

Proposed Management Framework for Highly Migratory Species

Background

1. The Ministry of Fisheries is reviewing the future management of tuna and other highly migratory species (HMS). It has been suggested that several HMS be introduced into the Quota Management System (QMS) as early as 1 October 2004, but prior to making any such decisions, the Ministry has undertaken a consultation process to examine the merits of QMS management vs. alternative frameworks.
2. On 24 December 2002, the Ministry released a stakeholder consultation paper on options for future management of tuna and other HMS. Stakeholder meetings were held the 2nd and 3rd weeks of February in Auckland, Tauranga, Wellington and Westport. Comments were requested by 28 February 2003, and this was later extended to 7 March. In addition to feedback at meetings, 27 written submissions were received.
3. Feedback from the meetings and submissions has been analysed and considered in the preparation of this policy proposal. **Further meetings are scheduled for 31 March and 1 April**; see the final section of this paper for details. **Comments on this proposal are due Friday 11 April.**
4. This paper presents conclusions about the preferred management framework for HMS and identifies any legislative changes necessary to implement it. The paper also gives some preliminary indications regarding implementation issues such as timing of QMS introductions, Quota Management Area (QMA) boundaries, fishing years, etc. These implementation issues will be addressed more fully in the “s.18 consultation document” due out in late May, which is required prior to a Ministerial declaration on introductions into the QMS.

Management framework for HMS

Objectives for HMS management

5. Stakeholders generally agreed with the objectives for HMS management as proposed in the consultation paper of December 2002, but some requested more emphasis on seeking opportunities beyond the New Zealand Exclusive Economic Zone (EEZ). This objective statement will guide Ministry of Fisheries policy on HMS and will be submitted to the Minister for approval along with recommendations on the preferred management framework.
6. The revised objective statement is as follows (changes are in bold):

*To maximize the value that New Zealanders obtain through the sustainable utilisation of highly migratory species, **within the New Zealand EEZ and beyond**, by --*

- ***influencing** (i) the establishment of, and complying with, regional measures to ensure the sustainability of HMS stocks, (ii) **the***

determination of national allocations and (iii) the conditions of access for NZ vessels to other nations' EEZs, and

- *implementing arrangements to manage New Zealand's rights and responsibilities pertaining to highly migratory species,*

subject to --

- *ensuring the viability of associated or dependent species; avoiding, remedying or mitigating adverse effects of fishing on the wider aquatic environment; and complying with international obligations arising from agreements on biodiversity, fisheries management and related issues,*
- *providing for foreign licensed access as appropriate, and*
- *meeting the Government's obligations to Maori under the Deed of Settlement.*

QMS management of fish stocks

7. The Ministry has concluded that the Quota Management System (QMS) as it currently exists is the most appropriate framework to achieve the objectives stated above, and that for fishing within the New Zealand EEZ, tuna species should be introduced as soon as practicable. For fishing outside the EEZ, introduction into the QMS would in most cases not occur until later, generally when national allocations are determined. Some indications of the timing and detail of any introductions are given below, but decisions will need to be confirmed and prioritised with other fisheries management issues through the QMS introduction process and the associated s.18 consultation document.¹
8. Most submissions requested that, apart from southern bluefin tuna (SBT), the Ministry either maintain the status quo for HMS until national allocations are determined by regional agreement (option II in the December consultation paper), or use a 'modified QMS' to introduce species into the QMS without a total allowable catch (option V). Most stakeholders did not want the Ministry to constrain New Zealand catch of tuna species, either within the EEZ or beyond, prior to the determination of national allocations. However, many submitters noted the domestic management problems in the longline fishery associated with excess effort and competition. It was also noted that lack of certainty is contributing to under-investment by existing participants, e.g. continued reliance on small vessels that are unable to fish further offshore.
9. For fishing beyond the EEZ, the Ministry accepts the views expressed in submissions, that this fishing should generally not be brought into the QMS at this time (the one proposed exception is Pacific bluefin tuna, see paragraph 25 below). For fishing within the EEZ, however, the Ministry considers there are sound reasons to proceed to QMS introduction sooner rather than later. There are

