



# United Nations General Assembly “Sustainable Fisheries” Resolution 62/177: Implementation Report for New Zealand

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# I. Achieving sustainable fisheries

2. Encourages States to give due priority to the implementation of the Plan of Implementation of the World Summit on Sustainable Development (“Johannesburg Plan of Implementation”), in relation to achieving sustainable fisheries;

The New Zealand Fisheries Act 1996 provides under section 13 that total allowable catches (TACs) must be set at or above a level that can produce the maximum sustainable yield (MSY), having regard to the interdependence of stocks, or similar alternative that has the end result of MSY.

At the international level, New Zealand is a party to UNCLOS and the UN Fish Stocks Agreement and cooperates within RFMOs it is a party to ensure that stocks are maintained or restored to MSY levels. New Zealand supports initiatives to develop further obligations on all States to preserve and protect the marine environment, including the marine environment beyond national jurisdiction. In particular, New Zealand supports initiatives to achieve greater protection for areas of special sensitivity and ecological significance in the high seas that are not able to be, or in practice are not being, protected adequately through existing legal and institutional arrangements, such as marine protected areas and protection of seamounts to adverse impacts of fishing.

3. *Emphasizes* the obligations of flag States to discharge their responsibilities, in accordance with the Convention and the Agreement, to ensure compliance by vessels flying their flag with the conservation and management measures adopted and in force with respect to fisheries resources on the high seas;

New Zealand ensures that its flag vessels comply with the conservation and management measures adopted and in force with respect to fisheries resources on the high seas through:

- implementing the provisions of Part 6A of the Fisheries Act 1996 which enables New Zealand to control its nationals and vessels on the high seas, including within areas or for species covered by RFMOs. In particular, the Act requires a high seas fishing permit to be issued for any vessel intending to take or transport fish on the high seas. Applicants are assessed on a range of factors including compliance history;
- implementation of specific legislation and regulations that give effect to the conservation and management measures agreed by RFMOs to which New Zealand is a member. For example, New Zealand’s obligations under Convention for the Conservation of Antarctic Marine Living Resources are implemented through the Antarctic Marine Living Resources Act ;
- effective monitoring, control, surveillance tools, for example, a requirement for all New Zealand flagged vessels to operate an automatic location communicator; port inspections requirements; catch and effort reporting requirements; requirements to carry observers; controls on landings and transshipments; and aerial and maritime surveillance.
- a strict enforcement regime based on the application of severe penalties for commercial fishing offences, including forfeiture of fishing vessels and equipment;
- the provision of general information to industry on the requirements for fishing on the high seas and specific information on obligations in areas covered by RFMOs;

- the provision of regular updates to industry representatives on specific regional fisheries management and conservation measures; consulting with stakeholders in advance of intergovernmental meetings; and provision for stakeholder representatives to participate in RFMO meetings where appropriate.

In fisheries managed by RFMOs to which New Zealand is not a member, New Zealand fishers are prohibited from fishing without first obtaining an approval from the Chief Executive of the New Zealand Ministry of Fisheries. The Chief Executive issues such approvals after consultation with the RFMO and after a decision that the activities proposed will not undermine the conservation and management measures adopted by the RFMO. To date there has been only one New Zealand vessel granted such an exemption and that was granted in cooperation with the North East Atlantic Fisheries Commission (NEAFC).

4. *Calls upon* all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention, which sets out the legal framework within which all activities in the oceans and seas must be carried out, taking into account the relationship between the Convention and the Agreement;

New Zealand is a party to the Convention (UNCLOS).

5. *Calls upon* all States, directly or through regional fisheries management organizations and arrangements, to apply widely, in accordance with international law and the Code,<sup>4</sup> the precautionary approach and an ecosystem approach to the conservation, management and exploitation of fish stocks, including straddling fish stocks, highly migratory fish stocks and discrete high seas fish stocks, and also calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

New Zealand's legislation and fisheries policies provide for application of the precautionary approach and the ecosystem approach. Sections 9 and 10 of the Fisheries Act require all management decisions to take into account a set of environment principles that are based on the ecosystem approach and information principles that are based on the precautionary approach. These principles are applied to all fisheries management decisions, including to annual decisions about TACs for the coming fishing year. Under the Fisheries Act, there is also a requirement to avoid, remedy or mitigate any adverse effects of fishing on the aquatic environment.

In areas of high seas covered by RFMOs, New Zealand seeks to ensure that an ecosystem approach and a precautionary approach are applied to the conservation and management of fish stocks, including through the RFMOs to which we belong. CCAMLR is an example of one such organisation that has adopted an eco-system and precautionary approach to the conservation, management and exploitation of fish stocks (as applied to the CAMLR Convention Area).

6. *Encourages* States to increase their reliance on scientific advice in developing, adopting and implementing conservation and management measures, and to increase their efforts to promote science for conservation and management measures that apply, in accordance with international law, the precautionary approach and an ecosystem approach to fisheries management, enhancing understanding of ecosystem approaches, in order to ensure the long-term conservation and sustainable use of marine living resources, and in this regard

encourages the implementation of the Strategy for Improving Information on Status and Trends of Capture Fisheries of the Food and Agriculture Organization of the United Nations<sup>5</sup> as a framework for the improvement and understanding of fishery status and trends;

As is the case in all countries, the amount of funding available for fisheries research is limited, and full assessments of stock status and supporting research can only be undertaken for the highest value, highest volume or highest profile species. The New Zealand Fisheries Act of 1996 stipulates that where information is uncertain or inadequate, caution should be exercised in making fisheries management decisions. In theory, this should mean that high information stocks can be managed near optimal levels, whereas lower information stocks should be managed more conservatively. However, for many low information stocks, the level of risk associated with the management measures that have been applied may not be known. Nevertheless, operating within very limited (and decreasing) research budgets, the Ministry of Fisheries research programme has the goal of providing a sound scientific basis for management decisions for as many species as possible, as cost-effectively as possible.

7. *Also encourages* States to apply the precautionary approach and an ecosystem approach in adopting and implementing conservation and management measures addressing, inter alia, by-catch, pollution, overfishing, and protecting habitats of specific concern, taking into account existing guidelines developed by the Food and Agriculture Organization of the United Nations;

An example of New Zealand's application of the precautionary approach and the ecosystem approach in the above context can be seen in CCAMLR. New Zealand is an active Member of CCAMLR and supports and upholds conservation measures that have been developed by CCAMLR to limit bycatch, and protect the environment from pollution, overfishing and marine habitats.

8. *Welcomes* the development of observer programmes by some regional fisheries management organizations and arrangements to improve data collection on, inter alia, target and by-catch species, and encourages States, both individually and collectively, where appropriate, to develop, fully implement, and, where necessary, continue to improve robust observer programmes, taking into account standards for such programmes developed by some regional fisheries management organizations and arrangements and the forms of cooperation with developing States as out in article 25 of the Agreement and article 5 of the Code;

New Zealand encourages the effective use of observer programmes by RFMOs to improve data collection. Each year New Zealand designates observers, under CCAMLR's Scheme of International Scientific Observation (set out under Article XXIV of the Convention), to monitor the harvesting and scientific activities of vessels in the CAMLR Convention Area. New Zealand has also been working actively with other members within the WCPFC to establish the Commission's Regional Observer Programme, taking into account existing regional, sub-regional and national programmes in the Pacific including those of developing Pacific Island countries.

9. *Calls upon* States and regional fisheries management organizations and arrangements to collect and, where appropriate, report to the Food and Agriculture Organization of the United Nations required catch and effort data, and fishery related information, in a complete, accurate and timely way, including for straddling fish stocks and highly migratory fish stocks within and beyond areas under national

jurisdiction, discrete high seas fish stocks, and by-catch and discards; and where they do not exist, to establish processes to strengthen data collection and reporting by members of regional fisheries management organizations and arrangements, including through regular reviews of member compliance with such obligations, and when such obligations are not met, require the member concerned to rectify the problem, including through the preparation of plans of action with timelines;

New Zealand reports all relevant data and information to the FAO relating to fishing within the New Zealand EEZ and by New Zealand flagged vessels. New Zealand is also a strong advocate for the strengthening of data collection and reporting obligations and systems within those RFMOs to which we are a party, including WCPFC, CCSBT, CCAMLR and SPRFMO.

10. *Invites* States and regional fisheries management organizations and arrangements to cooperate with the Food and Agriculture Organization of the United Nations in the implementation and further development of the Fisheries Resources Monitoring System initiative;

New Zealand has not been involved with this programme.

11. *Reaffirms* paragraph 10 of its resolution 61/105, and calls upon States, including through regional fisheries management organizations or arrangements, to urgently adopt measures to fully implement the Food and Agriculture Organization International Plan of Action for the Conservation and Management of Sharks for directed and non-directed shark fisheries, based on the best available scientific information, through, inter alia, limits on catch or fishing effort, requiring that vessels flying their flag collect and regularly report data on shark catches, including species-specific data, discards and landings, undertaking, including through international cooperation, comprehensive stock assessments of sharks, reducing shark by-catch and by-catch mortality, and, where scientific information is uncertain or inadequate, not increasing fishing effort in directed shark fisheries until measures have been established to ensure the long-term conservation, management and sustainable use of shark stocks and to prevent further declines of vulnerable or threatened shark stocks;

There are ninety-five species of sharks recorded from New Zealand fisheries waters, however, commercial and recreational fishers in New Zealand waters utilise only about thirty of these species. Six species, or assemblages, of sharks have dominated commercial landings: spiny dogfish, school shark, rough and smooth skate, ghost sharks, rig and elephant fish. These contribute over 90% of total shark landings. They are caught primarily as bycatch although target fishing does occur for some species. All of these species are currently managed within the New Zealand Quota Management System (QMS).

The key shark bycatch species of tuna longline fisheries in New Zealand fisheries waters are blue shark, mako shark and porbeagle shark. These species were introduced into the QMS on 1 October 2004. Specific measures associated with the introduction of these species into the QMS included the setting of catch limits at a level of assessed bycatch. A general rule of the QMS is that all quota catch must be landed. In the case of pelagic sharks specific provisions allow for the release of blue, mako and porbeagle sharks subject to them being likely to survive. This allows for the release of sharks too large to handle or too small to have a market value.

The stock status of sharks managed within the QMS is reviewed annually, or as new information comes to hand. Current information suggests that, at current levels of fishing,

catches of blue shark, mako shark, and porbeagle shark are sustainable (bearing in mind that the stocks of these species extend beyond New Zealand fisheries waters).

#### *Non-QMS shark species*

Other sharks are subject to individual conservation actions. New Zealand has taken action to prohibit fishing for great white shark and a further group of shark species (basking shark, hammerhead shark, sharpnose sevengill shark and whale shark), has been listed in a schedule to the Fisheries Act 1996 as species that may only be taken as bycatch of commercial fishing. These species will remain as non-QMS bycatch species until such time as a decision is made to add them to the QMS or alternatively to apply a more restrictive regime.

#### *Research*

The Ministry of Fisheries commissions independent research to assess shark populations. For example, research on the age and growth of blue, mako, and porbeagle sharks has been contracted to assist in the determination of sustainable catches in the future.

Catch and biological information is collected by the Scientific Observer Program. Length, weight and sex are recorded for all major shark species. This data provides a characterisation of catch as well as information such as CPUE of common species, and estimates of total catch.

