

REVIEW OF HIGH SEAS FISHING PERMITS - FINAL ADVICE

Executive Summary

- 1 A High Seas Fishing Permit (HSFP) is a mechanism for managing New Zealand vessels fishing and the effects of those vessels fishing on the aquatic environment of the High Seas. A HSFP permits and controls the taking and transporting of fish on the High Seas. Any fishing and transporting of fish undertaken pursuant to a HSFP must comply with the conditions of that fishing permit and with relevant regulations made under section 297 of the Act (section 113J of the Act).
- 2 There has been a steady incremental increase in the number of generic and administrative conditions used since 2001. The HSFP has become inefficient to administer, may be confusing to commercial fishers and may not provide sufficient certainty. The general rules that will pertain to High Seas fishing each fishing year need to be more clearly identifiable. In addition, MFish seeks to increase the certainty of its legal framework relating to High Seas measures. This will also provide greater certainty that New Zealand is fulfilling its international obligations.
- 3 An Initial Position Paper (IPP), released on 3 March (and revised on 14 March) considered options to achieve this. The IPP outlined proposals to either retain the status quo HSFP conditions (Option One) or to move some HSFP conditions into regulations (Option Two). No other management controls were proposed. These proposals were not intended to change any management measures but simply to change the means of implementing them.
- 4 Submissions support moving some HSFP conditions into regulations as proposed by Option Two. Accordingly, this paper proposes that you agree to promulgate the Fisheries (High Seas Reporting) Regulations and/or the Fisheries (High Seas Fishing) Regulations by 1 October 2008 as appropriate and place in regulations those HSFP conditions that are generic, and unlikely to change from fishing year to fishing year.
- 5 Adopting Option Two would not impact on any current High Seas management measures. There will be a loss of flexibility in the ability to quickly change any measures when these are implemented by regulations. However MFish does not anticipate the need for routine or regular change to generic conditions. Further a number of generic conditions already refer to regulations which apply to High Seas fishing through these conditions. More direct application of the regulations is preferred. Rules pertaining to High Seas fishing will be subject to increased legal certainty when implemented by regulations.

The Issue

- 6 Current HSFP conditions implement sustainability and other management controls on the High Seas, and may be characterised into two categories.
- Conditions that are generic and administrative (the definitions and general conditions of the current HSFP were listed in Appendix Two of the IPP);
 - Conditions to implement specific Regional Fisheries Management Organisation measures to which New Zealand is a party. HSFP conditions are likely to remain the preferred means of implementing any international conservation and management measures subject to change in the short term, or requiring early implementation. Accordingly as discussed further in the IPP, this category of HSFP condition is not proposed for inclusion into regulations at this time.
- 7 Despite a recent review of permit conditions, the section containing the generic conditions now numbers 12 of the 15 pages making up the HSFP. The HSFP is inefficient to administer, may be confusing to commercial fishers and may not provide sufficient certainty. Stakeholders request greater clarity of HSFP conditions. MFish also seeks to improve the certainty of the legal framework for High Seas measures.

Summary of Options

Initial Proposals

- 8 The IPP proposed the following options:
- a) **Option one** - status quo:
- The status quo option is to administer sustainability and management controls on the High Seas by HSFP. Commercial fishers would continue to be subject to and need to comply with all permit conditions during the term of the HSFP. The status quo has incorporated improvements to simplify, clarify and remove redundant provisions that came into effect with revised HSFPs issued on 1 April 2008.
- b) **Option two** - Place generic and administrative measures in regulation
- Option Two proposes to identify those HSFP conditions suited for implementing by regulation. Considered suitable for inclusion in regulations are those conditions that are purely administrative and/or generic in nature and unlikely to change each fishing year. Such HSFP conditions would be implemented by regulations on 1 October 2008 and subsequently removed from the HSFP. Option two will require a set of Fisheries (High Seas Fishing) Regulations 2008, and/or amendment to the Fisheries (Reporting) Regulations 2001.
- 9 The IPP identified Option Two – to place measures in regulations – as the preferred option.

