

Dear Stakeholder

SETTING OF SUSTAINABILITY MEASURES FOR STOCKS TO BE INTRODUCED INTO THE QUOTA MANAGEMENT SYSTEM ON 1 OCTOBER 2004

- 1 This letter outlines my final decisions for the setting of sustainability measures for bigeye tuna, blue shark, lookdown dory, mako shark, moonfish, Pacific bluefin tuna, parore, Whangarei Harbour pipi, porae, porbeagle shark, Ray's bream, red snapper, southern bluefin tuna, spiny dogfish, swordfish and yellowfin tuna, which will be introduced into the Quota Management System (QMS) on 1 October 2004.
- 2 I have made decisions regarding the setting of Total Allowable Catches (TACs), Total Allowable Commercial Catches (TACCs), other allowances, deemed values, overfishing thresholds, and regulatory proposals for the stocks concerned. My decisions will take effect on 1 October 2004.
- 3 In reaching my final decisions, I have carefully considered the available fishery assessment information, MFish's Final Advice Paper (FAP) dated 29 June 2004, and the issues and information put forward by stakeholders for each of the stocks and regulatory proposals in response to the Initial Position Paper (IPP), dated 12 January 2004.
- 4 I have also given careful regard to the legislative provisions of the Fisheries Act 1996 (1996 Act), especially those relating to its purpose (s 8), environmental and information principles (ss 9 and 10, respectively), and the setting and amending of sustainability measures (ss 11 and 13).
- 5 I take this opportunity to acknowledge your participation in the MFish consultation process. I appreciate the amount of work and effort that went into the formulation of your submissions within the timeframe available.

Lookdown Dory (LDO)

6 I have decided to set the TACs and allowances for lookdown dory stocks as outlined in Table 1.

Table 1: TACs, allowances and TACCs for lookdown dory stocks (tonnes)

Stock	TAC	Customary allowance	Recreational allowance	Other sources of mortality	TACC
LDO 1 (FMAs 1, 2, 7-9)	168	0	0	0	168
LDO 3 (FMAs 3, 4, 5, 6)	614	0	0	0	614
LDO 10 (FMA 10)	1	0	0	0	1

7 In the absence of a comprehensive stock assessment, I have agreed to set TACs that reflect recent increases in catch from each fishery. This approach is supported by the the positive trend in the relative biomass estimates for lookdown dory calculated from trawl surveys over the Chatham Rise (the largest lookdown dory fishery). I agree with the MFish advice that there appears to be no immediate sustainability concerns for lookdown dory stocks.

8 I did not consider catch limits greater than recent average annual catches because of the need to balance utilisation against potential sustainability risks under increasing catch levels. Little is known about lookdown dory but preliminary examinations of otoliths of lookdown dory from Australia suggest this species may live to over 30 years. Preliminary evidence also suggests that around New Zealand's North Island, female lookdown dory do not mature until they reach 35cm. In view of these biological characteristics, there may be sustainability risks to the fishery if catch levels increase.

9 I have agreed that allowances for non-commercial interests be set at zero tonnes and the TACC be set at the level of the TAC. Due to the offshore location and depth distribution of this species, non-commercial catch is likely to be negligible. In addition, I do not consider there will be significant discard and non-reporting of lookdown dory upon its introduction into the QMS and I have agreed to set the allowance for 'other sources of fishing-related mortality' at zero tonnes.

10 I have agreed to set an interim deemed value of \$0.21 per kg and an annual deemed value of \$0.42 per kg for the 2004–05 fishing year for lookdown dory. These values reflect the fit of the fishery to the low knowledge category of the deemed value framework. Accordingly, there will be no overfishing thresholds or differential deemed values for lookdown dory.

Parore (PAR)

11 I have decided to set the TACs and allowances for parore stocks as outlined in Table 2.

12 There is an absence of fishery independent stock assessment information to assess stock status. Therefore, I have agreed to set TACs to constrain catches at current levels to reflect the apparent stability within the existing fisheries. This approach is appropriate given the absence of fishery independent information and the risk that

increased catches could pose to the sustainability of parore stocks. MFish advise that parore is probably susceptible to the effects of fishing and habitat disturbance. The TACCs I have agreed to reflect average annual catch over the past ten years in POR 1 and POR 9. I have agreed to a nominal TACC of 2 tonnes for PAR 2, and a TACC of 0 tonnes for PAR 10 to reflect the absence of any reported landings within the Kermadec FMA, and the presence of a marine reserve over the likely parore habitat.