#### *National Plan of Action - Sharks*

New Zealand released its shark National Plan of Action for stakeholder consultation in 2007. Stakeholder comments are now being incorporated and a final plan of action will be released later in 2008.

#### *RFMO Engagement*

New Zealand is actively engaged in RFMOs within the Pacific region and is an advocate of improved shark conservation and data collection measures in those fora.

12. *Calls upon* States to take immediate and concerted action to improve the implementation of and compliance with existing regional fisheries management organization or arrangement and national measures that regulate shark fisheries, in particular those measures which prohibit or restrict fisheries conducted solely for the purpose of harvesting shark fins, and, where necessary, to consider taking other measures, as appropriate, such as requiring that all sharks be landed with each fin naturally attached;

Finning a live shark, and returning the shark trunk to the sea while alive, is an offence under specific provisions of New Zealand's Animal Welfare Act.

Shark fins are a by-product of many directed shark fisheries in New Zealand waters. Sustainable harvesting is achieved through the implementation of the New Zealand QMS. New Zealand considers that the QMS will also provide strong incentives to reduce the practise of only landing the fins of shark bycatch because individual catch limits apply and fishers will attempt to maximise their returns from a fixed catch. The Ministry of Fisheries anticipates a reduction in shark finning for the pelagic sharks that were introduced into the QMS on 1 October 2004. Catches are being monitored to determine whether this is the case. If this does not prove to be the case we will consider taking more direct action.

A prohibition on shark finning has been applied to New Zealand flagged vessels fishing on the high seas within the Western and Central Pacific Convention Area, in a form that requires shark trunks to be landed with the fins attached. This is in response to the Conservation and Management Measure introduced by the Western and Central Pacific Fisheries Commission.

14. *Urges* States to eliminate barriers to trade in fish and fisheries products which are not consistent with their rights and obligations under the World Trade Organization agreements, taking into account the importance of the trade in fish and fisheries products, particularly for developing countries;

New Zealand does not provide subsidies that contribute to IUU fishing or fishing overcapacity and has been actively opposed to such subsidisation in the WTO context.. Moreover, New Zealand has been an active participant in the WTO Rules Negotiating Group's work on clarifying and improving disciplines on fisheries subsidies. New Zealand is committed to continuing to work constructively with other WTO members to develop comprehensive and enforceable disciplines on fisheries subsidies under the WTO Doha mandate.

Import quotas are not applied to fish or fish products. Tariffs have been reduced to the extent that 84% of New Zealand's MFN fish tariffs are currently duty-free. In the cases that tariffs are applied it is to some processed fish products (e.g. certain oils and pastes) and preferential tariff rates of 5% or less are granted to developing countries, with the rates otherwise being 6.5% or less.

New Zealand has removed tariffs on fish and fish products from some countries as part of its bilateral and plurilateral free trade agreements (FTAs). All tariffs on such imports from China will be removed by 2012 as part of the recently concluded New Zealand – China FTA.

New Zealand has also been an active participant in the WTO Non-Agricultural Market Access (NAMA) negotiations, including actively proposing tariff liberalisation in the fisheries sector that is over and above the proposed tariff cuts for all NAMA products.

It is the responsibility of the New Zealand Food Safety Authority (NZFSA) to ensure that any sanitary measures affecting the import of fish and fish products are consistent with the WTO Agreements. It does this by reviewing market access requirements and import health standards relating to fish products to ensure that these are inline with, in particular, the GATT, SPS and TBT Agreements.

15. *Urges* States and relevant international and national organizations to provide for participation of small-scale fishery stakeholders in related policy development and fisheries management strategies in order to achieve long-term sustainability for such fisheries, consistent with the duty to ensure the proper conservation and management of fisheries resources;

New Zealand has recently embarked on a process to implement fisheries plans for key fisheries and fisheries complexes. Stakeholders from all level of the fisheries are engaged to determine fisheries management objectives and develop operational plans as part of the fisheries planning process.

## II. Implementation of the 1995 Agreement for the Implementation of the

### Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

16. *Calls upon* all States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, that have not done so to ratify or accede to the Agreement and in the interim to consider applying it provisionally;

New Zealand is a Party to the UN Fish Stocks Agreement.

17. *Calls upon* States parties to the Agreement to harmonize, as a matter of priority, their national legislation with the provisions of the Agreement, and to ensure that the provisions of the Agreement are effectively implemented into regional fisheries management organizations and arrangements of which they are a member;

New Zealand's has implemented its high seas fishing obligations under the UN Fish Stocks Agreement through Part 6A of the Fisheries Act, including with respect to compliance and enforcement. New Zealand's compliance and enforcement regime includes a boarding and inspection regime for the high seas, port state controls for foreign flagged vessels entering New Zealand ports, and the ability to cooperate with other states to investigate alleged offences.

New Zealand is a member of four RFMOs or arrangements with competence to manage straddling fish stocks or highly migratory species: CCAMLR, CCSBT, Arrangement between the Government of New Zealand and the Government of Australia for the Conservation and Management of Orange Roughy on the South Tasman Rise (STR), and WCPFC. New Zealand implements its obligations in respect of these RFMOs through national legislation, regulations, or conditions on high seas fishing permits issued under the Fisheries Act 1996. New Zealand cooperates through each of these RFMOs or arrangements to ensure compliance with and enforcement of their measures.

New Zealand also signed SIOFA in 2006, and is a key participant in the negotiations to establish a new RFMO in the South Pacific (the South Pacific RFMO), which will address one of the last gaps in governance of high seas fisheries resources globally.

New Zealand also conducts regular maritime surveillance of New Zealand fisheries waters, CCAMLR waters (within the Ross Sea) and EEZs of Pacific Island countries by Navy patrol vessels and Air Force P3 Orion maritime patrol aircraft to deter and detect illegal, unreported and unregulated (IUU) fishing; and participates in the International Network for the Cooperation and Coordination of Fisheries-Related MCS Activities (International MCS Network).

New Zealand has also developed bilateral compliance and enforcement cooperation agreements with a number of states.

18. *Emphasizes* the importance of those provisions of the Agreement relating to bilateral, regional and subregional cooperation in enforcement, and urges

continued efforts in this regard;

New Zealand appreciates the importance of bilateral, regional and subregional cooperation to ensure enforcement of conservation and management measures. New Zealand continues to work through RFMOs and regionally and bilaterally with others to cooperate on enforcement (see also question 17).

19. *Calls upon* all States to ensure that their vessels comply with the conservation and management measures that have been adopted by regional and subregional fisheries management organizations and arrangements in accordance with relevant provisions of the Convention and of the Agreement;

New Zealand ensures that its flag vessels comply with the conservation and management measures adopted by RFMOs through:

- implementing the provisions of Part 6A of the Fisheries Act 1996 which enables New Zealand to control its nationals and vessels on the high seas, including within areas or for species covered by RFMOs. In particular, the Act requires a high seas fishing permit to be issued for any vessel intending to take or transport fish on the high seas. Applicants are assessed on a range of factors including compliance history;
- implementation of specific legislation and regulations that give effect to the conservation and management measures agreed by RFMOs to which New Zealand is a member. For example, New Zealand's obligations under Convention for the Conservation of Antarctic Marine Living Resources are implemented through the Antarctic Marine Living Resources Act ;
- effective monitoring, control, surveillance tools, for example, a requirement for all New Zealand flagged vessels to operate an automatic location communicator; port inspections requirements; catch and effort reporting requirements; requirements to carry observers; controls on landings and transshipments; and aerial and maritime surveillance.
- a strict enforcement regime based on the application of severe penalties for commercial fishing offences, including forfeiture of fishing vessels and equipment;
- the provision of general information to industry on the requirements for fishing on the high seas and specific information on obligations in areas covered by RFMOs;
- the provision of regular updates to industry representatives on specific regional fisheries management and conservation measures; consulting with stakeholders in advance of intergovernmental meetings; and provision for stakeholder representatives to participate in RFMO meetings where appropriate.

In fisheries managed by RFMOs to which New Zealand is not a member, New Zealand fishers are prohibited from fishing without first obtaining an approval from the Chief Executive of the New Zealand Ministry of Fisheries. The Chief Executive issues such approvals after consultation with the RFMO and after a decision that the activities proposed will not undermine the conservation and management measures adopted by the RFMO. To date there has been only one New Zealand vessel granted such an exemption and that was granted in cooperation with the North East Atlantic Fisheries Commission (NEAFC).

20. *Urges* States parties to the Agreement, in accordance with article 21, paragraph 4, thereof to inform, either directly or through the relevant regional or

subregional fisheries management organization or arrangement, all States whose vessels fish on the high seas in the same region or subregion of the form of identification issued by those States parties to officials duly authorized to carry out boarding and inspection functions in accordance with articles 21 and 22 of the Agreement;

Of the RFMOs and Agreements that New Zealand is a party to only the WCPFC has developed specific high seas boarding and inspection procedures modelled on articles 21 and 22. In accordance with the WCPFC procedures, through the WCPFC Secretariat New Zealand has informed other States and entities that fish on the high seas in the Western and Central Pacific ocean of the form of identification issued to New Zealand high seas inspectors. This identification is the New Zealand Fishery Officer Warrant of Authority and is available to view by other States and entities through the Commission website.

21. *Also urges* States parties to the Agreement, in accordance with article 21, paragraph 4, to designate an appropriate authority to receive notifications pursuant to article 21 and to give due publicity to such designation through the relevant subregional or regional fisheries management organization or arrangement;

Within the context of the WCPFC high seas boarding and inspection procedures New Zealand has designated the Ministry of Fisheries as the appropriate authority to receive such notifications. The WCPFC Secretariat has this information available to all members and co-operating non-members through the Commission website.

Outside WCPFC states are free to notify New Zealand directly.

22. *Notes with satisfaction* the adoption of procedures for high seas boarding and inspection that fully implement articles 21 and 22 of the Agreement by the Western and Central Pacific Fisheries Commission at its third annual meeting, held in Apia from 11 to 15 December 2006, and invites other regional fisheries management organizations and arrangements to ensure that the procedures developed for high seas boarding and inspection are consistent with the aforementioned articles;

23. *Calls upon* States, individually and, as appropriate, through regional and subregional fisheries management organizations and arrangements with competence over discrete high seas fish stocks, to adopt the necessary measures to ensure the long-term conservation, management and sustainable use of such stocks in accordance with the Convention and consistent with the Code and the general principles set forth in the Agreement;

With respect to discrete high seas stocks in the South Indian Ocean, New Zealand participated in the negotiation of SIOFA and signed SIOFA in 2006.

New Zealand is a participant in the negotiations to establish a South Pacific RFMO to manage non-highly migratory fisheries, including discrete high seas stocks, in high seas parts of the South Pacific Ocean. The initiative seeks to fill a gap in the management of high seas areas in the South Pacific Ocean and responds to recent international calls, including through the United Nations, to urgently address the gaps in the management of high seas fisheries to ensure the long-term conservation and sustainable use of fish stocks and to protect biodiversity in the marine environment. In recognition of the fact that the RFMO Convention text will likely take several years to negotiate and come into force, precautionary interim conservation and management measures for pelagic and bottom fisheries were adopted by

participants in April/May 2007. These are complemented by Standards on data collection and reporting, observer programmes, VMS and benthic assessments.