Final Proposal

- 10 MFish recommends that you agree to recommend the promulgation of the Fisheries (High Seas Reporting) Regulations 2008 and/or regulations specific to reporting requirements outside of New Zealand fisheries waters - the Fisheries (High Seas Fishing) Regulations 2008 - by 1 October 2008 and as appropriate place in regulations HSFP conditions that are generic and unlikely to change from fishing year to fishing year (Option 2). Draft regulations are contained in Appendix A of this FAP

Consultation

- 11 MFish considered that the proposed changes to the Fisheries Regulations as proposed in Option Two fitted within the relevant provisions of section 297.
- 12 MFish consulted with stakeholders in accordance with section 12 (1) (a) and (b) of the Fisheries Act 1996. The IPP was sent out in hard copy to a standard list of stakeholders and posted on the MFish website at www.fish.govt.nz/en-nz/Consultations/Under+Review. Stakeholders had between 5 May 2008 (14 May for a revised version that contained more up to date generic permit conditions) and 23 April 2008 to make any submissions.

Submissions Received

- 13 MFish received written submissions from Sanford Limited and the New Zealand Seafood Industry Council Ltd (SeaFIC).

MFish Discussion

- 14 Sanford Limited and SeaFIC both support Option Two.
- 15 Sanford Limited submits that adopting Option Two will provide clarity surrounding the permit conditions, ensuring there is flexibility for applying for amendments to permit conditions. The reduction in duplication of reporting by commercial fishers is supported. Sanford Limited refers you to the SeaFIC submission for further details as Sanford was involved in the preparation of the SeaFIC submission and supports its views.
- 16 SeaFIC supports Option Two, subject to the reservations and conditions expressed below.
- 17 Although SeaFIC supports adopting Option Two it considers that the separation of conditions into separate regulations and schedules will not decrease the complexity of the regulations or make them easier for fishers. The submission notes that the penalty regime for breaches of conditions will change. It submits breaches of regulations generally incur higher penalties than do breaches of HSFP conditions. SeaFIC also notes it is easier to amend permit conditions than regulations, but that this should not cause substantial difficulties.
- 18 MFish accepts that changing the means of implementing measures may not in itself make the measures any easier for fishers to understand. However as discussed in the IPP, the advantage of implementing measures in regulation is

that the requirements are generally available to the public. This leads to greater availability and transparency of information. In addition, regulations will likely provide increased certainty to fishers as to what general conditions are applicable for each fishing year.

- 19 No decision has yet been made on a penalty scale applicable to offences committed against the provisions of any regulations relating to High Seas fishing. Scales may be tailored to provisions and it is not necessarily true that breaches of regulations incur higher penalties than breaches of fishing permit conditions.
- 20 MFish agrees with the SeaFIC submission that regulations will be more difficult to amend than permit conditions, but also agrees that this should not provide substantial difficulties. MFish does not anticipate the need for routine or regular change to generic conditions.
- 21 SeaFIC support for the proposal is further conditioned by:
- confirmation that the Ministry does not intend to introduce new or amend existing management controls by this process;
 - the need for full and proper consultation on the wording of the regulation to give effect to the proposal;
 - the need for full and proper consultation on the wording of any obligations arising from the RFMO agreements; and
 - confirmation from the Ministry that the absence of an RFMO relating to a High Seas area for which a HSFP is sought will not become a default setting for the refusal of a permit.
- 22 MFish intends to ensure separate consultation occurs as and when new HSFP conditions are imposed.
- 23 The issue of a default setting for the refusal of a High Seas fishing permit is outside the ambit of proposals being considered in this paper.

Rationale for Management Options

- 24 Key factors when considering options to improve the mechanisms for managing New Zealand vessels fishing on the High Seas are:
- The need to improve certainty to ensure that commercial fishers understand and comply with measures pertaining to the High Seas;
 - The certainty of the legal framework used to implement measures;
- 25 Additional factors include:
- The need for greater clarity and simplicity of the means to implement management measures;

- The need for flexibility and ease of implementing measures;
- The utilisation of fisheries resources while ensuring sustainability.