¹ Under s.18 of the Fisheries Act 1996, "The Minister may from time to time, by notice in the Gazette, declare any stock to be subject to the quota management system on and from the first day of the fishing year stated in the notice." S.19 specifies the matters to be included in a s.18 notice: quota management areas, fishing year, measurement basis (greenweight or meatweight) and such other matters as may be contemplated by the Act.

distinct advantages of QMS management, and the main concern of submitters – that setting a Total Allowable Catch (TAC) would unnecessarily constrain catch – can be addressed. Setting of TACs is discussed further in paragraphs 34-36.

Benefits of QMS management

10. QMS introduction gives certainty to fishers as to what their share of the tuna species will be and allows them to plan for the future accordingly. Confirming the participants in the fishery would enable more rational development and improve compliance with formal and informal codes of fishing practice. Thus, QMS introduction is likely to provide security of access, reduce spatial competition amongst vessels, reduce seabird bycatch and improve economic returns by allowing the industry to focus on product quality.
11. Given the Minister's letter of 26 November 2002 announcing his intention to exclude catch after 30 September 2002 from catch history years for tuna, QMS introduction as soon as practicable will avoid a discrepancy developing between catch history years and involvement in the fishery at a later date. QMS introduction is also consistent with the Ministry's overall policy that where species require management intervention, the QMS, with any necessary adjustment, is the management framework of choice.
12. Some stakeholders suggested that setting TACs would assist New Zealand in negotiating its national allocations. As one submission put it, 'it is easier to defend a national allocation if you have already set a TAC'.

Modified QMS and other options

13. Some of the benefits of QMS introduction could be achieved through the 'modified QMS' option, i.e. without setting a total allowable catch (TAC). However, this would have little advantage beyond the announcement of catch history years, and would do little to control access to the fishery. Given the possibility that national allocations might not be determined for most tuna species for five or ten years, a 'modified QMS' approach would leave open the possibility of significant new entry by fishers who have little or no long term stake in the fishery. This would exacerbate existing uncertainty and other problems.
14. The Ministry considers there would not be practical means to avoid this happening under a modified QMS, and is confident that, under the standard QMS, the Minister will be able to set TACs that allow for further development of New Zealand catches within the EEZ where appropriate. This can include, where necessary, provision to increase the TAC during the fishing year if an abundance of a particular species enters the NZ EEZ in a given year.
15. There was little support from stakeholders for options such as a permit moratorium, transferable permits or effort entitlements. The Ministry agrees that these options have disadvantages. Permit moratoriums have not proved effective at limiting effort and effort controls are likely to be expensive to administer effectively. There was also little support for a cooperative company structure. The Ministry remains of the view that, over time, the industry will achieve best value through fisheries rights holders acting collectively. However, this outcome is impeded at present because rights are not specified adequately, industry lacks the capacity and incentives for collective action, and there are significant transaction costs. Collective action may emerge once rights are specified and confirmed via quota allocation. A cooperative company model would be difficult

to implement in the tuna fishery at this time, given the large number of fishers using different types of gear and with different mixes of species in their harvesting strategies.

QMS beyond the EEZ

16. Beyond the EEZ, there is scope for considerable expansion of New Zealand catch relative to existing levels. As long as New Zealand exercises reasonable restraint, it is able to expand its catch and position itself better for a larger national allocation under the Western and Central Pacific Fisheries Convention (WCPFC). The Ministry proposes to use the 'status quo then QMS' option for out-of-zone catch (except for SBT and Pacific bluefin tuna (TOR)). Once national allocations are determined, the QMS is the most appropriate framework for managing New Zealand's HMS allocations.