24. *Invites* States to assist developing States in enhancing their participation in regional fisheries management organizations or arrangements, including through facilitating access to fisheries for straddling fish stocks and highly migratory fish stocks, in accordance with article 25, paragraph 1 (b), of the Agreement, taking into account the need to ensure that such access benefits the developing States concerned and their nationals;

New Zealand provides support directly to Pacific regional institutions (eg Secretariat of the Pacific Community, Forum Fisheries Agency) and through bilateral development assistance programmes to assist developing Pacific Island states to improve their participation in regional fisheries management organisations and arrangements.

25. *Invites* States and international financial institutions and organizations of the United Nations system to provide assistance according to Part VII of the Agreement, including, if appropriate, the development of special financial mechanisms or instruments to assist developing States, in particular the least developed among them and small island developing States, to enable them to develop their national capacity to exploit fishery resources, including developing their domestically flagged fishing fleet, value-added processing and the expansion of their economic base in the fishing industry, consistent with the duty to ensure the proper conservation and management of fisheries resources;

New Zealand currently supports fisheries institutional strengthening programmes in the Cook Islands and Solomon Islands which include provision both for strengthening sustainable management of the fishery and the development of the domestic fisheries industry including increased domestic value added processing.

26. *Notes with satisfaction* that the Assistance Fund under Part VII of the Agreement has begun to operate and consider applications for assistance by developing States parties to the Agreement, and encourages States, intergovernmental organizations, international financial institutions, national institutions and non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the Assistance Fund;

28. *Encourages* States, individually and, as appropriate, through regional and subregional fisheries management organizations and arrangements, to implement the recommendations of the Review Conference on the Agreement,<sup>9</sup> held in New York from 22 to 26 May 2006;

Since the 2006 Review Conference on the Agreement, New Zealand has been working individually and through the RFMOs to which it belongs to implement the recommendations of the Conference. We have also worked to ensure the recommendations are incorporated into other fisheries instruments such as the 2007 UNGA62 sustainable fisheries resolution, and the work of international fisheries-related fora such as the FAO.

### III. Related fisheries instruments

33. *Emphasizes* the importance of the effective implementation of the provisions of the Compliance Agreement,<sup>6</sup> and urges continued efforts in this regard;

New Zealand accepted the Compliance Agreement in 2005. New Zealand has implemented its obligations under the FAO Compliance Agreement through Part 6A of the Fisheries Act 1996. As part of these obligations, New Zealand regularly submits information on its high seas fishing vessels to the FAO for inclusion in the High Seas Vessel Authorisation Register (HSVAR).

34. *Calls upon* all States and other entities referred to in article X, paragraph 1, of the Compliance Agreement that have not yet become parties to that Agreement to do so as a matter of priority and, in the interim, to consider applying it provisionally;

New Zealand is a party to the Compliance Agreement.

35. *Urges* States and subregional and regional fisheries management organizations and arrangements to implement and promote the application of the Code within their areas of competence;

The key elements of the Code are incorporated into the provisions of the New Zealand Fisheries Act 1996 and subsequent amendments.

36. *Urges* States to develop and implement, as a matter of priority, national and, as appropriate, regional plans of action to put into effect the international plans of action of the Food and Agriculture Organization of the United Nations;

**NPOA Seabirds:** Seabird bycatch occurs in some New Zealand fisheries. New Zealand's NPOA on seabirds was approved in April 2004. Five key management measures will be used to build on the initiatives already being undertaken by the fishing industry to reduce incidental catch, while at the same time ensuring that extra steps are taken where necessary to achieve the goals and objectives of that NPOA. They are codes of practice, input controls, economic instruments, legal action against individual vessels, and bycatch limits. A mix of both mandatory and voluntary measures will be used. Actions to encourage a reduction in the incidental catch of seabirds by foreign vessels fishing in high seas fisheries focus on education and awareness building.

**NPOA Sharks:** New Zealand intends to complete a NPOA for sharks in 2008 to address issues that may not be resolved by QMS management and the management of species that may remain outside of this management regime.

**NPOA IUU Fishing:** New Zealand's NPOA-IUU, approved in May 2004, closely follows the structure of the IPOA. It addresses general measures targeted at all States, and measures targeted specifically at flag States, coastal States and port States. It also contains market-related measures, measures to support the special requirements of developing countries, and measures to be taken by States through regional fisheries management organisations. New

Zealand's NPOA-IUU is, to a large extent, a record of actions already underway or already implemented through New Zealand legislation. At the end of each section is a list of recommendations for actions that will enhance New Zealand's ability to address IUU fishing.

**IPOA Fishing Capacity:** New Zealand agrees with the objective of the International Plan of Action (IPOA) for the Management of Fishing Capacity but does not intend to develop a NPOA on Fishing Capacity. New Zealand's approach to managing fisheries, through the QMS, does not use capacity controls – relying on output controls to ensure catches are kept within sustainable limits. Under the QMS quota holders are free to determine the appropriate level of capacity they require to harvest their quota and economic incentives are created for the reduction of overcapacity by industry. Reduction of overcapacity was one of the key objectives behind the introduction of the QMS and the system has proved highly successful in achieving this objective in the New Zealand context.

## IV. Illegal, unreported and unregulated fishing

37. *Emphasizes once again its serious concern* that illegal, unreported and unregulated fishing remains one of the greatest threats to marine ecosystems and continues to have serious and major implications for the conservation and management of ocean resources, and renews its call upon States to comply fully with all existing obligations and to combat such fishing and urgently to take all necessary steps to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations;

New Zealand considers the elimination of IUU fishing an important priority and is working nationally, regionally and globally to prevent and deter IUU fishing. The paragraphs below provide detail on how New Zealand is addressing IUU fishing.

38. *Urges* States to exercise effective control over their nationals, including beneficial owners, and vessels flying their flag, in order to prevent and deter them from engaging in illegal, unreported and unregulated fishing activities or supporting vessels engaging in illegal, unreported and unregulated fishing activities, including those vessels listed by regional fisheries management organizations or arrangements as engaged in those activities, and to facilitate mutual assistance to ensure that such actions can be investigated and proper sanctions imposed;

The Fisheries Act 1996 provides the legislative framework for New Zealand flagged vessels and nationals engaged in fishing on the high seas and allows New Zealand to exercise effective control in order to prevent and deter them from engaging in or supporting IUU fishing activities.

### Control over New Zealand Nationals

New Zealand legislation imposes controls on the activities of New Zealand nationals fishing on foreign flagged vessels both on the high seas and in the national jurisdictions of other States.

General measures controlling the fishing activities of New Zealand nationals outside New Zealand fisheries waters are found in the Fisheries Act. Under the Fisheries Act, no New Zealand national may use a foreign flagged vessel to fish on the high seas unless they do so in accordance with an authorisation issued by a State that meets one of the following criteria:

- A State that is a party to the 1995 UN Fish Stocks Agreement; or
- A State that is a party to the 1993 FAO Compliance Agreement; or
- A State that is a party to, or has accepted the obligations of, a global, regional, or sub-regional fisheries organisation or arrangement to which the authorisation relates; or
- A State that—
  - Is a signatory to the 1995 UN Fish Stocks Agreement; and
  - Has legislative and administrative mechanisms to control its vessels on the high seas in accordance with that agreement.

In the national jurisdictions of other States, it is an offence for New Zealand nationals to fish unless the fishing is in accordance with the laws of that State.

More specific measures controlling the fishing activities of New Zealand nationals within areas, or for species, covered by regional fisheries management organisations and arrangements are found in the Antarctic Marine Living Resources Act 1981, Fisheries (South Tasman Rise Orange Roughy Fishery) Regulations 2000, and the Fisheries (Southern Bluefin Tuna Quota) Regulations 2000.

39. *Also urges* States to take effective measures, at the national, regional and global levels, to deter the activities, including illegal, unreported and unregulated fishing, of any vessel which undermines conservation and management measures that have been adopted by regional and subregional fisheries management organizations and arrangements in accordance with international law;

### National measures

Consideration of an applicant's offending history is an integral part of any decision to issue a high seas fishing permit with respect to a New Zealand flagged vessel. A high seas fishing permit will not be issued if the applicant has engaged in fishing that has undermined the effectiveness of international conservation and management measures in the preceding 3 years, and had their permit suspended or revoked, or had no high seas fishing permit at the time. Other offending history in relation to fishing or transportation of fish is also considered and may result in an application being declined.

New Zealand has a comprehensive MCS regime to control the activities of New Zealand flagged vessels fishing on the high seas. New Zealand uses a number of MCS tools to control the activities of New Zealand flagged vessels fishing on the high seas. These tools include:

- Fishing permit requirements
- Fishing permit and fishing vessel registers
- Vessel Monitoring System (VMS) requirements
- Vessel and gear marking requirements
- Fishing gear and method restrictions
- Observer Programme
- Reporting (including catch and effort reporting) requirements
- Vessel inspections
- Control of landings (e.g. requirement to land only to licensed fish receivers)
- Record keeping requirements
- Auditing of licensed fish receivers
- Control of transshipment
- Monitored unloads of fish
- Information management and intelligence analysis
- Analysis of catch and effort reporting and comparison with VMS, observer, landing and trade data to confirm accuracy
- Boarding and inspection by fishery officers at sea
- Aerial and surface surveillance, and
- Any other measures agreed by RFMOs to which New Zealand is a member, e.g. application of CCAMLR Catch Documentation Scheme for vessels catching toothfish

Any New Zealand flagged vessel found to have undermined conservation and management measures adopted by RFMOs would be prosecuted under the relevant New Zealand legislation through which the RFMO measures were implemented (in most cases, the Fisheries Act). New Zealand endeavours to deter fisheries-related offending through successful

prosecution and deterrent penalties. Penalties for fisheries-related offences can include fines, forfeiture of fish, vessels, other property and quota, and imprisonment. Deterrent penalties in the commercial fisheries context are generally two to three times the benefit the offender would have obtained if offending was not detected. The key aim in the imposing of penalties is to make sure the cost of offending outweighs the benefits.

### Regional measures

With respect to measures New Zealand is taking at a regional level, New Zealand works through the RFMOs to which it belongs and regional fisheries bodies such as the Forum Fisheries Agency to develop and implement strategies and measures to deter the activities of vessels which undermine conservation and management measures adopted by RFMOs. For example CCAMLR operates a System of Inspection - which allows Members such as New Zealand to designate inspectors, who are in turn able to board and inspect contracting party vessels in the Convention Area to ensure compliance with CCAMLR's Conservation Measures.

### Global measures

On a global level, New Zealand works through organisations such as the FAO on broader initiatives aimed at deterring IUU fishing. The Fisheries Act contains permitting provisions for New Zealand flagged vessels fishing on the high seas. On the high seas, no person may use a New Zealand flagged vessel to take or transport fish, for the purpose of sale, unless under the authority of and in accordance with a high seas fishing permit. Penalties for fishing without a fishing permit can include a fine of up to NZ \$250 000, and forfeiture of the vessel, fish, and fishing gear.