Assessment of Management Options

- 26 A review undertaken prior to April 2008 has improved the clarity of HSFPs, but not reduced the size of the HSFP substantially. Adopting Option Two would significantly reduce the size and complexity of the current HSFP, and make it more user friendly. The regulations proposed under Option Two would also make the information more readily available to the public. Regulations will likely provide increased certainty to fishers about the general controls for high seas fishing. Further a number of generic conditions already refer to regulations which apply to High Seas fishing through these conditions. More direct application of the regulations is preferred.
- 27 MFish proposes one change to the proposal outlined as Option two. That is if amended reporting regulations are required then these should be contained in regulations specific to catch taken outside of New Zealand fisheries waters. The advantage of this approach is that it would avoid any unintended consequences that may occur with the overlap of reporting requirements such as when a reporting requirement for New Zealand fisheries waters was not applicable to High Seas fishing.
- 28 MFish considers that the proposals are unlikely to have significant impacts on HSFP holders because no changes to management measures are proposed. Changes relate only to the mechanism of implementation.

Option 1 – Status Quo

Impact

- 29 The current generic HSFP has been in use since 2001. During this time there has been a substantial increase in the number of new HSFP conditions. A recent review has improved the wording of HSFP conditions but not reduced the size of the HSFP substantially. HSFP holders are generally familiar with the operation of the regime, although the current permit may be cumbersome to use.

Costs

- 30 The current HSFP has an unwieldy number of administrative and or generic conditions. The major disadvantage of retaining the status quo is the uncertainty around commercial fishers' ability to interpret and understand what is required to comply with all HSFP conditions because of the HSFP's cumbersome nature.

Benefits

- 31 An advantage of the *status quo* is the ease and flexibility of implementing any new measures required to control high seas fishing. In addition, HSFP holders are generally familiar with what is required, although not necessarily clear. Fishers can refer to a single, albeit increasingly large and complex, document

in order to comply with the current HSFP conditions. HSFP holders may find interpretation of the HSFP is easier since amended HSFP were issued on 1 April 2008.

Option 2 – Place generic and administrative measures in regulation

Impact

- 32 Option Two proposes to identify conditions that are generic, and unlikely to change in the medium term and place these in regulation by 1 October 2008. Accordingly Option two will require new High Seas fishing regulations.
- 33 As with the other option, adopting Option Two would not impact on any management measures. There will be a loss of flexibility in the ability to quickly change any measures implemented by regulations. However, MFish does not anticipate the need for routine or regular change to generic conditions. Rules pertaining to High Seas fishing will be subject to increased legal certainty when implemented by regulation.

Costs

- 34 There might be an inconvenience cost associated with the requirement for HSFP holders to comply with two sets of non-overlapping rules ie regulations and HSFP conditions. If Option Two was adopted there would be a set of regulations (although these would only pertain to generic measures for the High Seas) and a set of HSFP conditions (in general these would pertain towards implementing specific RFMO measures).
- 35 Compliance with regulations and the remaining HSFP conditions would remain part of routine compliance inspections. MFish does not propose additional compliance effort is necessary as proposals are not intended to change or add any management measure but simply to change the means of implementing them.

Benefits

- 36 MFish prefers this option because it best meets the requirement to implement effective sustainability and other management controls on New Zealand's fishing vessels operating on the High Seas. This option addresses the need to improve certainty that commercial fishers understand and comply with measures, the need for greater clarity and simplicity of the means to implement management measures on the High Seas and the need for greater efficiency in the HSFP application/issuing process.
- 37 There is also value in placing generic conditions in regulation because of the increased availability and transparency that comes from having the requirements generally available to the public. Further, a number of generic conditions already refer to regulations which apply to High Seas fishing though these conditions. More direct application of the regulations is preferred. This will also provide a better framework for catch reporting should new species be introduced into the Quota Management System outside of New Zealand fisheries waters. Those HSFP conditions retained will become more

tailored to implementing international conservation and management measures and it is likely to be easier for commercial fishers to understand and adhere to these more specific conditions.

Other Management Controls

- 38 No other management controls are proposed. These proposals are not intended to change any management measure but simply to change the means of implementing them.