Table 2: TACs, allowances and TACCs for parore stocks (tonnes)

Stock	TAC	Recreational allowance	Customary allowance	Other sources of mortality	TACC
PAR 1	74	6	3	4	61
PAR 2	4	1	1	0	2
PAR 9	25	2	1	1	21
PAR 10	0	0	0	0	0

- 13 Although parore is not a prized recreational fish, MFish advise it is probably caught by recreational fishers in northern areas as bycatch when set netting for other species such as snapper, trevally, and mullet, as well as being targeted opportunistically by spearfishing. In the absence of recreational harvest estimates, I have agreed to set a recreational allowance based on 10% of the TACC for this stock in PAR 1 and PAR 9.
- 14 In recognition of the current lack of controls on recreational fishing for parore, I have also agreed to include parore in the combined multi-species bag limit set at 20 fish per amateur fisher per day in QMAs 1 and 9. Due to concerns about the species' vulnerability to the effects of fishing, and the likelihood that future recreational catches will increase, I agree with MFish that a daily bag limit for parore is necessary to restrict recreational catches. I do not consider a similar provision to be necessary in other areas, because parore is seldom caught around the South Island by amateur fishers.
- 15 I have agreed to set for PAR 1, PAR 2, and PAR 10 an interim deemed value of \$0.16 per kg and an annual deemed value of \$0.31 per kg for the 2004–05 fishing year, and to set for PAR 9 an interim deemed value of \$0.17 per kg and an annual deemed value of \$0.34 per kg for the 2004–05 fishing year. These values reflect the fit of the fishery to the low knowledge category of the deemed value framework. Accordingly, there will be no overfishing thresholds or differential deemed values for parore.

Pipi – Whangarei Harbour (PPI 1A)

16 I have decided to set the TACs and allowances for Whangarei pipi as outlined in Table 3.

Table 3: TACs, allowances and TACCs for Whangarei pipi (tonnes)

Stock	TAC	Recreational allowance	Customary allowance	Other sources of mortality	TACC
PPI 1A	250	25	25	0	200

17 The proposed TAC is based on commercial catch levels from Mair Bank over the past ten years, together with allowances for customary and recreational interests. While there are no apparent sustainability concerns at current catch levels, the proposed TAC recognises the absence of stock assessment information on current biomass and sustainable yield from the fishery.

18 I have agreed to retain the current fisheries regulations that restrict commercial fishing to Mair Bank (and Snake Bank), and I have also agreed to retain the regulations restricting harvesting to handgathering only. The MFish arguments for this approach, outlined in the IPP and FAP, are persuasive.

19 I have agreed to include the PPI 1A fishery on the Schedule 5A to remove under-fishing rights generated under s 67A of the Act, and on the Sixth Schedule to allow fishers to return small pipi back to the sea. Finally, I have agreed to set an interim deemed value of \$1.25 per kg and an annual deemed value of \$2.50 per kg for the 2004–05 fishing year for Whangarei pipi.

Porae (POR)

20 I have decided to set the TACs and allowances for porae stocks as outlined in Table 4.

Table 4: TACs, allowances and TACCs for porae stocks (tonnes)

Stock	TAC	Recreational allowance	Customary allowance	Other sources of mortality	TACC
POR 1 (FMA 1)	75	6	3	4	62
POR 2 (FMAs 2, 8,	9	1	1	1	6
POR 3 (FMAs 3-7)	5	1	1	1	2
POR 10 (FMA 10)	4	1	1	1	1

21 There is an absence of fishery independent stock assessment information to assess stock status. Therefore, I have agreed to set TACs to constrain catches at current levels to reflect the apparent stability within the existing fisheries. Maintaining current catch levels until there is more information to assess stock status is appropriate, as MFish advise that porae is likely to have a limited population size, and it is vulnerable to the effects of fishing, particularly localised depletion. Accordingly, the TACCs I have agreed to reflect reported commercial landings over the past six years.

- 22 Although porae is not a prized recreational fish, MFish advise it is probably caught periodically by recreational fishers in northern areas when handlining and set netting for higher value species such as snapper and tarakihi, and by being targeted opportunistically by spearfishing. In the absence of recreational harvest estimates, I have agreed to set a recreational allowance based on 10% of the TACC for this stock in POR 1.
- 23 In recognition of the current lack of controls on recreational fishing for porae, I have agreed to include porae in the combined multi-species bag limit set at 20 fish per amateur fisher per day in Fisheries Management Areas 1, 2, 8 and 9. Due to concerns about the species' vulnerability to the effects of fishing, and the likelihood that future recreational catches will increase, I agree with MFish that a daily bag limit for porae is necessary to restrict recreational catches in these areas. I do not consider a similar provision to be necessary in other areas, because porae is seldom caught around the South Island by amateur fishers.
- 24 I have agreed to the deemed values outlined in Table 5 for porae stocks. These values reflect the fit of the fishery to the low knowledge category of the deemed value framework. Accordingly, there will be no overfishing thresholds or differential deemed values for porae.

