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Hon Jim Anderton

22/05/2007

Straight talking to the fishing industry

New Zealand Seafood Industry Conference 2007, "Sustainability Issues for Fishing", Te Papa, Wellington

Thank you for the opportunity to join you again for your conference. I have a simple message for you today: Our fishing industry has an exciting future; but it has to confront some difficult issues to maximise the opportunities ahead.

Fishing in New Zealand has twin long-term challenges: Development of the industry to realise its strong commercial potential. And ensuring our development is sustainable, so that our resource is managed for today and tomorrow.

Both the future profitability and the ongoing sustainability of the industry need to be addressed together; that's only going to happen through constructive, forward looking relationships with the government and across the industry.

I am not going to pretend it is all champagne and roses in getting to where we want to go. In fact, I think we need to lift our act by being realistic about the challenges we need to meet and in making serious efforts to find solutions we can all accept.

I want to be very clear about where the opportunities exist - about where we need to do better, faster. And I'm warning that I'm disappointed with progress in some sectors. If you think I'm going to leave it there, you don't know me very well. The overall context is good. The world market for seafood is thriving. As world demand grows, demand for our exports will grow. Fishing is seven times bigger today than it was twenty years ago. Our seafood exports are worth over \$3 billion a day to New Zealand.

I know exporting businesses aren't helped by the high value of the dollar, high interest rates and fuel costs. In some ways the New Zealand economy has been a victim of its own success. Over the last seven years as we've powered through the longest continuous period of economic growth in decades, some imbalances have arisen. Domestic demand is racing ahead of our export receipts.

The government is doing what it can to meet those challenges - for example, running strong fiscal surpluses, saving through the National Superannuation Fund and now introducing Kiwisaver. These initiatives will help to divert domestic demand from spending to saving, make more capital available for business and take pressure off inflation, interest rates and the dollar.

In the budget last week, we cut business tax for the first time in twenty years. We introduced the most comprehensive package of research and development incentives, export market development and international investment tax reforms in a generation.

These measures will make a substantial difference over the long haul. But anyone who thinks there are short-term solutions to the issues is telling tall fishing tales.

And we can't do much about the low US dollar or high international fuel prices. Instead, we have to get on with meeting our long-term challenges. I'm being frank today: We need to do better at pulling together to achieve both development and sustainability.

Everyone has to give something. I'll turn to some specifics in a moment. But first I want to recap some of our successes from co-operating. I am encouraged by the positive successes we have had where the industry has worked well and co-operatively, and worked in partnership with the government. In aquaculture, Benthic Protection Areas, the Deepwater Memorandum of Understanding and the paua fishery - these are examples we can build on.

It's worth recapping these, because they show the way we need to go in other areas. Aquaculture, for example, has a big part to play in our future and the sector has produced a compelling strategy. Its vision is to create a billion dollar industry by 2025. I think the vision is realistic.

To give you an idea of the rate of global growth - a United Nations study said demand for seafood around the world would grow by a third over the next ten years. There are not enough fish in the sea to meet the demand, so the rapidly expanding demand will have to be met from fish farming.

I was in Tokyo last month and I went to see the Tsukiji [sue-key-gee] fish market. It's the biggest seafood market in the world - in fact one of the world's largest food markets of any

This is the annexure marked "VWS-A" referred to in the annexed affidavit of
sworn at Auckland
this day of June 2007
before me:

A Solicitor of the High Court of
New Zealand

kind, selling everything from sardines to tuna and caviar. Seven hundred thousand tonnes of seafood a year are handled by the market - worth close to ten billion New Zealand dollars. Forty-four percent of the market's produce - nearly half of it - is from aquaculture. That's just in one - very large - market - and there are another eighty-seven markets in Japan alone.

So this is a sector with an exciting future, and the government is engaging with it. When Aquaculture New Zealand is launched next month, on the 7th of June, the government will release its response to the sector strategy.

In the meantime, we've been very active. When I was Minister of Economic Development and the aquaculture industry needed a strategy to chart a future course for the sector, the Government provided \$112,000 to develop one.