Statutory Considerations

- 39 In reviewing the appropriateness of proposals outlined in this FAP, the following statutory criteria apply. Under the Fisheries Act 1996 (FA96):
- 40 **Section 5(a)** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96 to act in a manner consistent with New Zealand's international obligations relating to fishing.
- 41 New Zealand is a party to certain international conservation and management measures which have relevance for high seas fishing. These include but are not limited to measures adopted by the WCPFC, CCSBT, CCAMLR, SIOFA, and SPRFMO negotiating parties.
- 42 **Section 5(b)** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96 to act in a manner consistent with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
- 43 MFish considers that the proposals are consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
- 44 **Section 8** - The purpose of the FA96 is to provide for the utilisation of fisheries resources while ensuring sustainability. Ensuring sustainability means maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations and avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment. 'Utilisation' means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic and cultural wellbeing
- 45 The proposed options outlined in this IPP include option 2 which is intended to improve the administration and compliance with sustainability measures and other management measures pertaining to the High Seas. Proposals should contribute to ensuring that the fishery is sustainable.
- 46 Improved administration, certainty and compliance with High Seas measures is likely to better enable people to provide for their social, cultural and economic wellbeing. Particularly of relevance is the economic wellbeing of fishers since the species fished for by New Zealand vessels on the high seas can achieve high export prices.

- 47 **Section 9** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following environmental principles: (a) Associated or dependent species should be maintained above a level that ensures their long-term viability: (b) Biological diversity of the aquatic environment should be maintained: (c) Habitat of particular significance for fisheries management should be protected.
- 48 Fisheries on the High Seas occasionally catch sea birds turtles and other non-harvested marine life. There are also known detrimental impacts on the benthos from trawling. There are therefore potential impacts on associated and dependent species, biodiversity and protected species that require monitoring and possibly future management action. There are no known habitats of particular significance that will be affected by the proposals. MFish considers that the environmental principles set out in section 9 of the Act will be better met by option 2 with the likelihood of improved certainty that permit holders understand and comply with relevant management measures.
- 49 **Section 10** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following information principles:
- a) Decisions should be based on the best available information;
 - b) Decision makers should consider any uncertainty in the information available in any case;
 - c) Decision makers should be cautious when information is uncertain, unreliable or inadequate;
 - d) The absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of that Act.
- 50 There is uncertainty about the effectiveness and compliance of current HSFP conditions by permit holders. MFish considers that adopting measures as proposed in option 2, due to improved clarity and understanding of permit conditions would provide greater certainty in this regard than continuing with the status quo.
- 51 **Section 189** requires certain persons to keep accounts, records and provide to the CE such returns as may be required by or under regulations made under the FA96. Section 189(a) includes holders of fishing permits, special permits, licences or other authorities or approvals issued or granted under the FA96 entitling the holder to take fish, aquatic life, or seaweed by any method for any purpose. This includes commercial fishers fishing on the high seas.
- 52 **Section 297** empowers the Governor General to make regulations for certain purposes. This includes under s297(1)(a) to (xiii) which relate to regulating and controlling the taking, possession and processing of fish aquatic life or seaweed, including controls on methods, equipment and devices,

identification, storage and record keeping. (For more details see s297(1)(a) to (xiii) FA96).

- 53 Other section 297(1) criteria relevant to the proposals outlined in this IPP includes s297(1)(e) defining the vessels or classes or types of vessels to which any regulations are to apply; s297(1)(h) prescribing the accounts, records, returns, and information persons may be required to provide under the FA96; s297(1)(l) prescribing forms and other documents required for the purpose of the FA96; s297(1)(n) creating relevant offence provisions; s297(1)(y) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of the FA96 and for its due administration
- 54 **Section 297(1)(o)** enables the Governor General to make regulations implementing any provisions of, or giving effect to, New Zealand's relevant international obligations.
- 55 MFish considers that the proposals contained in the IPP have relevance to New Zealand implementing relevant international obligations pertaining to the High Seas.
- 56 **Section 297(2)** clarifies that regulations made under section 297 may apply in respect of New Zealand nationals and New Zealand ships when they are outside New Zealand fisheries waters.
- 57 **Section 113K(1)** empowers the chief executive to place conditions on high seas permit that he considers appropriate. The proposals outlined in this IPP include reference to current high seas permit conditions. It also has potential implications for future high seas fishing permits.

APPENDIX A: PROPOSED HSFP DEFINITIONS AND CONDITIONS TO BE PLACED IN REGULATIONS

Draft Fisheries (High Seas Fishing) Regulation

Definitions

Terms used in this permit have the same meanings as set out in section 2(1) of the Fisheries Act 1996 (The Act) unless otherwise stated below:

"FCC" means the Communication Centre of the Ministry of Fisheries in Wellington.

"High seas returns" means high seas trawl catch effort returns; high seas squid jigging catch, effort returns; high seas tuna longlining catch, effort returns; high seas lining catch, effort returns and high seas catch effort & landing returns.

