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## **Submission to the Ministerial Inquiry into the use and operation of Foreign Charter Vessels in New Zealand waters**

### **Introduction**

1. The New Zealand Sport Fishing Council (NZSFC) submits the following comments to the Foreign Charter Vessel (FCV) Inquiry Panel.
2. The NZSFC appreciates the opportunity to submit to the Inquiry and acknowledges that our submission has been delivered after the Panel's deadline of 7 October 2011.
3. NZSFC representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from the Inquiry Panel and would like to be kept informed of future developments. Our Contact is Roz Nelson, [secretary@nzsportfishing.org.nz](mailto:secretary@nzsportfishing.org.nz).
4. The New Zealand Sport Fishing Council represents over 32,000 affiliated members from 59 clubs spread throughout Aotearoa.
5. NZSFC representatives regularly engage and contribute to science, management and policy development processes on behalf of our members and supporters.
6. As a recognised national body representing recreational fishing interests in Aotearoa the New Zealand Sport Fishing Council make this submission in the interests of achieving "more fish in the water/kia maha atu nga ika ki roto i te wai".

### **Recommendations**

7. That the Inquiry finds in support of the Talley's Group submission, requiring bare boat charters and New Zealand crew as the only permissible Foreign Charter Vessel model.
8. That the Inquiry acknowledge that although not specifically in the Terms of Reference, the goal of economic efficiency upon which the Quota Management System is predicated skews outcomes away from investment and value maximisation, and towards rent-seeking behaviour.
9. That the Inquiry refrain from the temptation to recommend a simple institutional strengthening of Foreign Charter Vessel monitoring and compliance so as to accommodate those profiting from current cheap foreign labour models.
10. That low value fish stocks that cannot be profitably caught by New Zealand crews and vessels be left in the water. These stocks could rebuild and provide greater opportunities in the future when market conditions improve.
11. That Foreign Charter Vessels be prohibited from operating in inshore water and fisheries, to protect the marine ecosystem and the social, economic and cultural well-being of all New Zealanders.

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New Zealand Sport Fishing Council Inc.

(Previously New Zealand Big Game Fishing Council Est. 1957)

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## **Inquiry's Terms of Reference**

12. The Inquiry arises from a series of reports and public concern about ships lost at sea, maritime accidents, labour abuses, pay and conditions and crew desertions, amongst others.
13. The NZSFC is concerned that the Terms of Reference have denied the Inquiry Panel the opportunity to properly investigate and uncover the fundamental causes of what is embedding Foreign Charter Vessels (FCVs) into the fabric of New Zealand's fisheries – the design and structure of the Quota Management System (QMS).
14. It is also notable that the Inquiry is not directed towards any particular problem. In the absence of a defined problem statement the Inquiry has been asked for an opinion on whether FCV operations support government objectives.
15. This debate divides submitters into roughly two groups:
  - a. One group insists that any lawful harvesting model that maximises economic efficiency should be free of Government interference and available for Individual Transferable Quota (ITQ) shareholders and Annual Catch Entitlement (ACE) owners to maximise their returns. Using market forces to maximise economic efficiency is after all the very *raison d'être* of the Quota Management System (QMS).
  - b. The other group considers New Zealand resources should be reserved for New Zealanders and sees little or no place for foreign interests in any part of New Zealand fisheries. This view, however well supported, collides directly with the existing ethos of the QMS, which in turn collides squarely with Government objectives of maximising returns to New Zealand from the utilisation of our fishery resources.
16. It is not possible to report on the extent to which current FCV practices support the Government's objective of maximising returns to New Zealand from our fisheries resources without considering the design and structure of the QMS, the very institution that gives rise to the industry.
17. The narrow Terms of Reference limit the conversation to comments relating to compliance of FCVs with legal obligations and a raft of secondary subjective concerns such as trade risks. This leaves the root cause - a clash of economic objectives embodied in the QMS (the elephant in the room) - to remain without comment.
18. Reporting on whether the economic factors supporting the use of FCV deliver the greatest overall benefit to the New Zealand economy and quota owners (ITQ shareholders) requires enquiry into the interface between the Quota Management System and FCV use, and the incentives thus created.

## **Economics and fish "landlords"**

19. Currently, there is a blind assumption that Individual Transferable Quota (ITQ) shareholders pursuing their self-interest will deliver the greatest economic benefit to the country. This notion needs testing.
20. Those embracing the *l'azaire faire* Foreign Charter Vessel model are those profiting from it, whether they be a party to a FCV or a downstream service company. Almost everyone else opposes the current use of Foreign Charter Vessels.
21. The NZSFC endorses much of the sentiment expressed in the Talley submission. This view, that there is New Zealand capacity and it needs to be properly valued, nurtured, and actively supported to ensure a 100% NZ owned and operated fishery, is economically, socially, and morally sound.