Last year when a new industry body was required to implement the strategy the Government provided a further \$70,000 to get this off the ground.

Last year the Government allocated \$2.9m for assisting the aquaculture industry and Regional Councils to progress aquaculture management areas through the planning process.

We set up a ministers' group and ministry chief executives' group to oversee the work of government departments on aquaculture. We will also set up a regular forum where central and local government and industry leaders can discuss aquaculture growth at senior levels.

So the government is playing its part. And when we look at some of the details, there is more to think about. National standards will be one of the pillars of the aquaculture sector's development. Why? Because it suits our industry to be able to demonstrate we have world class standards of industry and environmental management.

Consumers are demanding it; and if consumers want it - and we can show we are achieving high standards while other countries can't - then that will help our industry as a whole. There is no point in joining a race to the bottom. There is nothing in that for New Zealand long term.

We can achieve a premium and avoid being punished by international markets if we have standards in place that show strong commitment to the sound environmental management of our fishery. This is not just theoretical. This is a shark that is already circling our boat.

When I was in Europe last year the hot issue was carbon costs and 'food miles' - targeting the carbon used in transporting food long distances. Clearly, as the world's most remote food producer, we have to respond to these issues and get ahead of the game.

Concerns over food miles and the like are also an opportunity for us. Last month, Ireland's Minister for Fisheries expressed strong support for initiatives to ensure that fish products sold in Europe carry eco-friendly labelling. This is an opportunity for New Zealand, because we can show that our products are eco-friendly. We can claim to be as ecologically careful as any nation on earth.

National standards will be part of the package of our response. The aquaculture industry made national standards one of the pillars of its strategy for development, and I see this as a sign of a far-sighted, encouraging and realistic approach. It's a good example of where the industry and government can work together.

I want this lesson to be studied in other areas. The Ministry has recently completed consultation on three standards and is about to begin consultation on the next batch.

I know there have been industry concerns. I want to make it clear that whether or not we have standards will not be up for debate. Standards are an integral part of objectives based fisheries management. That is the way we are going to manage fisheries in the future, so standards are here to stay.

There is room for debate around development and setting of standards. But it's a waste of everyone's time to debate whether standards should exist at all. Standards benefit the industry. Standards make Government bottom lines transparent. Standards give you more certainty about what you have to achieve.

The devil is in the detail and we need to pay careful attention to ensuring the standards that are put in place achieve what we want at least possible cost. This is where your input is important. I urge you and the rest of industry to make the most of your opportunity to contribute to their development.

I believe the government is being a very constructive partner in engaging with the industry. We demonstrated that in the recent, pioneering Benthic Protection Areas initiative. It will see a diverse range of New Zealand's underwater habitats protected from bottom-trawling and dredging. Through this one initiative, we will protect thirty percent of our seabed. It took many decades to achieve something similar on land. This is a substantial leap forward for marine protection and I congratulate the industry for its responsible attitude.

And while I have some tough messages today for the industry - I also believe this settlement shows the need for others with a view about fisheries to show some goodwill too. I was not impressed with criticism by some NGOs of the Benthic initiative. When the industry takes proactive steps, it deserves recognition and support. I am disappointed that some groups -

including some of my parliamentary colleagues - behaved fanatically, rather than welcoming this pleasing development.

When I say I want everyone with a stake in fishing to work co-operatively, I mean *everyone*, not just the industry. Those who don't are not being responsible and not helping anyone - not even themselves.

The Deepwater Memorandum of Understanding is another example of a positive partnership. The agreement between the Ministry of Fisheries and deepwater quota owners provides a forum for frank discussions and it is already proving successful. For example, I am very satisfied with the way the squid fishery operated this year, including the efforts to reduce incidental sea lion mortality. What we are seeing is the benefit of working with co-operation and goodwill. The paua fishery is another example where good co-operation between the ministry and the industry produces mutual benefits.