"High seas trawl catch effort returns", "High seas squid jigging catch, effort returns", "High seas tuna longlining catch, effort returns", "High seas lining catch, effort returns", "High seas catch effort & landing returns" mean the forms that have been approved by the Chief Executive for that purpose.

"Landing" means the removal or discharge of fish, aquatic life, or seaweed from the vessel in respect of which this permit has been issued. A landing is also deemed to occur from the vessel when the vessel ceases to be registered or is re-registered under the Fisheries Act, for whatever reason and by whatever mechanism. Landing also means the disposal, or loss from the commercial fisher's possession, of fish that had been placed in a holding receptacle.

"Commercial fisher" means the holder of this high seas fishing permit issued under section 113H of the Act.

"Restricted areas" means areas defined in condition 48.1.

"Trip" means the movement of the vessel from a port and its return to that port or arrival at another port, whether the port is in New Zealand or elsewhere, for the purpose of taking or transporting fish, aquatic life, or seaweed pursuant to this high seas fishing permit.

"UTC" means Co-ordinated Universal Time.

“Written notice to FCC” means the transmission of the required information by means of either electronic mail (E-mail), or facsimile to FCC at the following address/number:

E-mail fcc@fish.govt.nz

Facsimile +64 4 801 5381

“Fishing”, “Sale” and “New Zealand Fisheries Waters” all have the same meaning as in section 2(1) of the Act.

GENERAL CONDITIONS

COMMUNICATIONS

- 2.1 The commercial fisher must ensure that a copy of all communications made to or received from FCC or any other New Zealand Government agency in relation to a trip are kept on board the vessel during that trip.
- 3.1 The commercial fisher must ensure that the master of the vessel has a sound written and spoken command of the English language.

Intention to leave port

- 4.1 When leaving on a trip, the commercial fisher must ensure that written notice to FCC of the following matters is provided no less than five working days prior to the departure of the vessel from a port:
- a) name of high seas fishing commercial fisher;
 - b) vessel name;
 - c) international radio call sign;
 - d) name of vessel master;
 - e) intended date and time of departure from port (using UTC);
 - f) port of departure (including state and country, if outside New Zealand);
 - g) species, weight and state of fish, aquatic life or seaweed (if any) on board the vessel at the time of departure from port;
 - h) species, weight and state of bait (if any) on board the vessel at the time of departure from port;

- i) area and species intended to be fished on trip;
- j) intended method of fishing on trip;
- k) proposed date of arrival at any port;
- l) name of port of arrival (including state and country, if outside New Zealand); and
- m) specify that UTC is being used.

5.1 The commercial fisher must ensure that written notice to FCC is provided immediately if any details reported under condition 4.1 change at any time prior to or during a trip.

Notification of entry to/exit from New Zealand fisheries waters, any foreign fishing jurisdiction, or any restricted area

6.1 When on a trip, the commercial fisher must ensure that written notice to FCC of the following matters is provided no later than 24 hours prior to the vessel's entry to or exit from New Zealand fisheries waters, or any restricted area, including when transiting:

- b) name of the high seas fishing commercial fisher;
- c) vessel name;
- d) international radio call sign;
- e) estimated date, time and position of crossing the boundary (using UTC);
- f) estimated time, date and position of exit from New Zealand fisheries waters, if entering New Zealand fisheries waters to transit (using UTC); and
- g) specify that UTC is being used.

6.2 When on a trip, the commercial fisher must ensure that written notice to FCC of the following matters is provided immediately on the vessel's entry to or exit from New Zealand fisheries waters, or any restricted area, including when transiting:

- a) name of the high seas fishing commercial fisher;
- b) vessel name;
- c) international radio call sign;
- d) date, time and position of crossing the boundary (using UTC);

- e) estimated time, date and position of exit from New Zealand fisheries waters, if entering New Zealand fisheries waters to transit (using UTC); and
- f) specify that UTC is being used.

6.3 When on a trip, the commercial fisher must ensure that written notice to FCC of the following matters is provided immediately on the vessel's entry to or exit from any foreign fishing jurisdiction, including when transiting:

- g) name of the high seas fishing commercial fisher,
- h) vessel name,
- i) international radio call sign,
- j) date, time and position of crossing of boundary (using UTC), and
- k) specify that UTC is being used.