Table 5: Interim and annual deemed values payable for porae stocks

Stock	Interim deemed value (\$/kg)	Annual deemed value (\$/kg)
POR 1	0.68	1.35
POR 2	0.35	0.69
POR 3	0.68	1.35
POR 10	0.68	1.35

Red snapper

- 25 I have decided to set TACs, TACCs and other allowances for red snapper stocks as outlined in Table 6.

Table 6: TACs, allowances and TACCs for red snapper stocks (in tonnes)

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
RSN 1	140	2	13	1	124
RSN 2	25	1	2	1	21
RSN 10	4	1	1	1	1

- 26 There is no scientific stock assessment information available to determine whether or not red snapper stocks are at, above, or below a level that can produce the maximum sustainable yield (MSY). There is no stock assessment information that suggests a sustainability concern, and there is no trend in commercial catch information to indicate a change in red snapper abundance. However, I recognise that recreational and environmental groups have in the past expressed concern about a decline in abundance. I also recognize that some of the biological and ecological characteristics

of red snapper as a reef fish may make it susceptible to overfishing. For these reasons, I agree with the position outlined in the MFish initial position paper (IPP), that the TACs should be based on average catch information, rather than provide an opportunity for development by setting a TAC above the level of average catch. I have agreed to include the catch data from the 2002–03 fishing year in the catch period for setting the TACs/TACCs, as suggested in the Northern Inshore submission, since that information is now available. The period on which TACs and TACCs will be based is 1993–94 to 2002–03, because I concur with the arguments in the MFish IPP that earlier figures do not provide an appropriate representation of the current fishery.

- 27 I am pleased to note Northern Inshore’s submission that a significant increase in set net activity on reefs is unlikely as a result of the introduction of red snapper into the QMS. Instead, I note the industry’s stated intention to develop the fishery through longline and trawl methods over existing grounds.
- 28 I consider MFish’s estimate of the recreational red snapper catch at around 10% of the TACC, with the customary catch at around 15% of the recreational catch, to be based on the best available information. As outlined in Table , I have set the recreational and customary allowances accordingly. I have also provided a nominal allowance of 1 tonne for other sources of fishing related mortality for each of the red snapper stocks.
- 29 In recognition of the current lack of controls on recreational fishing for red snapper, I have agreed to include red snapper in the combined multi-species bag limit set at 20 fish per amateur fisher per day in the Auckland and Kermadec Area, and Central Area. I do not consider a similar provision to be necessary in other areas, because red snapper is seldom caught around the South Island by amateur fishers.
- 30 I do not consider that additional controls on recreational fishing are necessary. There is no definite sustainability concern for red snapper. Because it is frequently caught as a bycatch when amateur fishers target other deeper water species, the survival rate of small red snapper would likely be low, and stocks would therefore be unlikely to benefit from implementation of a minimum size limit.
- 31 I have determined that the deemed value for all red snapper stocks should be set at \$4.09 per kg, and that a differential deemed value will apply. Setting of this deemed value is consistent with the inclusion of this species in the “all other fishstocks” category. The deemed value established for these species is 75% of the average port price. I note that red snapper is not caught as a single species target fishery which might then warrant its consideration in another category for assessing deemed values. I consider that it would also be inappropriate to classify red snapper as a low knowledge fish stock. One of the criteria for that category is that there are no sustainability concerns about the stock, but non-commercial interests have expressed some sustainability concerns about red snapper stocks.

Spiny dogfish (SPD)

- 32 While it was important to introduce spiny dogfish into the QMS due to its low productivity and biological susceptibility to over-fishing, trawl surveys and assessments of catch rates suggest that catches of spiny dogfish over the past decade have been sustainable. In the absence of a current sustainability concern, I have decided to apply a management regime that does not impose unnecessary costs on the fishing industry and encourages accurate reporting and a better understanding of the dynamics of the fishery.
- 33 I have decided to set TACs, TACCs and other allowances for spiny dogfish as outlined in Table 7.

