Nick Churchouse at Dominion Post.doc
Hi Cathie

Attached is the response prepared by our Policy group to Nick Churchouse's questions.

Let me know if I can help out further.

Cheers
Tim.

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Response to questions from Nick Churchouse at Dominion Post

The “Minister’s intended revamp of the Fisheries Act”

In his speech to the SeaFIC conference the Minister discussed his approach to amendment of the Fisheries Act in light of the High Court findings in the Anton’s Trawling case. The Court found that the only mechanism in the Act for setting a TAC for this stock was unavailable to the Minister because the information required by the section was not available. This finding suggests that the way that successive Ministers have made TAC decisions for the majority of fish stocks since 1996 may no longer be available. The information the Court has said is required is only available for some QMS stocks.

The QMS creates value by setting a sustainable catch limit (the TAC), and limiting access through the establishment of tradable harvesting rights up to the commercial catch limit (TACC). It relies on TAC setting for its effectiveness, and the integrity of the TAC is the basis of quota values. As the Minister said in his speech, he wishes only to amend the Act to restore the ability to make TAC decisions in the way they have previously been made. This will not provide any new powers to adversely affect property rights.

A broader review of the Fisheries Act beginning in 2009 has already been signalled by the Ministry of Fisheries. This will be premised on protecting and strengthening the foundations of our fisheries management system provided by the QMS and the Fisheries Settlement to achieve the Act’s objectives – namely resource sustainability and efficient utilisation. Commercial catching rights, and those of non-commercial users, are very much a part of those foundations.

Reference to the FAO Publication

It is not clear what is being asked for here. This publication has only just been released this week, contains four case studies on NZ fisheries self-governance, and was co-edited by the Ministry’s Chief Economist. It is available from FAO by mail order or as a download from their web site at:

<http://www.fao.org/fishery/publications>

Specific Questions

What is the current mix of information sources the Minister takes into account before setting TACs and then TACCs?

The Minister considers a wide range of information including data, modelling results, interpretation and analysis, and the views of both government officials and stakeholders about what should be done in response to this information. Sources of this information include:

- Fisheries research, stock assessment and characterisation
- Socio economic research – surveys etc
- Catch and effort data – reported by industry
- Submissions from stakeholders provided through consultation on forthcoming decisions

Is there an answer to solving the paucity of information surrounding fish stocks?

There are two related aspects to the information problem in fisheries management. The first is that information is physically difficult and expensive to collect, and the second is that the resulting information is inherently uncertain. There is no easy answer to this problem. More money can always be spent on research to reduce uncertainty, but clearly the costs and benefits must be weighed. The nature of uncertainty is that decisions about how the available information is used involve risks.

In using uncertain information to set catch levels, for example, increased catch levels increase risks to sustainability of the resource, but lower catch limits risk foregoing benefits of what may be sustainable utilisation. More research to reduce the uncertainty is costly and is part of the cost benefit trade-off. There is no point in spending more on information than the resulting benefits are worth.

Under cost recovery, quota owners bear a high proportion of costs of research. The research programme is determined through a consultative and transparent process between government and stakeholders, and research costs need to be reasonable – in particular for lower value species.

So, there is no easy answer to the information problem. However, the cost benefit trade-off is an issue that stakeholders have a strong and legitimate role in, but the decisions over catch levels and risks to sustainability under uncertainty are currently in the hands of the Minister. The Act requires caution in these circumstances.

Is there any distrust of industry-generated figures? If not, can they be taken as fact?

Industry is the only source of information on commercial catch. Catch and effort data is collected by FishServe – a service provider owned by the industry – and validated by them, through the observer programme, and by auditing of paper trails by the compliance programme. There is no general reason to distrust reported catch figures for target species. The QMS relies on a combination of incentives provided by property rights and the compliance regime. If the industry is taking more than they are reporting they will be threatening the sustainability of the resource on which they depend. However, there are cases of misreporting by individual fishers. This is an indication that the property rights inherent in ITQs are not adequate on their own to ensure sustainable behaviour. There is still room within such a regime for individuals to gain at the expense of the group (all quota owners in the stock) by cheating on the rules.