Notification of intention of entry to port

7.1 When on a trip, the commercial fisher must ensure that written notice to FCC of the following matters is provided no later than 48 hours prior to the arrival of the vessel in any port (New Zealand or elsewhere):

- l) name of the high seas fishing commercial fisher;
- m) vessel name;
- n) international radio call sign;
- o) estimated date and time of arrival in port (using UTC);
- p) intended port of call (including state and country, if outside New Zealand);
- q) an estimate of the species, weight and state of aquatic life on board the vessel;
- r) an estimate of the date and time of commencement of unloading (if any) (using UTC);
- s) an estimate of the species, weight and state of aquatic life to be landed (if any);
- t) if landing at a port outside New Zealand fisheries waters, the date of issue of the approval granted under condition 20.1 of this permit; and
- u) specify that UTC is being used.

OBSERVERS

- 8.1 The commercial fisher must meet all the costs arising from the carriage of an observer(s) if requested to do so by the Chief Executive.

INSPECTION

- 11.1 The commercial fisher must ensure that the vessel must be examined by a fishery officer or observer prior to the vessel departing from a New Zealand port on a trip, and certified that the vessel is empty of fish, aquatic life and seaweed unless a prior written approval has been obtained from the Chief Executive, allowing fish and/or aquatic life and/or seaweed to be carried on the vessel when leaving port.
- 12.1 Condition 11.1 does not prevent the carriage of bait to be used for high seas fishing, provided the species, weight and state of the bait is recorded and notified in accordance with condition 4.1 prior to the vessels departure from port.

VESSEL MONITORING

- 13.1 The commercial fisher must ensure that the vessel carries and continuously operates an automatic location communicator currently registered with the Ministry of Fisheries at all times during the term of this permit.
- 14.1 The commercial fisher must comply with the requirements of the Fisheries (Satellite Vessel Monitoring) Regulations 1993 and any circulars issued thereunder. For the purposes of this permit, references in those regulations to "the operator and the master of any vessel required by these regulations to carry and operate an automatic location communicator" are to be read as references to the "commercial fisher".
- 15.1 The commercial fisher must meet all costs arising from ensuring compliance with the requirements of the Fisheries (Satellite Vessel Monitoring) Regulations 1993.

VESSEL MARKINGS

- 16.1 The commercial fisher must ensure that the vessel is marked in accordance with Regulations 9, 10, 11(2), 11(3), 12, 13, 14 and 15, and Schedule 4, of the Fisheries (Commercial Fishing) Regulations 2001.
- 17.1 The commercial fisher must ensure that the vessel is clearly and legibly marked with the vessel's international radio call sign.
- 18.1 The commercial fisher must ensure that all tenders are clearly and legibly marked on both sides of the hull with the international radio call sign of the vessel to which it is a tender, and in accordance with Regulations 16(1)(a), 16(1)(c), 16(2), 16(3), 16(4), 16(5), 16(6) and Schedule 4, of the Fisheries (Commercial Fishing) Regulations 2001.
- 19.1 In addition, all relevant RFMO rules and conservation management measures relating to vessel marking must be complied with as though they were conditions of this permit. Fishing in foreign jurisdictions may also require additional marking requirements as described in s 113A of the Act. Commercial fishers are reminded of section 113A of the Act, which requires that all relevant local jurisdiction fishing laws must be complied with, specifically including those laws which may relate to additional vessel marking requirements by foreign fisheries jurisdictions.

LANDINGS TO PORTS OUTSIDE NEW ZEALAND WATERS AND TRANSHIPMENTS

- 20.1 The vessel must not land to ports outside New Zealand fisheries waters unless a prior written approval has been obtained from the Chief Executive.
- 21.1 No aquatic life may be transhipped while in a port or on a trip, either to, or from the vessel, whether on the high seas or otherwise, unless a prior written approval to tranship has been obtained from the Chief Executive.

22.1 When operating under a transshipment approval granted under condition 21.1 of this permit, it is stated for the avoidance of doubt that specific conditions in the Schedule(s) shall prevail.

TRANSIT LIMITATIONS

Limitations within New Zealand fisheries waters

40.1 The commercial fisher must not take any aquatic life within New Zealand fisheries waters during a trip unless a written approval has been obtained from the Chief Executive prior to departing on that trip.