An additional permit is required when using a New Zealand flagged vessel to fish in areas or for species covered by some RFMOs to which New Zealand is party, e.g. within the CCAMLR area. Consistent with the 1995 UN Fish Stocks Agreement, high seas fishing permit conditions prohibit fishing by New Zealand flagged vessels in areas or for species covered by RFMOs to which New Zealand is *not* a party, without specific approval. Any such approval issued is subject to conditions that are consistent with the measures established by the relevant RFMO.

The Fisheries Act also prohibits fishing in other countries' jurisdictions by New Zealand nationals and people using New Zealand flagged vessels, unless in accordance with the laws of that jurisdiction.

40. *Calls upon* States not to permit vessels flying their flag to engage in fishing on the high seas or in areas under the national jurisdiction of other States, unless duly authorized by the authorities of the States concerned and in accordance with the conditions set out in the authorization, and to take specific measures, including deterring the reflagging of vessels by their nationals, in accordance with the relevant provisions of the Convention, the Agreement and the Compliance Agreement, to control fishing operations by vessels flying their flag;

The Fisheries Act contains permitting provisions for New Zealand flagged vessels fishing on the high seas. On the high seas, no person may use a New Zealand flagged vessel to take or transport fish, for the purpose of sale, unless under the authority of and in accordance with a high seas fishing permit. Penalties for fishing without a fishing permit can include a fine of up to NZ \$250 000, and forfeiture of the vessel, fish, and fishing gear.

An additional permit is required when using a New Zealand flagged vessel to fish in areas or for species covered by some RFMOs to which New Zealand is party, e.g. within the CCAMLR area. Consistent with the 1995 UN Fish Stocks Agreement, high seas fishing permit conditions prohibit fishing by New Zealand flagged vessels in areas or for species covered by RFMOs to which New Zealand is *not* a party, without specific approval. Any such approval issued is subject to conditions that are consistent with the measures established by the relevant RFMO.

The Fisheries Act also prohibits fishing in other countries' jurisdictions by New Zealand nationals and people using New Zealand flagged vessels, unless in accordance with the laws of that jurisdiction.

With respect to deterring the reflagging of vessels by New Zealand nationals, New Zealand does not take specific measures. Governmental permission is not required to reflag New Zealand flagged vessels to alternative registries. Reflagging is seen as a legitimate activity when it is done for purposes other than to circumvent conservation and management measures or provisions adopted at a national, regional or global level.

41. *Invites* the Food and Agriculture Organization of the United Nations to further consider, as requested by the Committee on Fisheries at its twenty-seventh session, held from 5 to 9 March 2007, the possibility of convening an expert consultation to develop criteria for assessing the performance of flag States as well as to examine possible actions against vessels flying the flags of States not meeting such criteria, and encourages States to support this important initiative, including through preparatory work and funding;

42. *Urges* States, individually and collectively through regional fisheries management organizations and arrangements, to develop appropriate processes to assess the performance of States with respect to implementing the obligations regarding fishing vessels flying their flag set out in relevant international instruments;

Within the RFMO's and arrangements New Zealand is a party to, particularly WCPFC, CCSBT and CCAMLR, New Zealand is an active participant in seeking to develop mechanisms to assess the performance of States and entities in meeting their obligations. A key element has been the work to date in developing and implementing annual reporting requirements to the RFMOs by States and entities. These reports require members to document the steps they have taken to fulfil their obligations regarding fishing vessels flying their flags

New Zealand has worked with other WCPFC members to continually refine the reporting requirements. Further to this, New Zealand has worked collectively with other states on developing assessment mechanisms for the Commission to measure the performance of states and entities in meeting their obligations.

In CCAMLR New Zealand is a member of a special working group that has been convened by the Commission to develop a compliance evaluation procedure that will assess the vessels of member states in meeting the obligations of the Commission.

As a member of CCSBT, New Zealand has initiated moves to revise Member's annual reporting requirements to ensure obligations relating to their flagged vessels can be assessed within the context of the relevant international instruments.

43. *Reaffirms* the need to strengthen, where necessary, the international legal framework for intergovernmental cooperation, in particular at the subregional and regional levels, in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law, and for States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to collaborate in efforts to address these types of fishing activities, including, inter alia, the development and implementation of vessel monitoring systems and the listing of vessels in order to prevent illegal, unreported and unregulated fishing activities and, where appropriate and consistent with international law, trade monitoring schemes, including to collect global catch data, through subregional and regional fisheries management organizations and arrangements;

New Zealand works through the RFMOs to which it belongs, and regional fisheries bodies such as the Forum Fisheries Agency, to develop measures enhancing subregional and regional cooperation to combat IUU fishing, including in relation to VMS, listing of fishing vessels, and trade monitoring schemes. New Zealand implements all such measures developed through these organisations. New Zealand often plays a lead role in development of such initiatives, particularly in the context of the Western and Central Pacific region.

45. *Reaffirms* its call upon States to take all necessary measures consistent with international law, without prejudice to a State's sovereignty over ports in its territory and to reasons of force majeure or distress, including the prohibition of vessels from accessing their ports followed by a report to the flag State concerned, when there is clear evidence that they are or have been engaged in or have supported illegal, unreported and unregulated fishing, or when they refuse to give information either on the origin of the catch or on the authorization under which the catch has been made;

Under the Fisheries Act, prior approval is required from the Ministry of Fisheries to possess fish within New Zealand fisheries waters on a foreign flagged vessel, unless the fish was already landed elsewhere, or was legally taken or received by that vessel within New Zealand fisheries waters. Foreign flagged vessels seeking access to New Zealand ports are captured by this approval requirement.

The approval must be issued prior to entry into New Zealand fisheries waters and the Master must provide details of quantity, state, and species of fish onboard and intended destination of that fish. Proof must also be provided that the fish onboard was taken in accordance with the appropriate authorization(s) from the flag state and/or other jurisdiction. Further to this, the approval is issued subject to conditions, e.g. a requirement for the vessel to carry and operate a Ministry of Fisheries-approved Automatic Location Communicator (ALC) immediately prior to, and at all times during, the trip.

The master of the vessel must give the Ministry of Fisheries at least 72 hours warning of the intention to bring the vessel into internal waters.

If the Ministry of Fisheries is satisfied that a foreign flagged vessel intending to enter New Zealand internal waters (ports) has undermined international conservation and management measures, or refuses to give information, the vessel may be directed not to enter the internal waters of New Zealand. If such a vessel is approved to access a New Zealand port, inspections and an investigation would be initiated upon its arrival. If such a vessel enters New Zealand internal waters after being instructed not to, the master is liable for penalties

under the Fisheries Act. This does not apply if a vessel enters New Zealand internal waters to obtain food, fuel, and other goods and services necessary to enable the vessel to proceed safely and directly to another port outside New Zealand.

46. *Urges* further international action to eliminate illegal, unreported and unregulated fishing by vessels flying “flags of convenience” as well as to require that a “genuine link” be established between States and fishing vessels flying their flags, and calls upon States to implement the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing as a matter of priority;

New Zealand is working through international organisations such as the FAO and IMO, and RFMOs, to address IUU fishing issues associated with “flags of convenience” vessels and the requirement for a “genuine link”. New Zealand has worked within both CCAMLR and WCPFC to establish processes for the listing of IUU vessels, including those flagged to “flags of convenience” (or “flags of non-compliance” with respect to CCAMLR) as well as a range of consequences for those vessels appearing on the list.

48. *Urges* States, individually and collectively through regional fisheries management organizations and arrangements, to cooperate to clarify the role of the “genuine link” in relation to the duty of States to exercise effective control over fishing vessels flying their flag;

While the issue of genuine link has been raised by New Zealand and others in the context of discussions in RFMOs to which New Zealand belongs, e.g. WCPFC, we are not aware of specific work being undertaken in RFMOs to clarify the role of genuine link. We would envisage this work being carried out by international organisations such as the FAO and IMO, following which the issue would possibly be picked up by RFMOs.

49. *Recognizes* the need for enhanced port State measures to combat illegal, unreported and unregulated fishing, and urges States to cooperate, in particular at the regional level and through subregional and regional fisheries management organizations and arrangements, to adopt all necessary port measures, consistent with international law taking into account article 23 of the Agreement, particularly those identified in the Model Scheme on Port State Measures to Combat Illegal, Unreported, and Unregulated Fishing, adopted by the Food and Agriculture Organization of the United Nations in 2005, and to promote the development and application of minimum standards at the regional level;

New Zealand is working through international organisations such as the FAO, as well as through RFMOs and other regional fisheries agencies, to enhance port State control to combat IUU fishing. In WCPFC and CCSBT in particular, New Zealand has taken a lead role in the development of port state measures, using the FAO model scheme as a basis, and then looking at how the scheme can be built upon to suit the specific RFMOs context.

New Zealand has been an active advocate, particularly in the Pacific region through the Forum Fisheries Agency and the Western and Central Pacific Fisheries Commission, of the FAO Model Scheme on Port State Measures as a set of minimum standards for use by port states. New Zealand is also taking a similar approach in CCSBT

51. *Also welcomes* the initiation of a process within the Food and Agriculture Organization of the United Nations to develop a legally binding instrument on minimum standards for port State measures, based on the Model Scheme on Port State Measures to Combat Illegal, Unreported, and Unregulated Fishing and the

International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, notes the Food and Agriculture Organization Expert Consultation on Port State Measures, held in Washington, D.C., from 4 to 8 September 2007, and encourages all relevant States to participate in the Intergovernmental Technical Consultation to be held in Rome from 23 to 28 June 2008, so that the finalized instrument may be presented to the Committee on Fisheries at its twenty-eighth session, in 2009;

At the 2007 FAO Committee on Fisheries, New Zealand supported the development of a legally binding instrument on minimum standards for port State measures, building on the FAO Model Scheme on Port State Measures to Combat IUU Fishing and the FAO International Plan of Action on IUU Fishing. New Zealand has since actively participated in the development of a legally binding instrument on Port State measures during the FAO Expert Consultations held in Washington D.C, in September 2007, and will continue to support this process at the next Technical Consultation in June 2008.

53. *Encourages* States, with respect to vessels flying their flag, and port States, to make every effort to share data on landings and catch quotas, and in this regard encourages regional fisheries management organizations or arrangements to consider developing open databases containing such data for the purpose of enhancing the effectiveness of fisheries management;

New Zealand works through the RFMOs to which it belongs to develop procedures for the sharing and management of data on catches and landings. Where these procedures have been implemented, New Zealand is committed to submission of relevant, timely New Zealand data. New Zealand also submits catch data to the FAO on an annual basis.

54. *Calls upon* States to take all necessary measures to ensure that vessels flying their flag do not engage in trans-shipment of fish caught by fishing vessels engaged in illegal, unreported and unregulated fishing;

Through New Zealand high seas fishing permit conditions, New Zealand flagged vessels are prohibited from transshipping fish on the high seas unless specifically approved by the Chief Executive of the Ministry of Fisheries. In cases where transshipment is approved it is tightly regulated and monitored to prevent IUU fishing.

55. *Urges* States, individually and through regional fisheries management organizations and arrangements, to adopt and implement internationally agreed market-related measures in accordance with international law, including principles, rights and obligations established in World Trade Organization agreements, as called for in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

To date, New Zealand has implemented trade-related measures agreed by CCAMLR and CCSBT, as well as other tuna RFMOs to which New Zealand is not a party.