Table 7: TACs, Allowances, and TACCs for spiny dogfish (*Squalis acanthias*) in tonnes.

Stock	TAC	Customary Allowance	Recreational Allowance	Other sources of fishing related mortality	TACC
SPD1	413	39	39	4	331
SPD3	5 075	115	115	51	4 794
SPD4	1 662	10	10	16	1 626
SPD5	3 753	8	8	37	3 700
SPD7	1 983	31	31	19	1 902
SPD8	392	41	41	3	307
SPD10	2	1	1	0	0

- 34 The current biomass of spiny dogfish stocks in relation to the biomass that would produce maximum sustainable yield (B_{MSY}) is not known. Trawl surveys and assessments of catch rates suggest catches over the past decade have been sustainable and there is currently no evidence of a decline in catch rates for spiny dogfish, with the possible exception of SPD3 where there is some indication of a decline in set net catch rates over the last few years. There is evidence of increased spiny dogfish catch rates in other areas, particularly in SPD4. However, there is considered to be a potential risk for spiny dogfish due to its biological characteristics and because reported catches have increased over the past few years. It is not known if these increased catch levels are sustainable in the longer-term or if they will move spiny dogfish stocks towards B_{MSY} as required by s13 of the 1996 Act.
- 35 This assessment tallied with fishers' reports during consultation of no scarcity across most QMAs but reduced abundance in parts of SPD3. Fishers and other submitters were polarised, however, on the appropriate management response and on whether the TACs and TACCs for spiny dogfish should be lower or higher than the proposals in the IPP.
- 36 After considering these submissions, the available information on the status of spiny dogfish stocks and my statutory obligations, I have decided that TACs should be set at recent catch levels pending the provision of better information anticipated from management under the QMS and an extended period of fishing at the higher reported catch levels seen in the last few years. The TAC, TACC and other allowances

proposed in the IPP form the basis for my final decisions with the following exceptions:

- a) Trawl surveys and recent catch-rate data for SPD4 and SPD5 point to an increase in abundance of spiny dogfish. I have decided that the TAC and TACC for SPD4 should be based on maximum reported commercial catch, increasing the TAC and TACC from the 1 356 and 1 322 tonnes, respectively, proposed in the IPP to 1 662 and 1 626 tonnes. I have decided that the TAC and TACC for SPD5 should be set at 3 753 and 3 700 tonnes, respectively, which is between the two options proposed in the IPP for SPD5.
- b) In the absence of any evidence of a current sustainability concern, I have also decided that the TACs and TACCs for SPD7 and SPD8 should be based on maximum recent catches, increasing them slightly from the 1 645 and 1 567 tonnes, respectively, proposed for SPD7 in the IPP to 1 983 and 1 902 tonnes, and from the 338 and 253 tonnes, respectively, proposed for SPD8 to 392 and 307 tonnes.

37 I note MFish intends to develop new research projects relating to spiny dogfish for the 2005–06 year to ensure that spiny dogfish stocks are adequately monitored, and support this approach.

Return to Sea, Deemed Values and Overfishing Thresholds

38 I am aware of industry concerns over management of spiny dogfish. In particular the cost related to any requirement to land all fish. I recognise that a large amount of spiny dogfish taken has no value, and that fishers currently choose to return large quantities to the sea.

39 The QMS is flexible enough to provide fishers with the choice about whether to land spiny dogfish or not. In order to provide what I consider to be necessary flexibility to fishers I have agreed that spiny dogfish, dead or alive, can be returned to sea.

40 However such flexibility is not without responsibility. I need to ensure sustainability of catch. For this reason fishers will be required to report all catch, including discards against ACE. I have directed MFish to monitor this fishery closely. If fishers are discarding spiny dogfish without reporting accurately, then the flexibility I have provided will need to be re-examined or more costly monitoring programmes implemented.

41 I have decided to set the deemed value at \$0.05 per kg for all spiny dogfish stocks and not to apply differential deemed values or overfishing thresholds to spiny dogfish.

42 While there was agreement from most submitters during consultation that unwanted spiny dogfish should be able to be returned to sea, and that discarded catch should be subject to ACE/deemed values, there was disagreement concerning the deemed value that should apply. This stems in part from differing views on the market value of spiny dogfish and the capacity of fishers to utilise spiny dogfish.