22. The overarching goal of creating private shareholding in commercial catch was to provide the institutional incentives demanded from industry to invest in the development of deepwater fisheries.
23. What has evolved is a subset - an industry of renters, not owners. These “landlords” now exhibit a refined sense of entitlement, encouraging ‘over the horizon’ fishing arrangements and defeating Government objectives for their private gain.
24. The NZ Sport Fishing Council is not going to cover the well trodden ground of UNCLOS, labour abuses, and subsidies.
25. Our concerns are that firstly this Inquiry has, at it’s core, an economic oxymoron unwittingly imported into New Zealand fisheries management, and secondly, this Inquiry may choose to rule such debate outside the Terms of Reference. If it does so, any investigative commentary on the economic failings of the New Zealand fishing industry will be largely missing.

### **QMS analysis**

26. The Quota Management System (QMS), as launched in 1986, provided little more than an economic instrument that determined who is entitled to fish what quantity of each species.
27. In a sleight of hand known as the 1990 Amendment the government-guaranteed fixed quantity Individual Transferable Quotas (ITQs) of 1986 were exchanged for shares in a Total Allowable Commercial Catch (TACC) that varies according to Ministerial decisions.
28. The last 25 years has seen the QMS economic instrument mutate from a system primarily concerned with limiting catch to those who owned quota to another system, one that facilitates and incentivises rent-seeking behaviour enabled by the creation of Annual Catch Entitlement (ACE).
29. Now, the ITQ shareholders are readily enticed to take little interest in the business of fishing, and settle for collecting annual rents by selling ACE.

### **No FCVs inshore**

30. The NZ Sport Fishing Council is particularly unnerved by the prospect of foreign vessels and crew operating in the inshore fisheries and waters. The NZSFC objects to any such development.
31. No effective barriers exist to prevent institutional creep inshore as shareholders seek to drive up the annual rents.

### **Market controls**

32. In many ways it is inevitable that if the market mechanisms, designed to deliver the greatest economic efficiency, continue to underpin the Quota Management System there will ultimately be no role for New Zealand fishermen or processors. Cheaper foreign capacity will prevail.
33. There is a systemic economic collision built into the very fabric of the QMS that continues to deny New Zealand the full economic potential of its fisheries.
34. Economic efficiency and maximum economic value are not great bedfellows, yet these conflicting objectives are not identified and separated when discussing policy or strategy.
35. The maximum value for the country will not accrue from blindly pursuing economic efficiency, or using it as a proxy for value.

36. Individual Transferable Quota shareholders regularly complain of the challenges in achieving returns on their shareholding. They cite excess government bureaucracy and charges. And fishermen complain of poor and declining returns forcing higher and higher catches to match the rising costs of fuel and Annual Catch Entitlement (ACE).
37. Despite all the investment, the industry remains a very poor earner in terms of returns on assets.
38. In 1986 the fear was that less than \$100m in overcapitalisation stripped the profitability from the industry for everyone. A buy-back scheme using public money was used to remove this and install the QMS, to moderate future investment.
39. Now that the total value of ITQ class shares in NZ fish stocks is over \$4 billion it is perhaps unsurprising that operators must search out the most creative models to generate profit from that overpowering layer of unproductive capital.
40. It can be expected that all manner of creative arrangements will be made, capturing every opportunity to reduce or avoid costs. Whether those means are legal, creative, or illegal does not feature on the balance sheet.
41. The QMS has so overcapitalised the industry, by creating tradable private rights, that innovation is rare.
42. Investment is largely limited to acquisition and all efforts are directed at trying to generate even bank rates of return on assets.
43. The desperate claims for legitimacy in using Foreign Charter Vessels is a product of the systemic dysfunction within the Quota Management System:
  - a. The ITQ shareholders pay no rent to the Government, yet receive ACE, which they can sell to the highest bidder. They then sit as the Lords of the fish stocks with their over-developed sense of entitlement.
  - b. Those in the business of fishing are driven into a race to the bottom, finding the least-cost catching option so that cash is available for increasingly expensive ACE purchases and to satisfy the insatiable appetite for profit by the shareholders.

#### **Treaty Settlement**

44. The situation is exacerbated by using ITQ shares to settle Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 claims.
45. Dozens of new shareholders with little or no experience in fishing have been given unbalanced portfolios of shares and asked to maximise the returns from these assets. They are able to do little else than collect rents, and are beyond criticism for doing so.

#### **Foreign access**

46. There are various and many spurious comments made in respect of foreign states demanding access to uncaught fish in New Zealand's EEZ. These are without foundation and used *in terrorem* [in order to frighten]. The Inquiry may safely take these assertions as irrelevant.