In addition, misreporting of lower-value (or bycatch) species is a risk, particularly where catch limits for these stocks may effectively restrict the take of target species. Where MFish has reason to believe that deliberate misreporting is occurring, investigation is undertaken which may lead to prosecution. The penalties for misreporting are severe.

In some fisheries the industry is closely involved in research, and in a few cases in making decisions on catch limits. See the comments below on industry management.

The New Zealand QMS is celebrated around the world. Why, with scientific backstops put in place, could it not work as an industry self-governing regime?

Scientific assessments are necessary but not sufficient. But, as already discussed, fisheries science is characterised by uncertainty, and therefore decisions in fisheries governance involve risks that affect multiple interests.

Other extractive users – amateur fishers and Maori customary fishers – are directly affected by commercial utilisation of the resource. The government is charged with obligations to protect the Fisheries Settlement and its international commitments. Then there is the wider public interest in the marine environment. This has increased and shifted in its emphasis over the last two decades as more information has become available and is more widely distributed. Some of this interest is represented in fisheries management processes by the environmental NGOs.

The fundamental issue in self-governance (from the view point of the broader public interest) is the extent to which the impacts of decisions that are made by the self-governing group are restricted to the interests of the group. Where such decisions do not involve impacts on others, they can and preferably should be made by those bearing the costs and benefits. Such clear separation is, however, difficult to achieve in fisheries management. This problem can be dealt with by ensuring there are obligations on the governance body to either directly include representatives of other interests, or to ensure these interests are taken into account in decision making. Some monitoring of compliance with such obligations is then required – usually a role picked up by government.

Another aspect that must be accounted for is the adequate protection of minority interests within the group – in commercial fisheries, interests often differ according to the scale of businesses and markets being served. And, to the extent that there is a wider interest in sustainability that is otherwise unrepresented (future generations), the Government would need to be able to require accountability of the governance group for protecting these interests.

To achieve this level of governance capability requires the development of sets of working relationships, organisation and rules across the relevant stakeholders. This has already been achieved in individual fisheries in New Zealand – a good example is

the Challenger Scallop fishery (see FAO publication for a case study). However, it seems we are still some way from achieving this across all fisheries.

Has a self governance model for commercial fishing under the QMS ever been considered?

If so, what was the outcome? If not, why not?

The pioneering work done in New Zealand rock lobster fisheries and in Challenger Scallops has produced management models that include self-governance. These developments go back to the early 1990s.

Wider application of self-governance for individual fisheries has been considered. In 1998 the Cabinet considered a range of policy proposals that allowed for greater self-management of commercial fishing. In 1999 reforms were put in place enabling the direct delivery of required registry services by an industry-owned company ('devolution of administrative services'). FishServe has been delivering a registry services since 2000. Powers were also introduced at this time for the contracting out of fisheries services by the Chief Executive under section 294.

Proposals for accountable quota-owner organisations to assume management responsibilities were developed, but Government decided not to proceed with these. Instead the emphasis was placed on allowing commercial stakeholders to develop, and seek approval of, fisheries plans. This model achieved very limited take-up by industry due to factors including the lack of specification of standards by government, difficulties with collective decision-making and capacity of stakeholder organisations, and allocation issues between sectors.

The approach to fisheries plans was adjusted in 2005 to place emphasis on a Ministry facilitated process involving all stakeholders. This model is now being rolled out across all fisheries as the basis of collaborative governance involving all stakeholder groups and government. Fisheries plans allow stakeholders to develop objectives for their fishery, which then drives the requirement for the provision of services such as research and compliance, so as to meet standards set by government. The government's view is that this is a more realistic general model for participatory governance at present than generalised commercial fishery self governance. Even so it is a very ambitious programme and will take several years to develop its potential.

Further exploration of self-governance will require decisions from government and legislative change to support this direction.

To what degree has the industry demonstrated it can manage fish stocks itself?