Proposals for specific species

17. Timing of actual introductions will be determined by the s.18 QMS introduction process. Based on initial consideration and feedback to date, the Ministry is able to give the following indications:
 - a. Southern bluefin tuna (SBT) and Pacific bluefin tuna (TOR), including fishing *both inside and beyond the NZ Exclusive Economic Zone (EEZ)*, would be introduced into the QMS as soon as practicable, i.e. on 1 October 2004.
 - b. Bigeye tuna (BIG) and swordfish (SWO) would also be introduced on 1 October 2004, for fishing *within the NZ EEZ*.
 - c. Yellowfin tuna (YFN), albacore (ALB) and skipjack (SKJ) *within the NZ EEZ* would be introduced into the QMS as soon as practicable thereafter. Priority for introduction will be confirmed in the QMS introduction process.
18. QMS introduction for BIG, ALB, SKJ, YFN and SWO *beyond the NZ EEZ* would be assessed against priorities for other species. For these other tuna species, the Ministry would, in general terms, expect to introduce fishing beyond the EEZ into the QMS when New Zealand's national allocation is determined by the WCPFC. They could be introduced earlier if justified by sustainability concerns, provided that intervention by New Zealand would make a material difference to sustainability.
19. **Oceanic sharks and other significant bycatch species** [blue shark (BWS), mako shark (MAK), porbeagle shark (POS), moonfish (MOO) and Ray's Bream (RBM)] are currently on the list for proposed introduction to the QMS and will be considered as part of the s.18 process. The Ministry has asked NIWA to report on the latest scientific information for oceanic sharks and other bycatch species. Generally, the Ministry would seek to introduce such species into the QMS when:
 - i. A national allocation for NZ is determined by the WCPFC;
 - ii. Sustainability concerns necessitate constraints on catch; or
 - iii. There is commercial interest within the NZ EEZ or other management issues arise that require attention.

20. HMS shark species will also be subject to a National Plan of Action (NPOA) for sharks that the Ministry of Fisheries will develop.
21. For non-HMS species such as seal shark (BSH), spiny dogfish (SPD) and other sharks and dogfish (OSD²) that occur infrequently in tuna bycatch, management decisions will be primarily based on the nature of the stocks and the status of other fisheries, and not on their interactions with tuna fisheries. These species remain on the schedule for QMS introduction in 2004.
22. In the case of all proposed introductions to the QMS, proposals must go through the s.18 consultation process and take into account the benefits and costs of QMS management.

Rationale for QMS management for each species

23. There is general agreement amongst most stakeholders that there is a race for catch for **southern bluefin tuna**, and that this is preventing New Zealand from maximising the benefits it could realise from this fishery. There was also general support for introduction of SBT into the QMS to remove the race for catch, which is the major problem in this fishery. None of the other management options under consideration are satisfactory. Status quo allows the race for catch to get worse, as does delaying introduction into the QMS. A permit moratorium would perhaps reduce the number of new entrants but would not solve the underlying problem.
24. A 'modified QMS' is not an option for SBT because New Zealand has a national allocation and therefore if SBT were in the QMS it would need to have a TAC. Transferable effort entitlements would entail higher administrative costs and lack of transferability across gear types, and are not preferred by most stakeholders for those reasons. The co-operative company model would address the race for catch, but would be difficult to implement at present because of the large number of fishers and diverse interests in the fishery.
25. **Pacific bluefin tuna** occurs only sporadically in the NZ EEZ. Given the difficulty of distinguishing between SBT and Pacific bluefin and the potential for misreporting, the Ministry considers these species should be introduced into the QMS at the same time.
26. In recognition of the fact that most of the catch previously reported as northern bluefin (NTU) was likely to have been TOR, the Ministry proposes that catch reported against both species codes apply for the determination of catch history for TOR.³ The code NTU would be retained as a separate species but, as it is

² OSD is a combined code for sharks and dogfish that has 2,453 landing records. Administratively, it would be easiest to introduce all sharks and dogfish into the QMS together so that these landing records could be reviewed once, thus reducing the likelihood of errors.