I am disgusted with poaching and the black market paua trade. Every year about three hundred tonnes of paua are taken illegally. In places like Hong Kong a kilogram of paua can fetch up to \$100. So the incentive to export illegally harvested shellfish is high. But it is stealing and it harms legitimate fishing, threatens the future of the resource and decreases the value of one of our most valuable fisheries.

Recreational fishers and the industry have joined in the "Poaching is Theft" campaign. The 0800 4 POACHER freephone gets around two hundred phone calls a month from the public and it helped us prosecute over seventy poachers since July last year. At the Auckland and Christchurch airports and the international post office, two paua-sniffing dogs have been screening baggage and mail.

There is a lot of work going on beyond enforcement, as well. With support from Paua Management Action Committees and the Paua Industry Council, we have been able to improve fishing data and reseed depleted stocks. There has been education for divers on how to harvest or return paua so that its chance of survival is maximised.

One of the best advances has been the ability of the industry to create and apply their own management decisions. It has enabled us all to better monitor the effects of change. This has only been achieved by moving from an industry made up of individual harvesters to a unified collective of responsible fishers that look after the resource with identified management frameworks.

So there are some positive examples of partnership and goodwill that have produced good results. It is crucial for the industry to recognise the gains as we deal with other, tough issues.

Cost recovery is a complex and contentious example. A Joint Crown-Industry Working Group was set up early this year, to review the cost recovery rules and how they are applied to fisheries and conservation services. It's going slower than planned, but I understand it is still maintaining a constructive approach. I am keeping an open mind until I receive its report. But I urge everyone involved to find solutions which everyone can accept.

I believe the government, for its part, is showing goodwill. You asked that the Government not use the Cost Recovery Review to increase costs on the industry and we listened and agreed to cap current costs for current services.

The draft statement of intent for the coming year included around \$6m of cost-recovered services from the industry. When I met with the SEAFIC policy council earlier this year your representatives argued that such cost increases would be crippling. They asked me not to introduce them at a time when the industry is suffering significant cost pressure from the exchange rate and fuel costs.

I took those messages on board and I directed the Ministry to defer these initiatives at this time, other than the update of the inshore trawl form which I understand the industry supports. So you can be reassured that I will respond co-operatively to reasoned representation.

I would like to be able to report similar constructive co-operation around discussions on shared fisheries. But what I have actually found is defensiveness. The commercial sector - and others - need to wake up.

Let me make this clear: The current management of shared fisheries is unsatisfactory. It has to get better. And in the process of making it better, I have invited you to be in the boat. But the alternative is that you won't be aboard. The ship will still sail.

The current shared fishing management system is not acceptable. There is a lack of guidance. There is uncertainty about allocation decisions. There is uncertainty about provision for recreational and Maori customary take.

Shared fisheries proposals are not designed to take anyone's rights away, but to clear up uncertainty. I am yet to hear anyone tell me why it's a good idea to leave important issues in a state of uncertainty. Uncertainty threatens investments by the commercial sector. Uncertainty discourages conservation efforts. And uncertainty gets in the way of constructive cooperation amongst stakeholders.

The submission process showed that there is considerable support for change across the

areas identified in the public discussion document. So if you accept that, then you accept there is a need for a better system. And therefore we should be able to resolve it; but it needs everyone to come out of their corners.

I know some industry figures took exception to my observation that some of the reaction to Shared Fisheries had been "hysterical". For their benefit, let me again repeat my view that the outrageous analysis of Shared Fisheries proposals I've seen have indeed been "hysterical". I went to considerable lengths to ensure that compensation was the benchmark for any reallocation. On many occasions I have reiterated that any reallocation should be on a willing buyer willing seller basis.

The Government will not, under any circumstances, undermine the Deed of Settlement or the Quota Management System. We have made this clear from day one but those with an agenda to create hysteria claimed we would.

Those who thought they were being clever by trying to torpedo the Shared Fisheries project got a rude shock when Justice Harrison handed down his findings on the kahawai case. The judgement has profound implications for the commercial sector.