43 As signalled in the IPP, the large proportion of spiny dogfish currently discarded and the QMS regime to be implemented for spiny dogfish means that the use of port price and fishstock categories is not an appropriate way to determine deemed values. I have,

instead, decided to base deemed values on the cost recovery and transaction charges associated with acquiring spiny dogfish ACE. Given current cost recovery and transaction charges and based on an assumption of some increase in spiny dogfish research costs in the near term, I have agreed that the deemed value should initially be set at \$0.05 per kg but reviewed in the future to ensure it is providing sufficient incentive for catch to be covered by ACE.

Highly migratory species

- 44 There are unique issues raised when considering TACs allowances and TACCs for highly migratory species. For example, catch limits will apply only to New Zealand fisheries waters and it is not possible to estimate maximum sustainable yield for only that part of the stock. I consider that the purpose of the 1996 Act is better achieved by setting TACs for highly migratory species in New Zealand fisheries waters under s 14 of the Act. Setting TACs under s 14 of the 1996 Act provides additional flexibility around the management targets for each stock however I need to balance the levels of utilisation provided with the risk to sustainability and any fishing impacts on the environment when making decisions on TACs.
- 45 With the exception of southern bluefin tuna, there is as yet no international catch limit set for any of the highly migratory species proposed for entry into the QMS on 1 October 2004. Nations in the western and central Pacific have an obligation to exercise reasonable restraint in the regional development of fisheries for highly migratory species. I note that more generally there is a move to cooperative management arrangements for highly migratory stocks in the Western and Central Pacific region and a first meeting of a Commission to oversee this role is planned for later in this year.
- 46 For most highly migratory species entering the QMS on 1 October 2004 New Zealand catches are relatively small in comparison to those for the whole of the stock and there is potential for expansion in tuna catches within New Zealand fisheries waters (the exception being southern bluefin tuna unless an increase in catch limit is agreed internationally). In this context I want to minimise the disruption and cost associated with the introduction of these highly migratory species into the QMS particularly the highly migratory bycatch stocks. I intend to achieve this by providing for growth in catches where this is appropriate and/or by providing flexibility in the management regime where growth in catch is not appropriate at this time.
- 47 I acknowledge that the mismatch between tuna and bycatch catch history qualifying years is an issue unique to the fishery and one that is of considerable concern to current fishers. I have yet to decide whether there should be any change to the current mechanisms for the disposal of Crown held quota to accommodate the mismatch in bycatch qualifying years but I have considered the period of rationalisation that will be required in the fishery when making decisions on associated management measures for bycatch stocks.
- 48 I have also considered the potential environmental effects of fishing associated with an expansion in the catch of tuna species, which are primarily taken by surface longline fishing. In this context I note that a National Plan of Action for seabirds is being implemented and a National Plan of Action for sharks is in preparation. I

consider that it is important that industry takes a responsive approach to such issues. There have been some successful initiatives undertaken by industry to date but there is an opportunity for considerable progress to be achieved with the support of industry.

- 49 Similarly submissions from recreational representatives have expressed concern that proposals to expand the catch of tuna species will impact upon their interests in these fisheries. I am concerned to ensure that all interests are taken into account in the management of fisheries resources but there is no legislative mechanism available to me to address spatial separation between commercial and non-commercial sectors in the process of setting TACs and allowances for QMS stocks. There are, however, specific mechanisms provided in legislation (the dispute provisions) to ensure that the interests of all fishing interest groups are taken into account. These rely in the first instance on stakeholders taking the first steps to resolve any dispute that may arise in relation to real or potential impacts on the fishing interests of one party. I would expect stakeholders on both sides (commercial and non-commercial) to take a proactive approach to ensure that all interests in the fishery are taken into account if disputes arise. Action on my part to resolve a dispute is provided for in legislation but ideally such action should only be considered as a last resort.

Tuna fisheries

Bigeye tuna

- 50 Bigeye tuna is a key target species of the tuna longline fishery. I have decided to set a TAC and TACC that provides for expansion of the New Zealand fishery and does not impact on provisional catch histories allocated to commercial fishers. The TAC/TACC so decided represents a small increase over that contained in the MFish initial proposals as follows.

Table 8: TACs, allowances and TACCs for bigeye tuna stocks (in tonnes)

TAC, (tonnes)	Allowances (tonnes)			TACC, (tonnes)	Deemed value \$
	Recreational	Customary	Other mortality		
740	8	4	14	714	15.14

- 51 Having decided on catch limits that allow for an expansion in bigeye tuna catch I am concerned to ensure that deemed values are set to ensure that catch remains within the available ACE in the fishery. The deemed value is therefore to be based on the ‘*all other fishstocks*’ category and has been set at 75% of the currently assessed port price. Differential deemed values will also apply in support of the objective for deemed value setting. I have also agreed to consequential regulatory amendments to reporting regulations associated with introducing bigeye tuna into the QMS.