³ Northern bluefin tuna was until recently considered to have two sub-species, northern bluefin, found in the Atlantic and Indian Oceans, and Pacific bluefin, found in the Pacific Ocean including the New Zealand EEZ. Anecdotal information suggests that northern bluefin tuna may also occur in the EEZ. Prior to June 2001, the catch of Pacific bluefin was reported against the northern bluefin code (NTU) and since catches could not be distinguished from those of southern bluefin tuna, they were counted against the annual catch limit for southern bluefin tuna. The latter requirement was considered necessary to maintain the integrity of the catch limit for southern bluefin tuna because of the difficulty in separately identifying bluefin species. In 2001, based on NIWA advice, MFish accepted that Pacific bluefin tuna and northern bluefin tuna were in fact two separate species and that identification techniques were sufficiently robust to allow separate management of all three species of bluefin. A separate reporting code for Pacific bluefin tuna (TOR) was advised to fishers in June/July 2001 and the

rarely found in the Pacific Ocean, this species is not proposed for QMS introduction at this time. The Ministry would monitor NTU landings to ensure accurate reporting. These arrangements would need to be confirmed through the s.18 QMS introduction process.

27. **Bigeye tuna** is the main target species in the mixed tuna longline fishery. Once SBT is in the QMS and effort for that species is rationalised, more boats might seek to target bigeye. Based on current availability, there appears to be little scope for expanding the overall catch of bigeye within the EEZ. The overcrowding in the longline fishery would get worse if new vessels continued to enter the fishery without some constraint. On the other hand, some stakeholders suggested that, once SBT is in the QMS, some fishers would choose to exit the industry and overcrowding in the mixed tuna fishery would be less of a problem. On balance, the Ministry considers that it is better to manage bigeye within the QMS, avoiding excess effort and further overcrowding and providing certainty to fishers.
28. **Yellowfin tuna** is mainly secondary target or bycatch in the longline fishery and also occurs in the tuna troll fishery. There appears to be little scope for expanding the overall catch of yellowfin within the EEZ because it is taken primarily as bycatch in other tuna fisheries. The Ministry considers that the QMS is the best option for yellowfin. Due to resourcing issues, the Ministry is not proposing to introduce yellowfin in 2004, but will propose this species for QMS introduction within the EEZ as soon as practicable thereafter, i.e. as other priorities and resources allow.
29. **Albacore** form the basis of a summer troll fishery in New Zealand, primarily off the west coasts of the North and South Islands, and are also caught throughout the year by longline. Although there is some scope for expansion of catch within the New Zealand EEZ, this expansion can be accommodated within a TAC and the Ministry considers that on balance this fishery is best managed within the QMS. Timely introduction will provide certainty to those involved in the fishery, who will be able to expand their catch within a TAC set by the Minister. The Ministry will propose QMS introduction of albacore within the EEZ as soon as practicable.
30. **Skipjack tuna** are caught primarily by purse seine vessels. As for ALB, and for the same reasons, the Ministry considers that on balance this fishery is best managed within the QMS even though there is some scope for expansion of catch within the New Zealand EEZ. The Ministry will propose QMS introduction of skipjack within the EEZ as soon as practicable.
31. For **bigeye, yellowfin, albacore** and **skipjack**, the Ministry proposes to leave out-of-zone fishing outside the QMS until a national allocation is determined or there are other reasons to introduce a species into the QMS.
32. **Swordfish** are taken in the longline fishery. There are no commercial permits to target swordfish, but there is evidence of some commercial fishers targeting the species. For all longline vessels, swordfish is an important component of a financially viable fishery, and there are commercial fisheries for swordfish on the high seas and in other nations' EEZs. The Ministry considers it appropriate to

reporting code NTU was retained for the event that some catch of northern bluefin tuna has probably occurred. In June 2002 the requirement to count catch of NTU against the catch limit of southern bluefin tuna was removed from regulation.

