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Ministry of Fisheries
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INITIAL SUBMISSION ON: REVIEW OF INSHORE SUSTAINABILITY MEASURES AND OTHER MANAGEMENT CONTROLS FOR THE 2011-12 FISHING YEAR

The Environment and Conservation Organisations of NZ (ECO) is the national alliance of 66 groups with a concern for the environment. ECO has been concerned at the state of marine management and the impacts of fishing on threatened species for over 20 years.

Thank you for the opportunity to make submissions on these proposals.

A. SUMMARY

Blue Cod (BCO5)

- Support Option 3; which is closest to current catch
- Catch reduction may not be sufficient if undercatch and the decline in CPUE and decrease in size are all indicators of unsustainability;
- That an assessment be carried out in BCO5.
- That MFish develop a policy on stocks that are substantially undercaught and for which there are no stock assessments.

Blue Cod (BCO8)

- Support Option 3 noting that this allows flexibility in catches;
- That an assessment be carried out in BCO8;
- That MFish develop a policy on stocks that are substantially undercaught and for which there are no stock assessments.

Kingfish (KIN8)

- Support option 2

- Increased monitoring and research should be part of any TACC, especially where there is no agreed stock assessment.

Ribaldo (RIB9)

- Support option 2
- Increased monitoring and research should be part of any TACC, especially where there is no agreed stock assessment.

Rig (SPO2)

- Support Option 1
- Maintain current catch limits
- Measures should be taken to reduce over-catch.
- Note that rig are low fecundity shark species and there is no stock assessment.

Rig (SPO) Adding to 6th Schedule

- Concerned that add rig to the 6th schedule will lead to dumping of dead or mortality injured rig;
- Unclear what a “survivable state” is and it is an unenforceable criteria? While rig may survive short trawls it is unclear whether the Ministry will check performance if this measures goes ahead.
- If the Ministry proceeds with this proposal then any rig “returned to the sea” should be required to be tagged and only occur if there is an observer on the vessel.
- The failure of the Ministry to blithely continue with measures that allow shark fining on the basis that this is illegal is the same as don’t look, don’t tell provisions.

Bluenose (BNS1-8)

- Of the option proposed option 1 comes closes to our views as it is the lowest risk option;
- Significant cuts are required to bluenose catch given the assessed state of the stock between 14 and 27% Bo.
- Any rebuild should occur over 20 years or less to ensure the need of future generations are met;
- Any cut should be reviewed as more information becomes available.
- Any measures should also consider the impact of associated out of zone stocks of bluenose that are managed under SPRFMO interim measures.

Deemed Values

Adjust deemed values to reduce the incentive to overfish catch limits for stocks that meet the review criteria and stocks under review.

Yours sincerely,

Barry Weeber
Co-Chairperson
Environment and Conservation Organisations

1. INTRODUCTION

Thank you for this opportunity to comment on the proposed sustainability measures and management controls for the 2011-12 Fishing Year.

B. GENERAL PRINCIPLES

Our main submissions on the Ministry's IPP are:

1. The proposals do not consider all the obligations on a decision-maker under sections 5, 8 to 10, and 11 to 14 of the Fisheries Act 1996.
2. Some of the considerations are a backward step over last year - there is little consideration of international obligations (section 5) and section 9 obligations, especially marine biodiversity and habitat of particular significance to fisheries management.
3. The Ministry needs to consider how environmental considerations are better integrated with pure single stock assessment considerations. Every year the inclusion of bycatch, adverse effects of fishing, maintenance of biodiversity, etc, tend to be after-thought considerations rather than central issues to setting catch limits. The Ministry could learn from the approaches taken by CCAMLR in this regard.
4. The Ministry needs to consider the obligations on future generations and the need to avoid, remedy or mitigate the effects of fishing on the marine environment.
5. International agreements and measures have further articulated the precautionary approach. Section 5 of the Fisheries Act requires decision makers to act in a manner consistent with "New Zealand's international obligations relating to fishing". These obligations include the UN Fish Stocks Agreement and the South Pacific RFMO text and interim measures in the case of Challenger (ORH7A) and Patagonian toothfish.
6. Amongst these obligations is the United Nations Food and Agriculture Organisation (FAO) Code of Conduct on Responsible Fisheries (1995) which states that:

"6.5 States and subregional and regional fisheries management organizations should apply a precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment, taking account of the best scientific evidence available. The absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species and non-target species and their environment."

Article 7.5 of the Code of Conduct further set out what constitutes precautionary management in fisheries.¹

¹ 7.5 Precautionary approach

7.5.1 States should apply the precautionary approach widely to conservation, management and exploitation of living aquatic resources in order to protect them and preserve the aquatic environment. The absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures.