If the Shared Fisheries process now fails we will be falling back on the existing legislation - and if the Court of Appeal upholds the findings of Justice Harrison then I, and future Ministers, will be providing for the social, cultural and economic well-being of recreational fishers without much guidance or certainty. And we will be making such decisions before we turn to the TACC. The Court have not provided me with guidance on how we take into account commercial rights and values and Settlement rights.

So that wasn't a great strategy was it? Agitators who whipped up anxiety about Shared Fisheries will have torpedoed the one framework that would have seen reallocation happen on a compensated willing buyer willing seller basis. Everyone who told you they were acting in your interests was doing exactly the opposite. In an effort to get themselves a Rolls Royce, they got everyone else, including themselves, a moped.

I am willing to give Shared Fisheries another try. I am a patient person. I am prepared to recommend to Cabinet a negotiated process between the major parties. But I can't guarantee Cabinet will want to continue with the matter because of the anxieties already stirred up. There is a saying I use often, "be careful what you wish for because you just might get it".

While we are on the subject of clearing up uncertainty, you will know I want to see an amendment to the Fisheries Act to clarify the law and provide clearer direction to those making fisheries management decisions where information is inadequate.

Simply put, this is the precautionary approach. If information is uncertain, we should lean on the side of protecting the fishery, not risking its destruction. Fish left in the sea, are fish in the bank. To keep on taking fish when you don't have a good idea of how many are left is, in my view, like robbing the bank.

And let's just be clear about this - why would anyone interested in the long term vitality and growth of the fishing industry want to risk destroying the very resource it is based on? Why would anyone want to risk the public odium, and the backlash in international markets to our efforts to achieve a premium for our sustainable management? A short-term focus, based on narrow self-interest is not just selfish and myopic. It is indefensible.

My amendment will make clear that where information is uncertain, decision-makers should be particularly careful and not delay to ensure the resource is managed sustainably. Decision makers will still be required to think about how their decisions affect both sustainability and utilisation. Decisions will still need to be consistent with the purpose of the Act, which will remain unchanged. That is "providing for utilization while ensuring sustainability".

But it will help ensure a more sustainable resource base and that's good for the industry and good for New Zealand.

This is not about undermining the Deed of Settlement. This is about future proofing the settlement and safeguarding the resource for our mokopuna. These amendments will not lead to wholesale changes in current TACCs. Over time, in some situations where information is uncertain and there are signals for concern, there may well be some constraints in short-term utilisation of some fisheries, but only where caution is required. Short-term inconveniences will help to ensure a more sustainable base for the industry in the long-term.

I have to say that I am unimpressed that parts of the industry do not show more leadership in protecting the sustainability of our precious marine resource base.

How does it help any fishing business in the long term if stocks are ruined? What sort of basis for building an industry is that? Some among your ranks have claimed there is no problem with the Act as it is currently written. Why then did I see an industry submission last year that said, and I quote: "There is no presumption in favour of preserving the resource for future generations that the Minister should revert to... the Ministry's approach to the principle that 'decision makers should be cautious' is that long-term sustainability issues should be preferred. But this is to misapply this information principle... Making a decision that involves a very significant cut to the current levels of utilization of that resource is not to be 'cautious' at all."

This industry submission was made in relation to Orange Roughy One, where there had been

misreporting and criminal behaviour. Faced with an Adaptive Management Plan, (which I consider to be a privilege, not a right) where I could not have confidence in the stock information, but where the apparent catch was well under the TACC, I made the call that this AMP should be cancelled and the TACC returned to the level at which it had been originally set. On seeking an injunction, the judge sympathised with the industry submission and said in effect 'carry on fishing', so how does that work?

Contrary to popular belief the Courts have not provided a clear statement that section 10 requires decision makers to ensure sustainability when information is uncertain. Rather they have suggested that this section requires a balancing.

You can't balance, or trade off, sustainability with utilisation. Sustainability is a bottom line, within which utilization must be accommodated.

This has not been the interpretation your industry has always put forward. Just last December SEAFIC wrote to me and said: "The cautious approach that section 10 requires relates to both the utilization of the resource as well as its sustainability (and is therefore wider than typical expression of the "precautionary approach" in literature and law)."