acknowledge the commercial potential of this species to ensure that New Zealand's long term interests are protected by maintaining catch history for this species. This does not preclude, however, setting the TAC or using other mechanisms to ensure appropriate recreational access to swordfish. The Ministry considers that the current situation should be resolved as soon as possible, and proposes to introduce swordfish to the QMS on 1 October 2004. Quota will be allocated based on the legislated 1990-92 catch history years. The Ministry proposes to leave out-of-zone fishing for swordfish outside the QMS until a national allocation is determined or there are other reasons to introduce it.

33. **Sharks and other bycatch species** will be considered for QMS introduction through the s.18 process. As noted in paragraph 19, some sharks and other species are currently under consideration for introduction on 1 October 2004. Francis et al (2000) reported that, considering the decline in fishing effort around New Zealand, the low New Zealand shark catches compared with those elsewhere in the Pacific Ocean, and the characteristics of the species, it is unlikely that New Zealand's tuna longline fishery is seriously affecting the stocks of blue, porbeagle, and mako sharks⁴. Note, however, that evidence of NZ shark catches is based primarily on observer coverage of the charter boat fleet; there is very low coverage of the smaller but much more numerous NZ-owned vessels that operate in northern waters where sharks are more common.

Setting of Total Allowable Catch (TAC)

34. For SBT, the Total Allowable Catch (TAC) would be based on New Zealand's national allocation from the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), currently set at 420 tonnes. This would involve adding SBT to the Third Schedule of the Fisheries Act 1996 (FA96).
35. For other highly migratory species in the QMS, consideration would be given to adding to the Third Schedule any species for which it is not possible, due to biological characteristics, to estimate maximum sustainable yield, e.g. because it is highly migratory and the QMA only includes the NZ EEZ. This would allow the Minister to use section 14 to set an alternative TAC that he considers appropriate to achieve the purpose of the FA96.
36. If a species were added to the Third Schedule then, unless there were a national allocation or other sound reasons to constrain catch, the Ministry would generally recommend that the Minister set a TAC based on the amount reasonably available to be fished within the EEZ, taking into account historical catch while also mitigating against the potential for excessive effort and/or overcapitalisation in the fishery. Once a TAC was set, the Minister could consider using s.14(6) of the FA96 to increase the TAC temporarily during the season if more fish than expected were available that year, provided this was consistent with other constraints, e.g. protecting associated species.

Management zones

37. Quota management areas (QMAs) will be proposed through the QMS introduction process, i.e. as part of the s.18 consultation. If fishing within the EEZ is introduced into the QMS first, then one or more additional QMAs would normally

⁴ M Francis, L Griggs, S Baird, T Murray, and H Dean, *Fish bycatch in New Zealand tuna longline fisheries 1988-89 to 1997-98*, NIWA Technical Report 76, 2000.

be created when out-of-zone fishing was introduced (e.g. when a national allocation was determined). If a reduction in overall New Zealand catch were required to fit within our national allocation, it is proposed that in-zone quota and out-of-zone provisional catch history would be reduced pro-rata by the same percentage.

38. In-zone and out-of-zone QMAs could be merged into a single QMA in accordance with ss.25, 25A and 25B of the FA96. This could be considered after out-of-zone fishing was introduced into the QMS, based on the circumstances at the time.