## V. Monitoring, control and surveillance and compliance and enforcement

56. *Calls upon* States in accordance with international law to strengthen implementation of or, where they do not exist, adopt comprehensive monitoring, control and surveillance measures and compliance and enforcement schemes individually and within those regional fisheries management organizations or arrangements in which they participate in order to provide an appropriate framework for promoting compliance with agreed conservation and management measures, and further urges enhanced coordination among all relevant States and regional fisheries management organizations and arrangements in these efforts;

New Zealand uses a number of MCS tools to control the activities of vessels fishing within New Zealand fisheries waters and New Zealand flagged vessels fishing on the high seas. These tools include:

- Fishing permit requirements
- Fishing permit and fishing vessel registers
- Vessel Monitoring System (VMS) requirements
- Vessel and gear marking requirements
- Fishing gear and method restrictions
- Observer Programme
- Reporting (including catch and effort reporting) requirements
- Vessel inspections
- Control of landings (e.g. requirement to land only to licensed fish receivers)
- Record keeping requirements
- Auditing of licensed fish receivers
- Control of transshipment
- Monitored unloads of fish
- Information management and intelligence analysis
- Analysis of catch and effort reporting and comparison with VMS, observer, landing and trade data to confirm accuracy
- Boarding and inspection by fishery officers at sea
- Aerial and surface surveillance, and
- Any other measures agreed by RFMOs to which New Zealand is a member, e.g. application of CCAMLR Catch Documentation Scheme for vessels catching toothfish

New Zealand works through the RFMOs to which it is party to develop and strengthen MCS and compliance and enforcement measures.

58. *Urges* States, individually and through relevant regional fisheries management organizations and arrangements, to establish mandatory vessel monitoring, control and surveillance systems, in particular to require that vessel monitoring systems be carried by all vessels fishing on the high seas as soon as practicable, and in the case of large-scale fishing vessels no later than December 2008, and share information on fisheries enforcement matters;

New Zealand strongly supports the widespread use of vessel monitoring systems (VMS). New Zealand implemented a vessel monitoring system in 1994. All New Zealand flagged vessels

fishing on the high seas, including in areas or for species covered by RFMOs, are required to carry and operate an automatic location communicator (ALC) at all times. New Zealand has worked with member states of the Pacific Islands Forum to develop the regional VMS operated by the Pacific Islands Forum Fisheries Agency. New Zealand has also worked through CCAMLR, WCPFC and the South Pacific RFMO under negotiation to develop VMS requirements.

59. *Calls upon* States, individually and through regional fisheries management organizations or arrangements, to strengthen or establish, consistent with national and international law, positive or negative lists of vessels fishing within the areas covered by relevant regional fisheries management organizations and arrangements in order to verify compliance with conservation and management measures and identify products from illegal, unreported and unregulated catches, and encourages improved coordination among all parties and regional fisheries management organizations and arrangements in sharing and using this information, taking into account the forms of cooperation with developing States as set out in article 25 of the Agreement;

New Zealand works within RFMOs to establish positive and negative vessel lists in order to verify compliance with conservation and management measures and identify products from IUU catches, e.g. CCSBT, WCPFC and CCAMLR. New Zealand is also supportive of the FAO initiative to develop a register of high seas fishing vessels. New Zealand works through the RFMOs to which it is party to strengthen such lists and improve coordination with respect to positive and negative vessel lists.

60. *Requests* States and relevant international bodies to develop, in accordance with international law, more effective measures to trace fish and fishery products to enable importing States to identify fish or fishery products caught in a manner that undermines international conservation and management measures agreed in accordance with international law, taking into account the special requirements of developing States and the forms of cooperation with developing States as set out in article 25 of the Agreement, and at the same time to recognize the importance of market access, in accordance with provisions 11.2.4, 11.2.5 and 11.2.6 of the Code, for fish and fishery products caught in a manner that is in conformity with such international measures;

The CCAMLR Catch Documentation Scheme, which New Zealand supports and implements, is an example of a measure enabling importing States to identify the origins of toothfish entering their markets and to determine whether toothfish harvested in the CCAMLR area have been caught in a manner consistent with CCAMLR conservation measures.

61. *Encourages* States to establish and undertake cooperative surveillance and enforcement activities in accordance with international law to strengthen and enhance efforts to ensure compliance with conservation and management measures, and prevent and deter illegal, unreported and unregulated fishing;

New Zealand has entered into cooperative agreements with other States to coordinate and undertake surveillance and enforcement activities to ensure compliance with relevant measures and to combat IUU fishing.

As examples of this, New Zealand provides routine aerial surveillance, and on occasion, sea-borne surveillance for a number of Pacific Island States to assist their fisheries enforcement efforts. In addition to this, New Zealand uses these resources to support wider regional

arrangements such as the WCPFC and CCAMLR (in support of the CCAMLR System of Inspection), specifically for ensuring compliance with conservation and management measures and deterring IUU fishing activity.

New Zealand is also an active participant in the Forum Fisheries Agency MCS working group providing input into the coordination and planning of cooperative MCS and enforcement activities in the EEZs of Member States in the Pacific region.

62. *Urges* States, individually and through regional fisheries management organizations or arrangements, to develop and adopt effective measures to regulate trans-shipment, in particular at-sea trans-shipment, in order to, inter alia, monitor compliance, collect and verify fisheries data, and to prevent and suppress illegal, unregulated and unreported fishing activities in accordance with international law; and, in parallel, encourage and support the Food and Agriculture Organization of the United Nations in studying the current practices of trans-shipment as it relates to fishing operations for straddling fish stocks and highly migratory fish stocks and produce a set of guidelines for this purpose;

New Zealand strictly regulates and monitors the activities of transport and support vessels to ensure that they do not support IUU fishing. Any person who uses a New Zealand flagged vessel to transport fish on the high seas must hold a high seas fishing permit issued under the Fisheries Act. Trans-shipment of fish caught by New Zealand flagged vessels on the high seas is prohibited without prior approval from the Ministry of Fisheries. All trans-shipments of fish are closely scrutinised by the Ministry of Fisheries, including through monitoring by Ministry of Fisheries observers or fishery officers. Specific information about the trans-shipment must be recorded and submitted to the Ministry of Fisheries e.g. date and location of trans-shipment, weight by species and catch area of the catch trans-shipped, details of the vessels involved in the trans-shipment, and the port of landing of the trans-shipped catch. In some cases, trans-shipment of fish is strictly prohibited, e.g. when fishing in some CCAMLR fisheries.

63. *Expresses its appreciation* for financial contributions from States to improve the capacity of the existing voluntary International Monitoring, Control and Surveillance Network for Fisheries-Related Activities, and encourages States to join and actively participate in the Network and to consider supporting, when appropriate, its transformation in accordance with international law into an international unit with dedicated resources to further assist Network members, taking into account the forms of cooperation with developing States as set out in article 25 of the Agreement;

64. *Encourages* widespread participation in the Second Global Fisheries Enforcement Training Workshop, to be held in Trondheim, Norway, from 7 to 11 August 2008, sponsored by Norway in conjunction with the International Monitoring, Control and Surveillance Network for Fisheries-Related Activities and the FishCode programme of the Food and Agriculture Organization in order to share experiences and technologies, foster coordination and improve skills among enforcement officials;

## VI. Fishing overcapacity

67. *Calls upon* States to commit to urgently reducing the capacity of the world's fishing fleets to levels commensurate with the sustainability of fish stocks, through the establishment of target levels and plans or other appropriate mechanisms for ongoing capacity assessment, while avoiding the transfer of fishing capacity to other fisheries or areas in a manner that undermines the sustainable management of fish stocks, including, inter alia, those areas where fish stocks are overexploited or in a depleted condition, and recognizing in this context the legitimate rights of developing States to develop their fisheries for straddling fish stocks and highly migratory fish stocks consistent with article 25 of the Agreement, article 5 of the Code, and paragraph 10 of the International Plan of Action for the Management of Fishing Capacity;

New Zealand's approach to managing fisheries, through the QMS, does not use capacity controls – relying on output controls to ensure catches are kept within sustainable limits. Under the QMS quota holders are free to determine the appropriate level of capacity they require to harvest their quota and economic incentives are created for the reduction of overcapacity by industry. Reduction of overcapacity was one of the key objectives behind the introduction of the QMS and the system has proved highly successful in achieving this objective in the New Zealand context.

In respect of the transfer of fishing capacity from the New Zealand fishery to other fisheries, New Zealand works within RFMOs to develop effective fisheries management measures, including capacity measures, to ensure the long term sustainability of fish stocks and ensures that New Zealand flagged vessels fishing on the high seas or within the zones of other countries are effectively controlled. New Zealand works with other countries at the regional level, for example within the WCPFC, to ensure that fishing capacity is kept within levels that are consistent with the long term sustainability of the fish stocks in the region.

68. *Also calls upon* States, individually and through regional fisheries management organizations and arrangements, to ensure that the urgent actions required in the International Plan of Action for the Management of Fishing Capacity are undertaken expeditiously and that its implementation is facilitated without delay, as agreed to by the Food and Agriculture Organization;

See question 67.

70. *Encourages* those States which are cooperating to establish subregional and regional fisheries management organizations and arrangements to exercise voluntary restraint of fishing effort levels in those areas that will come under the regulation of the future organizations and arrangements until adequate regional conservation and management measures are adopted and implemented, taking into account the need to ensure the long-term conservation, management and sustainable use of the relevant fish stocks;

New Zealand is a participant in the negotiations to establish a South Pacific RFMO to manage non-highly migratory fisheries, including discrete high seas stocks, in high seas parts of the South Pacific Ocean. The initiative seeks to fill a gap in the management of high seas areas in the South Pacific Ocean and responds to recent international calls, including through the United Nations, to urgently address the gaps in the management of high seas fisheries to

ensure the long-term conservation and sustainable use of fish stocks and to protect biodiversity in the marine environment. In recognition of the fact that the RFMO Convention text will likely take several years to negotiate and come into force, precautionary interim conservation and management measures for pelagic and bottom fisheries were adopted by participants in April/May 2007. These are complemented by Standards on data collection and reporting, observer programmes, VMS and benthic assessments.

71. *Urges* States to eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to fishing overcapacity, while completing the efforts undertaken at the World Trade Organization in accordance with the Doha Declaration<sup>10</sup> to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector, including small-scale and artisanal fisheries and aquaculture, to developing countries;

New Zealand does not provide subsidies that contribute to IUU fishing or fishing overcapacity and has been actively opposed to such subsidisation in the WTO context. Moreover, New Zealand has been an active participant in the WTO Rules Negotiating Group's work on clarifying and improving disciplines on fisheries subsidies. New Zealand is committed to continuing to work constructively with other WTO members to develop comprehensive and enforceable disciplines on fisheries subsidies under the WTO Doha mandate.

## VII. Large-scale pelagic drift-net fishing

72. *Reaffirms* the importance it attaches to continued compliance with its resolution 46/215 and other subsequent resolutions on large-scale pelagic drift-net fishing, and urges States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to enforce fully the measures recommended in those resolutions in order to eliminate the use of large-scale pelagic drift nets;

New Zealand has enacted the Driftnet Prohibition Act 1991. That Act makes it an offence to:

- Engage in driftnet fishing in New Zealand waters and for New Zealand nationals and vessels to engage in driftnet fishing in the high seas area covered by the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific 1989.
- To carry driftnets on vessels;
- To engage in transportation, trans-shipment or processing of driftnet catch;
- To supply and provide driftnet fishing vessels.