Pacific bluefin tuna

- 52 While the fishery for Pacific bluefin tuna in New Zealand fisheries waters is small it is a highly valuable fishery. I have decided to set catch limits and allowances for Pacific bluefin tuna that provide for a level of development of the fishery. In this case the TAC and TACC decided is an increase over that proposed in the MFish IPP based on

MFish advice to me regarding the level of provisional catch history determined for Pacific bluefin tuna

- 53 The initial TACC proposed for this species would have resulted in a reduction to provisional catch history in the fishery. In the absence of sustainability concerns I see no reason to set a constraining catch limit. The revised TACC will not require a reduction to provisional catch history and will provide the opportunity for some development of the fishery beyond historical catch levels.

Table 9: TACs, allowances and TACCs for Pacific bluefin tuna stocks (in tonnes)

TAC (tonnes)	Allowances (tonnes)			TACC, (tonnes)	Deemed value \$
	Recreational	Customary	Other mortality		
120	1	0.5	2.5	116	27.75

- 54 I have agreed to set a deemed value at a level aimed at encouraging fishers to ensure that their catch of Pacific bluefin tuna is covered by ACE and differential deemed values will also apply in support of this objective. I have also agreed to consequential regulatory amendments to reporting regulations associated with introducing Pacific bluefin tuna into the QMS.

Southern bluefin tuna

- 55 The southern bluefin tuna fishery is subject to an internationally agreed catch limit and New Zealand has an obligation to ensure that management arrangements are in place to maintain the integrity of that limit. The first decision I have made is to agree that the international catch limit for New Zealand should apply to all fishing and fishing related mortality caused by New Zealand nationals. I acknowledge that this has not been the case in the past and the catch limit has applied only to commercial fishing, however I think it is in the interests of the fishery and sound fisheries management that a change is made at this time. I would expect to see this position (the inclusion of all fishing mortality within national allocations) considered as part of the deliberations of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) in the near future.

- 56 My decisions on TAC, allowances and TACC for southern bluefin tuna are shown below.

Table 10: TACs, allowances and TACCs for southern bluefin tuna stocks (in tonnes)

TAC (tonnes)	Allowances (tonnes)			TACC, (tonnes)	Deemed value \$
	Recreational	Customary	Other mortality		
420	4	1	2	413	46.92

- 57 It is important to ensure the integrity of the TACC set for southern bluefin tuna because of New Zealand's international obligations in this regard. It is for this reason that I have agreed to set a deemed value for southern bluefin tuna based on 200% of the port price and to apply differential deemed values in order to remove any incentive

for fishers to take southern bluefin tuna without ACE. I have concluded, however that it is also important to provide a mechanism to allow for the release of live southern bluefin tuna in the event of an inadvertent capture. Otherwise, the application of a high deemed value and differential deemed values could have an overly punitive effect on fishers who hold little or no ACE.

- 58 I have therefore agreed to propose that southern bluefin tuna is listed on the Sixth Schedule of the 1996 Act allowing for the release of southern bluefin tuna subject to the conditions that they are alive and likely to survive and that they are released as soon as practical into the waters from which they were taken. This mechanism will also be an important tool in maintaining the integrity of the southern bluefin tuna TACC.
- 59 MFish proposed that southern bluefin tuna was also listed on Schedule 5A of the 1996 Act to prohibit the carry forward of under-fishing rights from one year to the next. MFish reconsidered this advice on the basis of submissions and now acknowledges that a strict requirement to catch all ACE within a year may well impose a greater risk to the integrity of the TACC. I have accepted this advice in the interim pending consideration of over and under fishing arrangements by the CCSBT. I therefore do not propose to list southern bluefin tuna on Schedule 5A of the 1996 Act at this time.
- 60 I have agreed to the revocation of current regulations that set a catch limit and season for southern bluefin tuna and regulations that require advance application if foreign owned vessels are to be used in the fishery. Changes will be required to reporting regulations to ensure that catch of southern bluefin tuna against ACE is fully reported wherever New Zealand nationals take it and I have agreed to these changes.

Yellowfin tuna

- 61 The yellowfin tuna fishery has to date been primarily a bycatch fishery. It has the potential to develop in size both as a bycatch and a target fishery in New Zealand fisheries waters. I note that it is also a species that is highly sought after by recreational gamefishers.
- 62 The TAC, allowances and TACC I have decided are shown below.