And then this morning I heard the chief executive contradicting this by saying the current section 10 is entirely consistent with international law.

The UN Fish Stocks Agreement, the Convention on the Conservation and Management of Fishery Resources in the South Pacific, the Western and Central Pacific Ocean Fish Stocks Convention and the FAO Technical Guidelines for Responsible Fisheries all state that where information is lacking caution should be exercised in order to protect and conserve the marine environment, not provide for utilization.

Back in 2002 in the seamount litigation industry lawyers argued that by closing certain seamounts the Minister acted contrary to section 10. In particular, they argued he acted contrary to his obligations under section 10 to provide for utilisation. There are other examples similar to this.

So your lawyers have tangled you up in inconsistencies and confusion - this is what lawyers do. I want to amend the Act so it is absolutely crystal clear that sustainability is the priority and no lawyer or court can cast any doubt on it. Sustainability is too important for us to be in any doubt about its priority.

What I want is for us to agree that sustainability is the bottom line and to make this clear in section 10 so the lack of information is not used as a reason to delay taking measures to protect fisheries.

I said to you last year, don't waste your money on lawyers. Work with me and judge me on overall results. I said to you that sometimes decisions would go in your favour, like increasing the in-season FRML in the squid fishery last year or delaying introduction of albacore and skipjack into the QMS. But sometimes I will have to make difficult calls that you won't like. We have to take a mature approach to this and reverting to the Courts, is not in my view a sensible use of yours or the Ministry's time and resources.

Lawyers love litigation and they will goad you into taking me to Court but if I find I can't protect the sustainability of our fisheries I will have to try to change the law so that I can. And this is what I am now doing.

For all that, the government is committed to engaging co-operatively with the industry. I am personally committed to your industry's development - always have been - and I will listen reasonably to any pragmatic and sensible concerns about its development. I demonstrated that in responding to concerns over cost recovery, as I mentioned.

I will remain your strongest advocate in public and at the Cabinet table, and I have defended you time and again and for my efforts I get mother's day cards from orphaned sealions. But I expect that from NGOs.

What I don't expect from a responsible industry is attempts to ambush a responsible, long-term, sustainable policy programme built around the internationally recognised and accepted precautionary principle.

I believe the issues I've just outlined show the industry can do more to show its commitment to partnership and sustainability. I invite you to work on the relationship with government and its agencies because that is the best way to maximise your input and secure the best outcomes as you see them.

As a gesture of the Government's goodwill, I am announcing today \$4.6 million to fund environmental certification of our fisheries exports. This initiative is designed so you can get higher premiums for your products in international markets and be rewarded for taking a sustainable approach to fisheries management.

However, if you persist in opposing aligning the Fisheries Act with international best-practice then it will be hard to convince your customers, and the New Zealand public, that your commitment to sustainability is anything but skin deep.

No one is going to get everything they want. But with goodwill we can all get what we can accept. Goodwill means recognising the variety of valid perspectives. It means recognising

that everyone has a stake in the development of the industry and in managing it to mutual advantage.

What will not work is taking a short-term view. What will not work is ignoring facts and evidence. What will not work is holding out for narrow self interest. Any solution to any problem that doesn't reflect a reasonable consensus will be unstable and ultimately it will fail. And what will not work is thinking I am going to be swayed by self-pity, self-interest or obstruction.

I want to finish on a positive note. I've had some tough messages for you today, but they are tough because I believe you are tough enough to take them and I want to be tough about making the most of the opportunities our fishing industry has ahead of it.

Sustainable management of our fisheries is crucial if we are going to protect our resource. Sustainable management is crucial if we are going to develop the industry, battle away the growing protectionist threats we are facing and achieve a premium for our fish exports.

We all have a responsibility to row the boat. And I see awareness is growing everywhere that we can benefit from careful management.

I welcome the partnerships that have furthered our progress on these fronts to date. And I look forward to the industry taking steps to strengthen its relationships with the government even further in the future.