The Act also contains authority to deny entry to driftnet fishing vessels and supply vessels and has boarding, inspection and seizure provisions to ensure effective enforcement of the prohibition.

## VIII. Fisheries by-catch and discards

73. *Urges* States, regional and subregional fisheries management organizations and arrangements and other relevant international organizations that have not done so to take action to reduce or eliminate by-catch, catch by lost or abandoned gear, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will reduce or eliminate by-catch of juvenile fish;

New Zealand's primary tool for management of bycatch is a quota management system based on individual ITQs. Total Allowable Commercial Catch limits (TACCs) based on scientific stock assessments are set for bycatch species. The TACC for each fishery is then apportioned to quota holders as an annual catch entitlement (ACE) according to the percentage of quota each company or individual holds for a fishery. At the end of the fishing year fishers are expected to balance their catch of all species, including bycatch species, with an equivalent amount of catching right (ACE). Fishers will be required to pay "deemed values", an administrative penalty, for any catch that they are unable to cover with ACE, which creates an economic disincentive for the taking of bycatch.

There is a range of technical measures in place to support the ITQ system for all commercial species which are set out in the Fisheries (Commercial Fishing) Regulations 2001. These measures include: size limits for shellfish, finfish, and other species; closed seasons for a

number of shellfish species; gear restrictions; and a restriction on vessels over 43 metres in length from operating within 12 nautical miles from shore.

Discarding of fish is an offence under the Fisheries Act except under specific circumstances for non-quota species where reporting requirements have been adhered to and the discarding is done under the supervision of an observer or fishery officer.

In relation to reducing or eliminating bycatch of juvenile fish, the Ministry uses a range of tools including mesh size restrictions and size limits. New Zealand has no specific mechanisms for communicating information on areas of high concentration of juvenile fish.

New Zealand, through its Ministry of Fisheries, manages fisheries with the explicit goal of sustainable use. To accomplish this goal it has a number of strategies in place including managing the effects of fishing on bycatch. Research aimed at reducing or eliminating bycatch of juvenile fish is considered in the annual research planning process. Other mechanisms used for supporting research in this area include issuing special permits to enable research to take place that might otherwise be contravening fishing regulations.

New Zealand is a strong supporter of efforts to conserve non-target species taken incidentally in fishing operations. New Zealand participates in several regional fisheries management organisations with a mandate to conserve non-target species taken incidentally in fishing operation. These include WCPFC, CCSBT, and CCAMLR, and New Zealand signed SIOFA in 2006.

New Zealand is working through the South Pacific RFMO consultations to ensure the Agreement establishing the RFMO will manage incidental bycatch issues.

New Zealand ratified the Agreement on the Conservation of Albatrosses and Petrels (ACAP) on 1 November 2001. It came into force in 2005 after the fifth ratification on 1 February 2004.

74. *Encourages* States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to give due consideration to participation, as appropriate, in regional and subregional instruments and organizations with mandates to conserve non-target species taken incidentally in fishing operations;

New Zealand is a strong supporter of efforts to conserve non-target species taken incidentally in fishing operations. New Zealand participates in several regional fisheries management organisations with a mandate to conserve non-target species taken incidentally in fishing operation. These include WCPFC, CCSBT, and CCAMLR, and New Zealand signed SIOFA in 2006.

New Zealand is working through the South Pacific RFMO consultations to ensure the Agreement establishing the RFMO will manage incidental bycatch issues. This has included data and observer standards adopted in 2007.

New Zealand ratified the Agreement on the Conservation of Albatrosses and Petrels (ACAP) on 1 November 2001. It came into force in 2005 after the fifth ratification on 1 February 2004.

75. *Requests* States and regional fisheries management organizations and arrangements to urgently implement, as appropriate, the measures recommended in the Guidelines to Reduce Sea Turtle Mortality in Fishing Operations<sup>11</sup> and the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries of the Food and Agriculture Organization of the United Nations in order to prevent the decline of sea turtles and seabird populations by reducing by-catch and increasing post-release survival in their fisheries, including through research and development of gear and bait alternatives, promoting the use of available by-catch mitigation technology, and promotion and strengthening of data-collection programmes to obtain standardized information to develop reliable estimates of the by-catch of these species;

All species of sea turtles are protected in New Zealand fisheries waters. New Zealand has recently reviewed fisheries regulations to clarify procedures for commercial fishers if a sea turtle is taken as accidental bycatch and has followed this with the provision of educational material to surface longline fishers on methods of dehooking and disentanglement. New Zealand observers monitor non-fish interactions in all fisheries and a new standardised non-fish reporting form is soon to be introduced in all fisheries in order for fishers to report such interactions themselves.

In line with the FAO International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries (IPOA Seabirds), in April 2004 New Zealand published a National Plan of Action to Reduce the Incidental Catch of Seabirds in New Zealand Fisheries (NPOA Seabirds). The NPOA Seabirds set out a strategic framework for reducing the incidental catch of seabirds in New Zealand's domestic commercial and non-commercial fisheries and in high seas fisheries in which New Zealand flagged vessels participate. The NPOA Seabirds contains a mix of management measures, centred on the development of voluntary Codes of Practice and supported by regulations, where necessary. Consultation on a revised management framework for the NPOA Seabirds has recently been completed in order to improve its application to New Zealand fisheries.

In addition, mandatory minimum acceptable mitigation measures have been introduced for all trawl and longline fisheries in New Zealand. Measures for longline fisheries include mandatory use of streamer lines and a requirement to use line weighting or to fish at night. Measures for trawl vessels include prohibition of offal and discards during shooting and hauling, and limitations on discharge at all other times during the tow. Larger (28 metre plus) trawlers are also still required to deploy paired streamer lines or other mitigation devices.

The Western and Central Pacific Fisheries Commission conservation and management measure that relates to seabirds (CMM 2007-04) has been implemented outside of the New Zealand EEZ zone by way of high seas fishing permit conditions. In line with that CMM, every high seas permit holder fishing for highly migratory species in the Western and Central Pacific Convention Area by the method of surface longline shall use at least two seabird mitigation measures. The measure applies from 1 January 2008 to large scale longline vessels of 24 meters or more in overall length in areas south of 30 degrees south; from 30 June 2008 to large scale longline vessels of 24 meters or more in overall length in areas north of 23 degrees North, and from 31 January 2009 to longline vessels of less than 24 meters in overall length in areas south of 30 degrees South.

New Zealand conducts a variety of research and monitoring of seabirds and research projects relating to reducing seabird bycatch include:

- Mitigating seabird captures in trawl fishing nets

- Fish waste management on trawl vessels to reduce seabird bycatch
- Surface longline mitigation measures including blue-dyed bait, line-weighting and tori line design trials

## IX. Subregional and regional cooperation

77. *Urges* coastal States and States fishing on the high seas, in accordance with the Convention, the Agreement and other relevant instruments, to pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, to ensure the effective conservation and management of such stocks;

78. *Urges* States fishing for straddling fish stocks and highly migratory fish stocks on the high seas, and relevant coastal States, where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for such stocks, to give effect to their duty to cooperate by becoming members of such an organization or participants in such an arrangement, or by agreeing to apply the conservation and management measures established by such an organization or arrangement, or to otherwise ensure that no vessel flying their flag be authorized to access the fisheries resources to which regional fisheries management organizations and arrangements or conservation and management measures established by such organizations or arrangements apply;

New Zealand is a member of four RFMOs and arrangements that manage fisheries. These include CCSBT, CCAMLR, WCPFC, and Arrangement between the Government of New Zealand and the Government of Australia for the Conservation and Management of Orange Roughy on the South Tasman Rise (STR).

New Zealand is also a cooperating non-party to NEAFC.

In fisheries managed by RFMOs to which New Zealand is not a member, New Zealand fishers are prohibited from fishing without first obtaining an approval from the Chief Executive of the New Zealand Ministry of Fisheries. The Chief Executive issues such approvals after consultation with the RFMO and after a decision that the activities proposed will not undermine the conservation and management measures adopted by the RFMO.

80. *Encourages* relevant coastal States and States fishing on the high seas for a straddling fish stock or a highly migratory fish stock, where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for such stocks, to cooperate to establish such an organization or enter into another appropriate arrangement to ensure the conservation and management of such stocks, and to participate in the work of the organization or arrangement;

New Zealand is a participant in the negotiations to establish a new RFMO to manage non-highly migratory fish stocks in high seas parts of the South Pacific Ocean. The South Pacific Regional Fisheries Management Organisation (SPRFMO) will include the management of a significant straddling stock. Through the SPRFMO process New Zealand is working with other participants to adopt and implement interim measures to address immediate fisheries

and conservation issues to apply prior to the Agreement coming into force. Together with Australia and Chile, New Zealand initiated negotiations to establish the SPRFMO. In 2007 participants accepted New Zealand's offer to host the Interim Secretariat, which is now established in Wellington, New Zealand.

81. *Urges* all signatory States and other States whose vessels fish within the area of the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean for fishery resources covered by that Convention to become parties to that Convention as a matter of priority and, in the interim, to ensure that vessels flying their flags fully comply with the measures adopted;

No New Zealand flagged vessels have fished or currently fish in the SEAFO Convention area. New Zealand is not planning to sign the Agreement at present.

82. *Encourages* signatory States and States having a real interest to become parties to the South Indian Ocean Fisheries Agreement, and urges those States to agree on and implement interim measures, including measures in accordance with its resolution 61/105, to ensure the conservation and management of the fisheries resources and their marine ecosystems and habitats in the area to which that Agreement applies until such time as that Agreement enters into force;

New Zealand signed the Agreement in 2006. While New Zealand flagged vessels no longer operate in the SIOFA Area, New Zealand supports the development and implementation of any interim measures agreed to by signatories to the Agreement.

84. *Notes with satisfaction* the progress of negotiations to establish regional and subregional fisheries management organizations or arrangements in several fisheries, in particular in the South Pacific and North-West Pacific, encourages States having a real interest to participate in such negotiations, urges participants to expedite those negotiations and to apply provisions of the Convention and the Agreement to their work, and also notes with satisfaction the adoption by the participants in the South Pacific and North-West Pacific negotiations of interim conservation and management measures in accordance with its resolution 61/105, and encourages those participants to implement the voluntary interim measures adopted;

New Zealand continues to actively participate in the negotiations to establish a new RFMO to manage non-highly migratory fish stocks in high seas parts of the South Pacific Ocean. This included the adoption of interim measures in April/May 2007, and supporting Standards, to address immediate fisheries and conservation issues to apply prior to the Agreement coming into force. New Zealand is in the process of implementing these measures and has reported implementation progress and data to the SPRFMO Interim Secretariat.

87. *Urges* States to strengthen and enhance cooperation among existing and developing regional fisheries management organizations and arrangements in which they participate, including increased communication and further coordination of measures, such as through the holding of joint consultations;

New Zealand works through the RFMOs to which it is party to ensure enhanced coordination with other States and RFMOs with respect to MCS and compliance and enforcement measures. New Zealand participated in the Joint Meeting of Tuna RFMOs in Kobe, Japan, at which enhanced coordination amongst RFMOs with respect to MCS and compliance and enforcement measures was progressed.