The United Nations Implementing Agreement on High Seas Fisheries and Straddling Stocks² includes a requirement on “*coastal States and States fishing on the high seas [to] apply the precautionary approach in accordance with article 6.*” Article 6 includes requirements for:

- “1. *States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fishstocks and highly migratory fishstocks in order to protect the living marine resources and preserve the marine environment.*
2. *States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.*”

Therefore, where information is uncertain or unknown about the state of a stock or biological information, the decision should favour lower catch limits or more environmentally stringent regulations.

7. Six key issues regarding the management of fisheries-related impacts on the aquatic environment were identified through the Strategy on the Management of the Environmental Effects of Fishing consultation process undertaken by ECO and Forest and Bird in 2001. These issues describe problems relating primarily to the institutional, legal and policy frameworks under which fisheries-related impacts on the aquatic environment are managed. The key issues identified were:
 - Limited opportunities for public participation in fisheries management;
 - Gaps in information, monitoring and research capacity;
 - Lack of precaution and environmental assessment in decision-making;
 - Lack of spatial and ecotype approach to policy and planning;
 - Dominance of private property rights approach;
 - Lack of recognition of non-extractive use values.

7.5.2 In implementing the precautionary approach, States should take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities, including discards, on non-target and associated or dependent species, as well as environmental and socio-economic conditions.

7.5.3 States and subregional or regional fisheries management organizations and arrangements should, on the basis of the best scientific evidence available, inter alia, determine: stock specific target reference points, and, at the same time, the action to be taken if they are exceeded; and stock-specific limit reference points, and, at the same time, the action to be taken if they are exceeded; when a limit reference point is approached, measures should be taken to ensure that it will not be exceeded.

7.5.4 In the case of new or exploratory fisheries, States should adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures should remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment should be implemented. The latter measures should, if appropriate, allow for the gradual development of the fisheries.

7.5.5 If a natural phenomenon has a significant adverse impact on the status of living aquatic resources, States should adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States should also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such resources. Measures taken on an emergency basis should be temporary and should be based on the best scientific evidence available.

² The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (in force as from 11 December 2001).

8. A recent review of application of the FAO Code of Practice³ indicates that New Zealand needs to do a lot more to implement the code, particularly in the area of stock management, impacts of fishing, and bycatch and habitat effects.
9. The interim measures and other arrangements adopted by RFMO are also relevant in the case of straddling stocks (eg Challenger orange roughy and Patagonian toothfish). The South Pacific RFMO negotiations adopted interim measures for bottom fishing at Renaca in 2007. The interim measures on bottom fishing, including the obligation to notify assessments and measures implemented for their vessels to the secretariat. These measures are relevant to straddling stocks for bluenose.
10. Since then, General Assembly resolution 64/72 made it crystal clear that the assessments called for in paragraph 83 (a) of resolution 61/105, consistent with the FAO Deep Sea Guidelines, must be carried out, and made public, and that they must ensure that vessels do not engage in bottom fishing until such assessments have been carried out.
11. It also made it clear that RFMOs must establish threshold levels and indicator species, based on the best available scientific information and consistent with the FAO Deepsea Guidelines, and taking into account any other conservation and management measures, to prevent significant adverse impacts on vulnerable marine ecosystems, including those based on the results of assessments.
12. Conservation and management measures must also be adopted on the basis of stock assessments and the best available scientific information, to ensure the long-term sustainability of deep sea fish stocks and non-target species, and the rebuilding of depleted stocks, consistent with the Guidelines.
13. Where scientific information is uncertain, unreliable, or inadequate, ensure that conservation and management measures be established consistent with the precautionary approach, including measures to ensure that fishing effort, fishing capacity and catch limits, as appropriate, are at levels commensurate with the long-term sustainability of such stocks.
14. Crucially, paragraph 120 states that States are not to authorize bottom fishing activities until such measures have been adopted and implemented.
15. New Zealand needs to carry out assessments complying with 61/105 and 64/72 and the FAO Deep Sea Guidelines and to notify them to the SPRFMO Parties. New Zealand should also conduct stock assessments which will ensure that long term sustainability of deep sea stocks and non-target species, and rebuilding of depleted stocks, consistent with the Guidelines. If they do not, then their fishing vessels are carrying out IUU fishing.

B.1. Effects of fishing

We support the implementation of the Strategy for the Environmental Effects of Fishing (SMEEF) and are disappointed that there has been little progress in applying it since it was published in 2005.