Allocation issues

Allocation to Maori

39. For all introductions of stocks into the QMS, 20% of the initial TACCs would be allocated to Maori. For SBT, those with provisional catch history would be subject to equal pro rata reductions and would receive compensation as per the 4th Schedule to the Fisheries Act 1996 (FA96). Depending on the amount of “headroom” between historical catches and the likely TACC, there might not need to be significant reductions in provisional catch history to accommodate the 20% allocation to Maori.
40. New Zealand’s national allocation for SBT is based on fish that were caught within the NZ EEZ, so there is little doubt that, as a matter of principle as well as of law, 20% of the entire TACC should be allocated to Maori. The Ministry is aware that for other species, there are differing views about whether Maori should receive 20% of any quota that is allocated based on catch outside the NZ EEZ. The Ministry’s considers that the Deed of Settlement encompasses *all* introductions to the QMS, regardless of whether the quota is for fish caught within or beyond New Zealand fisheries waters.

Catch history years for tuna and other species

41. Submissions expressed a wide range of preferred catch history years for tuna. Some stakeholders suggested the entire period from 1990 to 2002, some suggested the five years ending in 2002, and others suggested that only the most recent one, two or three years be used. The Ministry proposes to recommend to the Minister that fishers be allowed to choose their best 12 consecutive months out of the period from 1 October 1997 to 30 September 2002. This takes into account the substantial number of new tuna fishing permits issued in recent years and the variability of HMS catch from year to year. As provided for in the FA96, fishers would be allowed to choose different 12-month periods for different species.
42. Except for SBT and TOR, these catch history years would apply to within-EEZ fishing only. In other words, the Ministry would recommend to the Minister that he postpone setting catch history years for out-of-zone catch for all species except SBT and TOR. However, the Ministry would recommend that the Minister announce that catch history years yet to be determined would be used to allocate quota for out-of-zone catch of tuna species, for any such catch included in New Zealand’s national allocation determined by a regional fisheries management organisation (RFMO).
43. For swordfish, catch history years are those specified in the FA96, i.e. a fisher can choose 12 consecutive months in the period from 1 October 1990 to 30 September

1992. The same years will apply to oceanic sharks and other bycatch species if and when they are introduced into the QMS. The catch history years for these species are set in the FA96 and the Government does not intend to change these. To address tuna fishers' need for bycatch quota when these species are introduced into the QMS, including for swordfish, the Ministry proposes to sell any excess quota held by the Crown after the initial allocation based on catch history.

Eligibility criteria

44. The Ministry proposes to utilise the process and eligibility criteria as set out in ss.32, 34 and 35 of the FA96. The eligibility criteria are as follows (these are not to be relied upon as a legal definition; please refer to the precise wording of the legislation). A person is eligible to receive quota if:
- a. The person held, at any time during any of the qualifying years, a commercial fishing permit that authorised the holder to take the stock, as per s.32(a)(iii); and
 - b. The person, in the criteria years, lawfully reported tuna catch to the Ministry by 15 October following the close of the applicable year, as per s.32(2)(a). To generate catch history, fish must have also been lawfully taken and lawfully reported as landed or otherwise lawfully disposed of by a person eligible to receive provisional catch history – see s.34(2); and
 - c. The person holds a permit on the date that the Minister declares the species to be subject to the QMS, as per s.35(1)(b)(ii)(A). A person who does not meet this test but would otherwise be eligible may transfer their provisional catch history to another person subject to s.36(2)(b).
45. When the Minister declares a tuna species to be subject to the QMS, the Ministry must determine each permit holder's lawful catch. This involves reviewing permit holders' catch records and will focus on identifying errors or other instances of misreporting. In general, where a catch return was filed late but was in all other respects correct, the Ministry is unlikely to consider the lateness alone as a reason for determining that catch was unlawful. Note, however, that s32(a)(iii) of the FA96 excludes any catch returns filed after the 15th October following the close of the qualifying year from the definition of “eligible returns”.