41.1 Where the vessel has departed from a New Zealand port on a trip, the vessel must proceed directly to the high seas unless a written approval to do otherwise has been obtained from the Chief Executive prior to departing on that trip.

42.1 Where the vessel has entered New Zealand fisheries waters from the high seas, the vessel must proceed directly to port unless:

- a) a written approval has been obtained from the Chief Executive no later than 48 hours prior to entering New Zealand fisheries waters; or
- b) the vessel is transiting New Zealand fisheries waters.

Limitations within foreign fishing jurisdictions

43.1 The commercial fisher must not take any fish, aquatic life, or seaweed within any foreign fishing jurisdiction during a trip unless:

- a) an approval to take fish, aquatic life, or seaweed within that foreign fishing jurisdiction has been obtained in respect of the vessel from that foreign fishing jurisdiction; and
- b) prior to the trip, a copy of that approval has been received by the Manager - International, Ministry of Fisheries, PO Box 1020, Wellington, New Zealand.

44.1 Where the vessel has departed from a port of any country other than New Zealand on a trip, the vessel must proceed directly to the high seas unless a written approval has been obtained in respect of the vessel from the foreign nation, and a copy of that approval has been received by the Manager - International, Ministry of Fisheries, PO Box 1020, Wellington, New Zealand, at least 24 hours before departure from the foreign port.

45.1 Where the vessel has entered any foreign fishing jurisdiction while on a trip, the vessel must proceed directly to port unless a prior written approval has been obtained in respect of the vessel from that foreign fishing jurisdiction, and a copy of that approval has been received by the Manager - International, Ministry of Fisheries, PO Box 1020, Wellington, New Zealand, not less than 24 hours before entry into the foreign fishing jurisdiction.

GEAR RESTRICTIONS

Stowage of gear

46.1 Notwithstanding specific Regional Fisheries Management Organisation (RFMO) requirements, whenever the vessel is in an area where fishing, or certain methods of fishing, are not permitted, the commercial fisher must stow the relevant fishing equipment in such a manner that it is not readily available for use for fishing.

AREA/SPECIES RESTRICTIONS

47. 1 The commercial fisher must not engage in fishing for anadromous fish stocks on the high seas.

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REPORTING

23.1 For the purposes of the reporting conditions in this permit, the term "trip" does not include a trip that is solely for the purposes of transporting (as opposed to taking) aquatic life pursuant to this permit.

24.1 Every commercial fisher who is required to complete any high seas returns and catch landing returns must complete such returns in accordance with the explanatory notes attached to the returns and the requirements of the Fisheries (Reporting) Regulations 2001 as if they were conditions of this permit.

High seas returns

26.1 Every commercial fisher who takes aquatic life by the method of trawling must complete high seas trawl catch effort returns.

27.1 Every commercial fisher who takes squid by way of jigging must complete high seas squid jigging catch, effort returns.

28.1 Every commercial fisher who takes tuna by the method of longlining must complete high seas tuna longlining catch, effort returns.

28.2 Every commercial fisher who takes aquatic life pursuant to this permit but is not required to complete high seas trawl catch effort returns, high seas squid jigging catch, effort returns, high seas tuna longlining catch, effort returns, or high seas lining catch, effort returns must complete high seas catch effort landing returns.

29.1 Every commercial fisher who takes fish by the methods of bottom longlining, surface longlining (targeting species other than tuna), or trot lining must complete high seas lining catch, effort returns.

30.1 Every commercial fisher who is required to complete high seas trawl catch effort returns; high seas squid jigging catch, effort returns; high seas tuna longlining catch, effort returns or high seas lining catch, effort returns must-

- a) complete such returns for each day or part day that the vessel is on a trip (including days where no aquatic life, is taken); and
- b) furnish such returns to FishServe no later than seven days after the last day of the trip.