3 Pitcher T, D. Kalikoski, G. Pramod and K.Short (2009) Not honouring the code *Nature* **457**, 658-659 (5 February 2009) | doi:10.1038/457658a; Published online 4 February 2009 and Pitcher T, D. Kalikoski, G. Pramod and K.Short (2009) Safe Conduct? Twelve years fishing under the UN Code (WWF) Available at: <http://assets.panda.org/downloads/un.code.pdf>

The Ministry needs to consider the SMEEF including:

- *Emphasises the need to assess the effects of fishing on all parts of the aquatic environment, not just respond to obvious adverse effects.*

Further Principles relevant to the Strategy as a whole are:

- *Avoid, remedy, or mitigate any adverse effects of fishing on the aquatic environment.*
- *Give effect to the purpose of the Fisheries Act 1996 (to provide for the utilisation of fisheries resources while ensuring sustainability), and the overall fisheries outcome set out in the Ministry of Fisheries Statement of Intent 2005–2008 (value is maximised).*
- *Meet New Zealand’s international obligations.*
- *Clearly define roles, responsibilities, and accountabilities.*
- *Adopt a “learning culture” to support improvement of environmental effects management over time.*
- *Use best available information.*
- *Take into account wider (non-fisheries) New Zealand government priorities.*
- *Monitor and assess effects of fishing on an ongoing basis.*

New Zealand has a range of international obligations that are relevant to marine management. These obligations mean New Zealand:

- has an obligation to protect and preserve the marine environment (UNCLOS Article 192);
- is committed to an ecosystem based approach to managing the use of natural resources;
- is committed to the precautionary approach to minimising risk to the environment;
- is committed to the concept of inter-generational equity.

This includes measures to maintain marine biodiversity and avoid, remedy or mitigate the adverse impacts of commercial scale bottom impacting methods including trawling on benthic species (see reviews in *Conservation Biology* December 1998 (Vol 12, No 6)).

B.2. Research needs

We are concerned that the Ministry is not undertaking adequate research to manage most of the species under the Quota Management System. Less than 15 percent of the stocks in the quota management system have estimates of current biomass or yield estimates.

ECO notes that the Worm et al (2009)⁴ paper only accepted 19 assessments which in total cover 18 quota stocks out of the 629 fish stocks quota management system. This indicates that the Ministry of Fisheries needs to know much more about our fisheries if that is all of our stock assessments the international fisheries science community will accept.

We note that this report also recommends that stocks be maintained above Bmsy:

"In fisheries science, there is a growing consensus that the exploitation rate that achieves maximum sustainable yield (u) should be reinterpreted as an upper limit rather than a

⁴ Worm B, R Hilborn, J K. Baum, T A Branch, J S Collie, C Costello, M J Fogarty, E A Fulton, J A Hutchings, S Jennings, O P Jensen, H K Lotze, P M Mace, T R McClanahan, C Minto, S R Palumbi, A M Parma, D Ricard, A A Rosenberg, R Watson, D Zeller (2009) Rebuilding Global Fisheries *Science* 31 July 2009: Vol. 325. no. 5940, pp. 578 – 585 DOI: 10.1126/science.1173146

management target. This requires overall reductions in exploitation rates, which can be achieved through a range of management tools.

New Zealand is undertaking less trawl surveys and fisheries research than it was 15 years ago. We would endorse the comments of McKoy (2006)⁵ that New Zealand has a fisheries management regime which has:

- *“Insufficient research resources, people, equipment and funding;*
- *Limitation of scientific method and theory to tackle many questions;*
- *An inadequate understanding of the dynamics of New Zealand marine ecosystems;*
- *A management system which provides very strong perverse incentive to keep research funding low;*
- *A management system which treats the QMS as the whole of the system and which has not been able to develop any coherent management objectives on which to base decisions about the effectiveness of management or the allocation of scarce resource such as research resources.”*

The long echoed comment in Antarctic fisheries management (CCAMLR) first echoed by the former UK representative, John Heap, of *“no data, no fish”*, should be taken to heart in the New Zealand fisheries management regime.

B.3. Effects of Climate change

The effects of climate change on fisheries and the emissions of greenhouse gases from the fishing industry needs to be included in the considerations of the Ministry of Fisheries (MAF). This includes the consideration of the impacts of acidification of the marine environment on fisheries.

⁵ McKoy J (2006) Fisheries resource knowledge, management, and opportunities: Has the Emperor got no clothes? p35-44. In New Zealand’s ocean and its future: knowledge, opportunities and management. Proceedings of a conference organised by the Royal Society of New Zealand, 16 November 2006, Miscellaneous Series 70.