Table 11: TACs, allowances and TACCs for yellowfin tuna stocks (in tonnes)

TAC (tonnes)	Allowances (tonnes)			TACC, (tonnes)	Deemed value \$
	Recreational	Customary	Other mortality		
358	60	30	5	263	6.74

- 63 My decisions on deemed value for yellowfin reflect an objective of ensuring the catch of yellowfin is covered by ACE but not to the point of encouraging widespread discarding of this species. The deemed value is based on 75% of the current port price and differential deemed values are to apply. I have also agreed to consequential amendments to reporting regulations associated with introducing yellowfin tuna into the QMS.

Bycatch stocks

Moonfish

64 Moonfish are an oceanic species with a wide distribution. I note that there are no known sustainability concerns for this species. In this context I have agreed to set a TAC and TACC for this species to provide an opportunity for development of this fishery. I have decided to set a TAC and TACC of 527 tonnes. In addition to setting a non-constraining TAC and TACC I have also agreed to set a deemed value of \$0.15 for moonfish, which is at the lower end of the continuum between the likely transaction costs in acquiring and holding a quantum of ACE and the port price. I have also agreed to consequential regulatory amendments to reporting regulations associated with introducing moonfish into the QMS.

Pelagic sharks

65 Three highly migratory shark species (blue, mako and porbeagle) will be introduced into the QMS on 1 October 2004. All three share similar biological characteristics with some variation in productivity between species. There is uncertainty about sustainable yields and there is international concern over shark management as most species are susceptible to overfishing given their biological characteristics. Sharks are also likely to play an important role in the environment and this characteristic needs to be considered when determining management arrangements for these species.

66 However I also recognise the implications of TACs set for pelagic sharks on the target fisheries of which they are a bycatch. In the absence of information on sustainable yields and regional catch limits, I wish to ensure that a management framework is in place that does not promote an increase in catch beyond current levels but also does not unduly restrict utilisation of the target fisheries

67 I agree with MFish advice that a degree of caution is required when setting catch limits for blue, mako and porbeagle sharks despite the likely broad distribution of these species. I have therefore decided to set TACs allowances and TACCs on the best estimates of current use as shown in the table below. I note that MFish has recalculated its estimates of current landings to take account of concerns raised in submissions. The effect of the proposed new conversion factors for pelagic sharks, in particular has been taken into account.

68 I have noted the concerns of industry that the catch limits of bycatch species should not constrain target fisheries particularly those for high value tuna species. I am satisfied that the management framework proposed for pelagic sharks will provide sufficient flexibility to minimise the potential for this to occur. I have decided to recommend the inclusion of blue, porbeagle and mako sharks on the Sixth Schedule of the 1996 Act to allow the release of these species subject to the conditions that they are alive and likely to survive and that they are released as soon as practical into the waters from which they were taken.

69 I have also decided to set deemed values for these species at the lower end of the continuum between port price and the likely transaction price to acquire a quantum of ACE. Deemed values to apply from 1 October 2004 are also shown in the table below. I have also agreed to consequential regulatory amendments to reporting

regulations associated with introducing blue, mako and porbeagle sharks into the QMS.

- 70 With regard to recreational submissions that the practise of shark finning should be prohibited I have accepted MFish advice that the QMS will provide incentives to reduce the practise of landing only the fins of some shark species. Pelagic shark fisheries will be monitored to see whether this in fact occurs. Shark finning is an issue that will also be examined within the context of the development of an NPOA for sharks over the coming year.

Table 12: TACs, allowances and TACCs for pelagic shark stocks (in tonnes)

Species	TAC	Allowances			TACC	Deemed value \$
		Recreational	Customary	Other mortality		
Blue shark	2 080	20	10	190	1860	0.15
Mako shark	512	50	10	46	406	0.15
Porbeagle shark	249	10	2	22	215	0.15

Ray's bream

- 71 Ray's bream are primarily taken as a by-catch of trawl fisheries and there are no known sustainability issues in the fishery. I have therefore agreed to set a catch limit that provides for flexibility in the fishery. The proposed TAC is designed not to impede utilisation of the target fisheries. I would expect that the TAC may not be taken in each year depending on the levels of catch of the target species. I have noted industry concerns regarding the mechanism of average catch used to set the catch limit rather than choosing the best of recent years. I have accepted MFish advice that the best year of recent catch is anomalous and an average better reflects current catch. This has been expanded by 50% to form the TAC and TACC for Ray's bream as shown in the table below.