There are some good examples of industry having a substantial role in managing fish stocks – including 1 or 2 where it has demonstrated a clear willingness to proactively work with non-commercial interests (southern scallops and rock lobster). There are

other cases where industry has been given an opportunity to take management initiatives but implementation has been less successful.

Some stocks have been managed under an adaptive management programme (AMP) regime. An AMP is a type of management plan for low information stocks whereby, often, catch limits are increased under an agreement with industry that certain voluntary rules will apply. These include the arrangements to, for example, collect information on the stock, and to restrict or spread fishing across certain areas of the fishery. Some AMPs have failed in their objectives.

So the results to date are mixed, but the lessons for government include caution about reliance on voluntary commitments. Responsibility for management needs to involve firm accountability for results. Government also needs to be clear about what needs to be achieved. This is being addressed through the progressive roll-out of standards for various aspects of fisheries management.

How can the government better evaluate the fish stocks if their information is no better/worse than the industry's data?

The evaluation of information on fish stocks that leads to advice on catch limits and other management controls is carried out in an open process involving all stakeholder groups. The fishing industry is directly involved with that process through industry body scientific and policy staff, and world class scientists retained by the industry. These scientists are members of the stock assessment working groups that evaluate all scientific information whether generated by the industry or through Ministry coordinated research programmes. The research commissioned in those programmes, in turn, is decided in processes involving industry, as they pay much of the cost. The research is also tendered out – not carried out by government agencies. Much of it is provided by NIWA – a Crown Research Institute.

The recommendations of the stock assessment working groups are presented and reviewed by a plenary involving stakeholders before being assembled by the Ministry into a report each year which forms the basis of advice to the Minister on any stock management measures such as TAC changes. When advice has been drafted, stakeholders are invited to make submissions through a public consultation process. The views of submitters are incorporated into final advice documents that are provided to the Minister of Fisheries for decision.

This process is a model of collaborative generation and evaluation of fisheries information. It is based on a common pool of information and vigorous debate at the scientific level and at the level of management advice.

Is there not an ideal goal in which fishery stakeholders (commercial, recreational, and customary) manage the resource themselves conjointly without a need for regulation? Could this ever happen?

Possibly. As should be apparent from the points made above, a range of moves have been made in over the past 2 decades that have experimented with aspects of self-governance and collaborative governance. Self-governance seems to be more applicable to individual fisheries, rather than to the whole fisheries sector, or the whole commercial sector. Interests are very diverse and it is difficult to achieve peaceful co-existence without a government role. However, there is considerable potential for further progress on both these approaches.

Some newer developmental fisheries may be good candidates for tight coordination of interests – often beginning with small numbers of stakeholders – thereby enabling a degree of self-governance.

Recent progress has been made on cross-sector collaboration. Late in 2007, a group was established with representation across commercial, amateur and customary interests to consider how best to manage shared fisheries (ie those that they all have a stake in). This is a very promising initiative but it is early days yet. The Minister has provided direct support for this stakeholder initiative, and it may prove to be a seed that grows to enable greater stakeholder responsibility to be taken in fisheries management.

It is clear that the future of sound fisheries management in New Zealand must be based on clear definition of rights. However, further work is required on the specification and integration of rights, so that stakeholders can be empowered to interact and collaborate across sectors to solve problems as they arise. The current cross-sector shared fisheries discussions are difficult because of this lack of integration, but that effort is in turn critical to developing better specified rights and rules to make collaboration easier in the future.

It is also important to generate a broad consensus and understanding on where to take fisheries management. The Ministry is currently undertaking a process of discussion with stakeholders to develop a shared vision to be considered and developed further with Government. This includes discussion of the appropriate relative roles of government and stakeholders in management.

Does the uncertainty around a Government's ability to set TAC as it sees fit devalue the property right of a quota holder?

Uncertainty about the future prospects for fisheries will generally undermine the value of quota. This is why the government would like to reduce uncertainty that currently exists in TAC setting and allocation processes. As discussed earlier, the value of rights is founded on TACs that are set with integrity in science and good process, and through compliance with these catch limits by stakeholders. The government wishes to enable maximisation of value from the sustainable use of resources, and so is constantly striving to improve on this framework.