90. *Welcomes* the progress made by some regional fisheries management organizations and arrangements to initiate performance reviews, and the completion by the North East Atlantic Fisheries Commission of a performance review, and urges States, through their participation in regional fisheries management organizations and arrangements that have not done so, to undertake, on an urgent basis, performance reviews of those regional fisheries management organizations and arrangements, initiated either by the organization or arrangement itself or with external partners, including in cooperation with the Food and Agriculture Organization of the United Nations, using transparent criteria based on the provisions of the Agreement and other relevant instruments, and taking into account the best practices of regional fisheries management organizations or arrangements and, as appropriate, any set of criteria developed by States or other regional fisheries management organizations or arrangements and encourages that such performance reviews include some element of independent evaluation and propose means for improving the functioning of the regional fisheries management organization or arrangement, as appropriate, and that the results be made publicly available;

New Zealand has been working through the RFMOs to which it belongs (including WCPFC, CCSBT, CCAMLR and the January 2007 Joint Meeting of Tuna RFMOs in Kobe, Japan) to encourage performance reviews of RFMOs to include an element of independent evaluation and to ensure that the results of reviews are made publicly available.

In 2007, New Zealand proposed and got agreement on the Terms of Reference for a performance review of CCSBT during 2008. New Zealand is coordinating that performance review which includes a self-assessment of the RFMO against the criteria developed out of the Kobe Joint Tuna RFMOs meeting. The self-assessment will be completed by a working group made up of members of the RFMO. The self-assessment will then be reviewed by independent expert(s) and both the self assessment report and the independent expert(s) report will be made publicly available.

New Zealand supported the CCAMLR decision at its 26th meeting (2007) to undertake a Performance Review during 2008.

91. *Urges* States to cooperate to develop best practice guidelines for regional fisheries management organizations and arrangements and to apply, to the extent possible, those guidelines to organizations and arrangements in which they participate;

New Zealand was a member of the Ministerial High Seas Task Force on IUU fishing, through which best practice guidelines for RFMOs were initiated (recently completed by Chatham House). New Zealand has provided input in the development of these guidelines.

More recently New Zealand attended the Joint Meeting of Tuna RFMOs in Kobe, Japan and has been actively engaged with other participants on the development of a performance review framework for tuna RFMOs.

92. *Encourages* the development of regional guidelines for States to use in establishing sanctions, for non-compliance by vessels flying their flag and by their nationals, to be applied in accordance with national law, that are adequate in severity for effectively securing compliance, deterring further violations and depriving offenders of the benefits deriving from their illegal activities, as well as in

evaluating their systems of sanctions to ensure that they are effective in securing compliance and deterring violations;

New Zealand participates in RFMOs, including WCPFC and CCSBT. These fora include Compliance Committees whose role is to develop guidelines and standards, and cooperate to implement the relevant MCS and enforcement programmes to support these arrangements. There are also cooperative bilateral agreements between agencies and countries that provide a greater level of commitment and typically include cooperation on monitoring and surveillance.

Sanctions for non-compliance are set by the national legislation of the vessel's flag state and, where relevant, the legislation of the coastal state applies for offences within territorial waters and EEZs. Within the context of RFMOs, there has been consideration of the differing sanctions regimes that apply for fisheries related offending, however, the more typical focus of Compliance Committees is to ensure adequate MCS and enforcement regimes are in place and effectively implemented. This will then provide the correct incentives to deter offending through maximising the potential for detecting non-compliance and ensuring flag and coastal states have the necessary information and support to effectively prosecute and sanction offenders. This includes ensuring cooperation between countries to ensure information on detected or suspected offending can be effectively collected and investigated. This can ultimately lead to sanctions imposed by the flag state for contraventions of conservation and management measures of an RFMO. There are typically reporting and review mechanisms within the detail of international arrangements that allow for monitoring of the effectiveness of flag state actions in such circumstances.

## X. Responsible fisheries in the marine ecosystem

93. *Encourages* States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem<sup>12</sup> and decision VII/1113 and other relevant decisions of the Conference of the Parties to the Convention on Biological Diversity, notes the work of the Food and Agriculture Organization of the United Nations related to guidelines for the implementation of the ecosystem approach to fisheries management, and also notes the importance to this approach of relevant provisions of the Agreement and the Code;

The Fisheries Act 1996 establishes a set of strong environmental obligations. Section 9 of the Act provides that

“All persons exercising or performing functions, duties or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall 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.”

The ecosystem approach is therefore incorporated into the annual process for making fisheries management decisions on catch limits and fishing practices, including the impact of fishing on an ecosystem. Advice on these factors must include explicit consideration of how the environmental obligations above have been applied, and the Ministry of Fisheries is open to challenge in the Courts for failure to apply these principles adequately.

New Zealand developed in 2005 a *Strategy for Managing the Environmental Effects of Fishing*. The purpose of the *Strategy* is to make meaningful improvements in managing the environmental effects of fishing, to implement an ecosystem approach to fisheries, and to ensure environmental obligations are met in an effective and coordinated manner. The *Strategy* focuses on the management of fisheries effects on the aquatic ecosystem and is one of a number of initiatives designed to manage effects on aquatic ecosystems.

Other initiatives include the New Zealand Biodiversity Strategy, the New Zealand Biosecurity Strategy and the Environmental Performance Indicators programme (which includes draft indicators for tracking changes and trends in the marine environment).

In New Zealand, an ecosystem approach to the management of ocean resources is evolving in several different policy and management contexts. These include the development of a marine protected areas strategy, the Benthic (seabed habitat) Protected Areas (BPA) policy, and initiatives to better manage the environmental effects of fishing.

Marine research is carried out by a range of government and non-government agencies, notably by Crown Research Institutes such as the National Institute of Water and Atmospheric Research and the Institute of Geological and Nuclear Sciences. Many research needs are coordinated by government agencies, in particular the Ministry of Fisheries and the Ministry of Research, Science and Technology.

The Government recently established the Oceans Survey 20/20 project, with the aim of completing a survey of New Zealand's entire marine area by the year 2020. The scope of the survey is vast, covering the EEZ, Continental Shelf, Ross Sea region, and (as a secondary focus) New Zealand's area of charting responsibility and other areas of the South Pacific. The Oceans Survey 20/20 work programme will be aligned with marine research priorities across government departments and Crown agencies.

94. *Also encourages* States, individually or through regional fisheries management organizations and arrangements and other relevant international organizations, to work to ensure that fisheries and other ecosystem data collection is performed in a coordinated and integrated manner, facilitating incorporation into global observation initiatives, where appropriate;

As a general rule, fisheries and ecosystem data is collected at a detailed scale, at the level of individual effort events and catch of individual species, and hence can be summarized to any appropriate level for integration with international systems. The Ministry of Fisheries has developed a database to store South Pacific Regional Purse-Seine Logsheets for provision to WCPFC. The Ministry of Fisheries also contracts a service provider to groom New Zealand catch and effort data specifically for provision to CCSBT and WCPFC. When new data collection forms for New Zealand fishing are developed it is a formalized part of the process to check the information requirements of international agreements to ensure compatibility and optimize integration. We have an ongoing programme (expected to be complete by 2010) to ensure that the vast majority of vessels over 6m in length report fishing effort at an operational level, including reporting location by latitude and longitude.

95. *Further encourages* States to increase scientific research in accordance with international law on the marine ecosystem;

Overall, the Ministry of Fisheries research budget for core research has declined by 43% in real terms between 1992-93 and the current year (i.e. it is now 57% of the 1991-92 level). However, within the core research budget, there has been a deliberate attempt to raise the

profile of research into the environmental effects of fishing, which has been steadily increasing over the last few years. Projects undertaken have included seabird and marine mammal surveys, benthic impact studies, and analyses of trophic relationships. The current Ministry research budget is about \$NZ 20,000,000 per annum. In addition to this the Ministry administers part of the marine Biodiversity Strategy, which adds another \$NZ 2,500,000 to the research budget per annum. There are also several other government funding sources outside the Ministry that have contributed increasing amounts towards research on marine ecosystems in recent years.

96. *Calls upon* States, the Food and Agriculture Organization of the United Nations and other specialized agencies of the United Nations, subregional and regional fisheries management organizations and arrangements, where appropriate, and other appropriate intergovernmental bodies, to cooperate in achieving sustainable aquaculture, including through information exchange, developing equivalent standards on such issues as aquatic animal health and human health and safety concerns, assessing the potential positive and negative impacts of aquaculture, including socio-economics, on the marine and coastal environment, including biodiversity, and adopting relevant methods and techniques to minimize and mitigate adverse effects;

New Zealand achieves sustainable aquaculture through national legislation, namely the Aquaculture Reform Act 2004 and the Resource Management Act 1991, and is managed by the Ministry for the Environment. The purpose of the aquaculture reform is:

*"...to enable the sustainable growth of aquaculture and ensure the cumulative environmental effects are properly managed while not undermining the fisheries regime or Treaty of Waitangi settlements."*

The main aspects of the reform are that:

- it creates a single process for aquaculture planning and consents, through the Resource Management Act (RMA)
- regional and unitary councils have clearer direction and responsibilities for managing all environmental effects of aquaculture, including effects on fisheries and other marine resources
- marine farms can only occur in zoned areas, known as Aquaculture Management Areas (AMAs)
- a new AMA can be initiated by regional and unitary councils, the industry or individuals
- effects of aquaculture on fishing activity will be taken into account through this process by a test under the Fisheries Act 1996
- more certainty is provided by settling claims for Māori commercial aquaculture post-21 September 1992.

97. *Calls upon* States to take action immediately, individually and through regional fisheries management organizations and arrangements, and consistent with the precautionary approach and ecosystem approaches, to sustainably manage fish stocks and protect vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals, from destructive fishing practices, recognizing the immense importance and value of deep sea ecosystems and the biodiversity they contain;

New Zealand has taken a variety of measures, consistent with the precautionary approach and ecosystem approaches, at international, regional and national levels to manage sustainably fish stocks and protect vulnerable marine ecosystems from destructive fishing practices, as follows:

### **International level actions**

New Zealand has participated in a number of significant international meetings that have considered sustainable management of deep-sea fisheries and protection of marine biodiversity from the adverse impacts of fishing. Examples include 'Deep Sea 2003', an International Conference on Governance and Management of Deep Sea Fisheries hosted by New Zealand; the Conference on Governance of High Seas Fisheries and the UN Fish Agreement hosted by Canada in 2005; UNICPOLOS 6; the 2006 meeting on marine biodiversity beyond national jurisdiction; the Review Conference of the UN Fish Stocks Agreement; FAO Committee on Fisheries; and the second APEC Oceans Ministerial.

### **Regional level actions**

New Zealand participates actively at the regional level to address issues relating to sustainable management of fisheries and protection of biodiversity from the adverse impacts of fishing, including initiatives to expand the competence of, or establish, RFMOs to regulate bottom fisheries in areas in which our vessels operate.