Table 13: TACs, allowances and TACCs for Ray's bream stocks (in tonnes)

TAC (tonnes)	Allowances (tonnes)			TACC, (tonnes)	Deemed value \$
	Recreational	Customary	Other mortality		
1 045	10	5	50	980	0.18

- 72 In the absence of sustainability concerns for Ray's bream I have decided to set a deemed value at the lower end of the continuum between the port price and the likely transaction costs associated with the acquisition and holding of a quantum of ACE for Ray's bream. I have also agreed to consequential regulatory amendments to reporting regulations associated with introducing Ray's bream into the QMS.

Swordfish

- 73 I have noted the support for MFish initial catch limit proposals in industry submissions but I have also considered the opposition to the proposals in recreational submissions. While I am aware of recreational concerns regarding the historic

development of the fishery and recreational views on which commercial catches should be counted in determining catch limits I have focused my attention on what might be a sustainable level of harvest from the fishery for the purpose of determining a TAC and TACC.

- 74 There are no indications from scientific evaluations to date that the current level of commercial harvest of swordfish has given rise to sustainability problems. I acknowledge that, while swordfish are considered to be relatively productive, large swordfish in particular may be vulnerable to localised over fishing because of their association with particular areas and/or features on the seabed. I consider that the approach of setting a TAC/TACC for swordfish on the basis of current catch while further information is obtained on the fishery appropriately balances the sustainability risk with the utilisation opportunity in the fishery. This approach contrasts with that for the tunas where opportunities for expansion are being provided in the setting of a TACs and TACCs. I have therefore agreed to set a TAC, allowances and TACC for swordfish as follows.

Table 14: TACs, allowances and TACCs for swordfish stocks (in tonnes)

TAC (tonnes)	Allowances (tonnes)			TACC (tonnes)	Deemed value \$
	Recreational	Customary	Other mortality		
919	20	10	4	885	4.25

- 75 My decisions have focused on what might be a sustainable level of harvest of swordfish within New Zealand fisheries waters having regard to the potential for a degree of residency of this species in some locations. My expectations regarding recreational concerns over the potential for spatial conflict in the fishery are as outlined above. The need for recreational interests to be considered in a spatial context are more relevant for swordfish because of the association of large swordfish with known fishing grounds of importance to recreational gamefishers. If conflicts between recreational and commercial fishing arise I would expect these stakeholders to be proactive in resolving those conflicts in a way that ensures that all interests in the fishery are taken into account.
- 76 I have decided not to impose a minimum legal size for swordfish despite recreational support for this measure. I have accepted MFish advice that the imposition of a minimum size is likely to result in wastage of small swordfish that arrive dead at the vessel. I would prefer to have this mortality (small dead swordfish) counted against ACE. I agree that the use of the Sixth Schedule of the 1996 Act to allow for the release of live swordfish below a certain size is less likely to result in this waste and will in fact provide incentives for fishers to avoid areas of high juvenile swordfish if such exist.
- 77 I will therefore be proposing that swordfish are added to the Sixth Schedule of the 1996 Act so that swordfish smaller than 1.25 metre LJFL in size will be able to be released subject to the conditions that they are alive and likely to survive and that they are released as soon as practical into the waters from which they were taken. I note that this release will be optional but I would encourage commercial fishers to return

live juvenile swordfish to the sea in order to help with the sustainable management of the fishery as a whole.

- 78 I am concerned to ensure that commercial catches remain within the level of the TACC set for the fishery. This needs to be balanced against the potential for deemed values to distort the market for ACE in a period of transition for the fishery. I have therefore agreed to set deemed values based on 75 % of the port price rather than the alternative option of 200% of port price proposed in the MFish IPP. Differential deemed values will apply as a disincentive to individuals fishing beyond their ACE holdings.
- 79 The deemed value for swordfish is set at a higher level than other highly migratory bycatch stocks. Swordfish can be targeted and there is opportunity for fishers to maximise their catch of this species. Equally swordfish can be avoided to a degree. There is a need to find an appropriate balance between the potential for market distortion and incentives to land catch against ACE and ensure the integrity of the TACC. The performance of the balancing regime will be monitored to ascertain whether adjustment is needed in future and to ensure it is meeting its objective for this stock.
- 80 I have also agreed to consequential regulatory amendments to reporting regulations associated with introducing swordfish into the QMS.

Yours sincerely

Hon David Benson-Pope
Minister of Fisheries