Foreign licensed fishing

46. Part V of the Fisheries Act 1996 and the Fisheries (Foreign Fishing Vessel) Regulations 2001 govern foreign licensed access to New Zealand's EEZ. As explained in the consultation paper, Part V as currently worded would not work very well for any HMS in the QMS and has some problematic aspects even for species not in the QMS. The consultation paper proposed different approaches for QMS and non-QMS species. After further consideration, the Ministry now proposes to use the same approach for both.
47. It is proposed that foreign licensed access to fish for highly migratory species in New Zealand's EEZ would be allowed if –
- a. The Minister considers it would be consistent with optimum utilisation of fish available within the New Zealand EEZ, **and**
 - b. The vessel would operate in accordance with, and not undermine, any conservation or management measures established by an RFMO (e.g.

where national allocations exist, it must be fishing against the allocation of a member of the RFMO and complying with all corresponding rules and conditions set by the state authorising its fishing activities).

48. As provided for under UNCLOS Article 62(3), the Minister would also take into account other relevant factors. In particular, the Minister could condition foreign access in terms of volume taken or areas fished in order to avoid undue interference with fishing activities of New Zealand fishing vessels. As far as allowed by international agreements, the Ministry's intention would be to treat domestic and foreign licensed vessels in a consistent fashion. In some cases this will be achieved through mechanisms established under RFMOs.
49. For HMS stocks only, these provisions would replace the existing provisions in the FA96 regarding foreign allowable catch.

Charter vessels

50. Given the degree of comment in stakeholder meetings and in submissions regarding charter vessels, some clarification is required. Charter vessels are employed by New Zealand companies in many fisheries, not just tuna, and once registered under s103 of the FA96 are considered New Zealand fishing vessels.
51. Current conditions for foreign-owned New Zealand tuna longline vessels include a prohibition on fishing within the Auckland Fisheries Management Area between 1 October and 31 May and a general prohibition on fishing within New Zealand's territorial sea. Further, all fish taken in New Zealand waters must be landed in New Zealand unless the prior approval of the Chief Executive has been obtained.
52. There is no special allocation to charter vessels and there is currently no limit on domestic vessels' catch of SBT other than the total commercial catch limit (CCL) of 420 tonnes. Rather, the charter vessels have volunteered that they will catch *no more than* a specified amount (which has been gradually reduced in recent years). All vessels fish against the regulatory catch limit until it is taken.

Other issues

Fishing in other nations' EEZs

53. How New Zealand manages fishing in other nations' EEZs will depend upon how the RFMOs decide to approach this issue. If, once national allocations have been made for a species, each government became responsible for the catch by its vessels regardless of where the catch is taken, then catch by NZ vessels in other nations' EEZs would be reported against NZ quota and its national allocation. On the other hand, if the coastal state (i.e. the country in whose EEZ a NZ vessel was fishing) were responsible for fish caught within its zone, such fish would not be reported against NZ quota and allocation unless specific agreement had been reached with the NZ government.
54. At present, this issue only arises for SBT because it is the only HMS for which New Zealand has a national allocation. Coastal states are responsible for any fishing within their zones. New Zealand would consider requests by other coastal states (and from NZ vessels) for NZ vessels to fish in their zones and report the catch against NZ quota. For species being managed in the QMS, such requests would be approved if the coastal state had adequate compliance measures in place and was, in the Minister's judgment, fully complying with regional management

measures. Prior to species being managed in the QMS, any such request would be considered in light of the purpose of the FA96 and any other relevant matters.

Cost recovery

55. HMS fish stocks would be subject to normal cost recovery levies as per existing Ministry policies. This means that, apart from existing charges, fishing beyond the EEZ would not be subject to further cost recovery until such time as a particular species was managed within the QMS. However, note that a review of the Ministry's policy on cost recovery is due to be initiated in 2003-04.

Fishing year

56. A few stakeholders suggested changes to the fishing year for SBT, but at this stage the Ministry sees no compelling reason to move away from a 1 October fishing year. Although the CCSBT generally meets in November, any increases to New Zealand's national allocation could be reflected in the TAC using s.14 of the FA96. It should be noted that increases of the CCSBT catch limit seem unlikely in the foreseeable future. There will be further consultation on the fishing year for tuna species in the s.18 consultation paper.