New Zealand, Australia and Chile are co-sponsors of an initiative which seeks to fill a gap in the management of high seas areas in the South Pacific ocean, as well as to ensure the long-term conservation and sustainable use of fish stocks and to protect biodiversity in the marine environment. It is envisaged that the Agreement establishing the South Pacific RFMO will ensure the long-term sustainable management of fish stocks and protect biodiversity from the adverse impacts of fishing. Interim measures responding to UNGA 61/105 were adopted by participants in April/May 2007. These interim measures apply prior to the entry into force of the Convention establishing the new RFMO. The measures seek to address immediate fisheries and conservation issues by requiring conservation and management measures to be established on the basis of impact assessments to ensure that that bottom fishing will not have significant adverse effects on vulnerable marine ecosystems or long-term sustainability of deep sea fish stocks, before fishing is authorised. Other elements of the interim measures include catch and/or effort limits, VMS and observer requirements. Participants have also adopted a supporting benthic assessment framework and Standards on data collection and reporting; observer programmes; and VMS.. New Zealand is in the process of implementing these interim measures and standards and has reported implementation progress and data to the SPRFMO Interim Secretariat.

New Zealand has worked, through the other RFMOs to which it belongs, to promote the sustainable management of fish stocks and protection of vulnerable marine ecosystems from destructive fishing practices.

In October 2006 New Zealand and other Pacific Islands Forum Leaders agreed on a Declaration on Deep Sea Bottom Trawling to Protect High Seas Biodiversity to cover the high seas in the Western Tropical Pacific Islands Area.

### **National level actions**

Virtually all New Zealand's major domestic commercial fisheries are managed through a Quota Management System (QMS) based on individual transferable quotas (ITQs) that provides for the setting of sustainable catch limits for each stock and the managing of

fisheries within those limits. Through the Fisheries Act 1996, the impacts of fishing on the aquatic environment are also managed.

In 2000 New Zealand closed 19 seamounts to fishing for the purposes of biodiversity protection. The closures cover an area of 11.5 million hectares and include both fished and unfished features. The seamounts vary in size, elevation, geology and depth at peak. The 19 seamounts are distributed around the EEZ. One of the seamounts includes an area of high seas outside the EEZ. Observance of this closure by non New Zealand flagged vessels is voluntary.

The New Zealand Minister of Fisheries recently announced a proposal by the fishing industry to close 30%, or 1.2 million square kilometres, of New Zealand's EEZ, and some areas beyond the EEZ, to bottom trawling and dredging.

New Zealand has a whole-of-government *Biodiversity Strategy* to protect marine and terrestrial biodiversity, in line with its commitments under the Convention on Biological Diversity (CBD). To contribute to delivery of the strategy, the New Zealand government has committed to create a network of marine protected areas (including marine reserves and other forms of protection) that represent the full range of New Zealand's ecosystems and habitats, by 2020. New Zealand is committed to protecting 10% of our marine environment (including the EEZ) by 2010.

In January 2006, New Zealand's Conservation and Fisheries Ministers released a joint *Marine Protected Areas Policy and Implementation Plan*. This Policy outlines how New Zealand will choose sites and methods to protect marine habitats and ecosystems in the future. It provides for scientific ecosystem classification and an inventory of existing areas meeting a protection standard, to determine gaps in the MPA network. The Policy also includes detail about implementation and will bring scientists, marine users, indigenous people and the broader community together to plan for protection.

The New Zealand Ministry of Fisheries has developed a *Strategy for Managing the Environmental Effects of Fishing*. The strategy establishes the framework, including principles and processes, for the setting of environmental standards that specify the limits of acceptable environmental effects of fishing on the marine environment. The standards will be set by the government, in consultation with stakeholders. Fisheries must be managed in a way that meets the standards.

The New Zealand government has contracted a broad portfolio of research to describe marine biodiversity and to support the management of the effects of fishing on biodiversity, marine ecosystems and legally protected species.

100. *Commends* the Food and Agriculture Organization of the United Nations for its decision to develop International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, as requested in paragraph 89 of its resolution 61/105, to further develop standards and criteria for use by States and regional fisheries management organizations or arrangements in identifying vulnerable marine ecosystems in areas beyond national jurisdiction and the impacts of fishing on such ecosystems and establishing standards for the management of deep-sea fisheries in order to facilitate the adoption and the implementation of conservation and management measures pursuant to paragraphs 83 and 86 of its resolution 61/105, notes the expert consultation held from 11 to 14 September 2007 in Bangkok, and encourages all relevant States to participate in the Intergovernmental Technical Consultation to be held in Rome from 4 to 8 February 2008;

103. *Urges* all States to implement the Global Programme of Action for the

Protection of the Marine Environment from Land-based Activities<sup>14</sup> and to accelerate activity to safeguard the marine ecosystem, including fish stocks, against pollution and physical degradation;

New Zealand implements this through the Resource Management Act 1991. The purpose of that Act is the sustainable management of natural and physical resources. It does this by:

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;
- (b) safeguarding the life supporting capacity of air, water, soil and ecosystems;
- (c) avoiding, remedying or mitigating the adverse effects of activities on the environment.

The jurisdiction of the Act extends to twelve nautical miles from the mean high water mark. Under the Act, activities such as land use changes, subdivisions and discharges (e.g. storm water and sewage) to the land and coastal environment are controlled.

104. *Reaffirms* the importance it attaches to paragraphs 77 to 81 of its resolution 60/31 concerning the issue of lost, abandoned, or discarded fishing gear and related marine debris and the adverse impacts such debris and derelict fishing gear have on, inter alia, fish stocks, habitats and other marine species, and urges accelerated progress by States and regional fisheries management organizations and arrangements in implementing those paragraphs of the resolution;

New Zealand's Marine Protection Rules made under the Maritime Transport Act 1994 regulate discharges of waste, including oil, chemicals and garbage and breaching these regulations carries penalties. Maritime New Zealand encourages all vessel operators to adhere to best international environmental practices in order to preserve the marine environment.

Disposal of marine waste within the 12 nautical mile limit of the Territorial Sea are regulated by the regional council under the RMA, specifically the Marine Pollution Regulations 1998 made under that Act, and subject to successful resource consent application.

Disposal of marine waste beyond 12 nautical miles in the EEZ is administered by Maritime New Zealand under the Maritime Transport Act 1994. The Act authorises the Director of Maritime New Zealand to issue a permit for the disposal of waste or other matter: into the sea, or onto or into the seabed, within the exclusive economic zone of New Zealand; or onto or into the continental shelf of New Zealand, beyond the outer limits of that exclusive economic zone, or into the sea above that part of the continental shelf.

Dumping standards for both jurisdictions in New Zealand are derived from the 1996 Protocol to the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972, to which New Zealand is a party.

## XI. Capacity-building

108. *Encourages* increased capacity-building and technical assistance by States, international financial institutions and relevant intergovernmental organizations and bodies for fishers, in particular small-scale fishers, in developing countries, and in particular small island developing States, consistent with environmental sustainability;

New Zealand has also provided considerable financial and technical support to the Pacific Islands Forum Fishery Agency and the Secretariat of the Pacific Community, to assist, improve and enhance support to and aid the capacity development of developing Pacific Island States and Territories. Consistent with the Paris Declaration of Aid Effectiveness, New Zealand is also providing assistance to partners bilaterally. Two bilateral institutional strengthening projects with fisheries administrations are currently underway, which take a strong capacity building approach and include considerable technical assistance. Discrete fisheries rehabilitation and livelihoods projects are also being supported, including, in particular fisheries livelihood rehabilitation following the 2007 earthquake and tsunami in the Solomon Islands.

109. *Encourages* the international community to enhance the opportunities for sustainable development in developing countries, in particular the least developed countries, small island developing States and coastal African States, by encouraging greater participation of those States in authorized fisheries activities being undertaken within areas under their national jurisdiction, in accordance with the Convention, by distant-water fishing nations in order to achieve better economic returns for developing countries from their fisheries resources within areas under their national jurisdiction and an enhanced role in regional fisheries management, as well as by enhancing the ability of developing countries to develop their own fisheries, as well as to participate in high seas fisheries, including access to such fisheries, in conformity with international law, in particular the Convention and the Agreement, and taking into account article 5 of the Code;

New Zealand has advocated for measures within WCPFC and the South Pacific RFMO that provide for the effective participation of developing States within the work of these organizations.

110. *Requests* distant-water fishing nations, when negotiating access agreements and arrangements with developing coastal States, to do so on an equitable and sustainable basis, including by giving greater attention to fish processing, including fish processing facilities, within the national jurisdiction of the developing coastal State to assist the realization of the benefits from the development of fisheries resources, and also including, inter alia, the transfer of technology and assistance for monitoring, control and surveillance and compliance and enforcement within areas under the national jurisdiction of the developing coastal State providing fisheries access, taking into account the forms of cooperation set out in article 25 of the Agreement and article 5 of the Code;

111. *Encourages* States, individually and through regional fisheries management organizations and arrangements, to provide greater assistance and to promote coherence in such assistance for developing States in designing, establishing and implementing relevant agreements, instruments and tools for the conservation and sustainable management of fish stocks, including in designing and strengthening their domestic regulatory fisheries policies and those of regional

fisheries management organizations or arrangements in their regions, and the enhancement of research and scientific capabilities through existing funds, such as the Assistance Fund under Part VII of the Agreement, bilateral assistance, regional fisheries management organizations and arrangements assistance funds, the FishCode programme, the World Bank's global programme on fisheries and the Global Environment Facility;

New Zealand has consistently pursued and advocated strongly for principles that underpin conservation and management measures that ensure long-term sustainability and optimum utilization of fish stocks. This approach has been taken at bilateral, regional and multilateral levels, through a range of agreements, instruments and tools and where delivered as part of capacity development program, has been delivered in a manner consistent with the principles set out in the Paris Declaration for Aid Effectiveness and the UN FAO Strategic Framework for Human Capacity Development in Fisheries.

New Zealand has pursued this end with Pacific Regional Agencies such as the Pacific Islands Forum Fisheries Agency and the Secretariat of the Pacific Community; and through RFMO processes such as WCPFC, CCSBT, CCAMLR, SPRFMO and SIOFA. New Zealand is also actively engaged in processes that seek to improve/enhance the performance of organizations responsible for or that contribute to the management of fisheries.

112. *Calls upon* States to promote, through continuing dialogue and the assistance and cooperation provided in accordance with articles 24 to 26 of the Agreement, further ratification of or accession to the Agreement by seeking to address, inter alia, the issue of lack of capacity and resources that might stand in the way of developing States becoming parties;

New Zealand has been an active participant in the UN Fish Stocks Agreement review process and has worked with others to try and identify and resolve impediments to accession to the Agreement.

New Zealand has provided assistance to developing States in the following areas: institutional strengthening; policy development; strategic planning; monitoring, control and surveillance; and stock assessment.

New Zealand has advocated for the inclusion of managed funds within Regional processes to support the participation and capacity development of developing States and Territories.

113. *Encourages* States, regional fisheries management organizations and arrangements and other relevant bodies to assist developing States in the implementation of the actions called for in paragraphs 83 to 91 of its resolution 61/105;

New Zealand has developed and implemented bottom trawl measures in response to the SPRFMO interim conservation and management measures, which respond to paragraphs 83 to 91 of UNGA 61/105. New Zealand has offered to work with developing countries in implementing these measures