Catch landing returns

31.1 Every commercial fisher –

- a) who is required to complete high seas trawl catch effort returns; high seas squid jigging catch, effort returns; high seas tuna longlining catch, effort returns, or high seas lining catch, effort returns; or other forms as required by the Chief Executive of the Ministry of Fisheries; and
- b) who lands any aquatic life to a licensed fish receiver in New Zealand- must complete catch landing returns in respect of all landings for that trip (whether such landings occurred within New Zealand fisheries waters or elsewhere).¹

32.1 Every commercial fisher required to complete catch landing returns must do so in the following manner:

- a) In respect of aquatic life landed to a licensed fish receiver, the commercial fisher must complete a catch landing return immediately on landing, with the exception of the last 2 columns of the section of the return headed "Catch Landing Data" which must be completed

¹ **Note:** Commercial fishers required to complete catch landing returns, but those who do not land any fish, aquatic life, or seaweed to a licensed fish receiver in New Zealand are not required to complete catch landing returns for that trip.

immediately upon receipt of the necessary information required from a licensed fish receiver; and

- b) In respect of aquatic life landed other than to a licensed fish receiver, the commercial fisher must complete a catch landing return immediately on landing.

33.1 Every commercial fisher required to complete catch landing returns must furnish such returns to FishServe no later than seven days after the last day of the trip.

High seas catch effort & landing returns

35.1 Every commercial fisher who is required to complete high seas catch effort & landing returns must complete the section of the return headed "Catch/Effort Data" for each day or part day that the vessel is on a trip (including days where no aquatic life is taken).

36.1 Every commercial fisher –

- a) who is required to complete high seas catch effort & landing returns; and
- b) who lands any aquatic life to a licensed fish receiver in New Zealand- must complete the section of the return headed "Catch Landing Data" in respect of all landings for that trip (whether such landings occurred within New Zealand fisheries waters or elsewhere).²

37.1 Every commercial fisher who is required to complete the section headed "Catch Landing Data" on a high seas catch effort & landing return must do so

² **Note:** Commercial fishers required to complete high seas catch effort & landing returns but who do not land any fish, aquatic life, or seaweed to a licensed fish receiver in New Zealand are not required to complete the section of the return headed "Catch Landing Data".

in the following manner:

- a) In respect of aquatic life landed to a licensed fish receiver, the commercial fisher must complete the section of the return headed "Catch Landing Data" immediately on landing, with the exception of the last 2 columns which must be completed immediately upon receipt of the necessary information required from a licensed fish receiver; and
- b) In respect of aquatic life landed other than to a licensed fish receiver, the commercial fisher must complete the section of the return headed "Catch Landing Data" immediately on landing.

38.1 Every commercial fisher required to complete high seas catch effort & landing returns must furnish such returns to FishServe no later than seven days after the last day of the trip.

Other requirements

- 39.1 When taking fish, aquatic life, or seaweed pursuant to this permit, all of the requirements of the Fisheries (Reporting) Regulations 2001 apply except:
- a) High seas returns must be completed and provided to the Chief Executive instead of those returns specified in regulation 4 of the Fisheries (Reporting) Regulations 2001.
 - b) Notwithstanding condition 39.1(a) of this permit, if the commercial fisher meets either of the following two conditions, then they are required to complete and provide to the Chief Executive monthly harvest returns:
 - i) the commercial fisher is advised by the chief executive in writing that they must provide monthly harvest returns; or
 - ii) the commercial fisher is an operator who, being a New Zealand national using a New Zealand ship, takes any highly migratory species that is—
 - (A) subject to the quota management system, outside New Zealand fisheries waters; and

- (B) taken outside New Zealand fisheries waters; and
- (C) taken for the purpose of sale;

- c) Unless otherwise specified, all times must be recorded in hours and minutes according to a 24-hour clock in **UTC** (Co-ordinated Universal Time) rather than New Zealand standard time or New Zealand daylight time.
- d) All fishstock codes must be reported as the appropriate species code followed by the area code "ET" (e.g. for orange roughy enter "ORHET") unless a different area code is specified. If an area-specific or species-specific authorisation or approval requires that a different area code is used when taking fish, aquatic life, or seaweed pursuant to that authorisation or approval, then that different area code must be used. For example authorisations under the Fisheries (South Tasman Rise Orange Roughy Fishery) Regulations 2000 require holders to use the area code "STR" after the species code.
- f) Where a species of fish, aquatic life, or seaweed is taken for which there is no corresponding species code, the species code "UNX" (for an unidentified species) must be used. The commercial fisher must then obtain the correct scientific name for that species and report that scientific name, along with other relevant details to FishServe, PO Box 297, Wellington, New Zealand.