Scientific information

57. There is a need for more information to support HMS management. In recent years, observer coverage has been very low in the domestic surface longline fleet, and has been absent in the tuna troll and purse seine fisheries. This has caused difficulties in making accurate estimates of mortality of sharks and other bycatch in New Zealand's HMS fisheries.

58. Better understanding of fish biology and stock assessment is required for HMS stocks as well, especially for swordfish and sharks that occur frequently in the tuna bycatch. The nature of HMS stocks suggests that such research is best done under the auspices of the WCPFC, where in fact a research programme has been initiated even though the Commission will not be formally established until the associated convention enters into force. However there may be a case for New Zealand to conduct its own research on swordfish given some evidence from overseas of the potential for localized depletion of this species.

Changes to the Fisheries Act 1996

59. Most elements of the proposed management approaches could be accomplished under existing law. For example, the Ministry intends to declare the QMA for SBT to extend beyond the EEZ, though of course this would apply only to NZ fishers. Alternatively, using conditions on fishing permits, all fish caught on the high seas or in other national EEZs could be deemed caught inside the EEZ for the purposes of the QMS or a similar regime. Out-of-EEZ catch could be counted against New Zealand quota and the TAC (this has been done previously for orange roughy on the Westpac Bank, adjacent to FMA 7). This would not remove the need for a high seas fishing permit in such circumstances.

60. However some arrangements will need to be explicitly provided for via legislation. Changes to the FA96 might include provisions to:

- a. Confirm that the QMS can extend beyond the EEZ in the absence of international agreement and determination of national allocations;

- b. Amend s.14 to ensure that, where the QMS has been extended beyond the EEZ as per (a), an alternative TAC can be set. (It might be biologically possible to determine a maximum sustainable yield, but it would make no sense to use this as the New Zealand TAC.) This would also enable TAC increases during the fishing season using s.14(6);
- c. Amend s.34(2)(b) to provide for out-of-zone catch history for species in addition to SBT; and
- d. Revise provisions for foreign licensed access to HMS stocks.

Process from here

61. Following this consultation process, the Ministry will advise the Minister of Fisheries on the preferred management framework for HMS. If the QMS were confirmed as the preferred approach, specific proposals for QMS introductions would be included in the “s.18 consultation” document due out in May. The s.18 document will discuss proposed QMA boundaries, fishing year, and benefits and costs of introduction into the QMS, among other things. If the Minister decides to proceed with introduction of a given species into the QMS, a statutory declaration would typically be made 12 months prior to introduction, e.g. by 1 October 2003 for introductions taking effect on 1 October 2004.
62. In addition, legislative changes are likely to be necessary to implement some of the decisions regarding HMS management. The Ministry now considers that such amendments do not need to be made prior to the s.18 declaration, and therefore is aiming to have legislation introduced during 2003 and enacted in 2004. Any proposed legislative amendments would be open for submission to the Select Committee, probably early in 2004.

Stakeholder meetings and request for comments

63. The following meetings have been scheduled to discuss these proposals.

Auckland	Monday 31 March 10.00am - 12.30pm	Hotel Grand Chancellor (Auckland Airport) corner of Kirkbride & Ascot Roads
Tauranga	Monday 31 March 7.00 - 9.30pm	Hotel Armitage corner of Willow and Park Streets
Wellington	Tuesday 1 April 10.00am - 12.30pm	Terrace Conference Centre, Level 3 114 The Terrace (St John’s House)
Westport	Tuesday 1 April 2:15 – 4:45pm	Westport Motor Hotel Palmerston Street

64. The Ministry of Fisheries requests comments on these proposals by **Friday 11 April 2003**. Comments can be sent to HMS Project, c/o Policy and Treaty Strategy, Ministry of Fisheries, PO Box 1020, Wellington; fax 04-470-2586; or email: hms@fish.govt.nz.