



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

**Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi**

**to the
Primary Production Select Committee**

**on the
Fisheries (Foreign Charter Vessels and
Other Matters) Amendment Bill**

**P O Box 6645
Wellington
28 March 2012**

1. Summary of recommendations

Part 1: Comment on the Bill

- 1.1. The CTU supports the intent of the Bill. We commend the Government for agreeing to require all Foreign Charter Vessels ('FCVs') to reflag to New Zealand.
- 1.2. In light of the risk to lives and the human cost of FCVs, the CTU recommends that the deadline for reflagging be brought forward to 1 May 2014.
- 1.3. The CTU recommends that, similar to the proposed changes to the crown minerals permitting process, granting of registration is conditional on the Health and Safety Regulator's consent in accordance with the Health and Safety in Employment Act 1992 and associated regulations. Our suggested section 103B (clause 9) is as follows:

103B Registration conditional on clearance from Health and Safety Regulator

- (1) Subsection (2) applies if the Health and Safety in Employment Act 1992, or regulations made under that Act, expressly provide that the Health and Safety Regulator must give its approval or consent before the chief executive grants consent to registration.
 - (2) Consent to registration must not be granted until—
 - (a) the Health and Safety Regulator has given its approval or consent; and
 - (b) the Health and Safety Regulator has advised the chief executive that it has given its approval or consent; and
 - (c) the chief executive has notified the permit holder of the Health and Safety Regulator's advice.
- 1.4. Alongside this, the CTU recommends an addition to proposed section 103A(2) (clause 9) as follows:
 - (ab) Any necessary consent or approval from the Health and Safety Regulator in accordance with section 103B.

- 1.5. Duties by other agencies to disclose relevant information and for the chief executive of MPI to consider that information are drafted too permissively in relation to the proposed power to suspend vessel registration (clause 5). The

CTU submits that the word 'may' in proposed subsections 106A(2) and 106A(3) ought to be replaced by 'must.'

1.6. A maximum fine of \$100,000 for continuing to fish in a vessel that has had its registration suspended or cancelled may not constitute a sufficient deterrent.

We recommend that:

- The penalty for fishing with a suspended licence should be in accordance with section 252(3) a fine not exceeding \$250,000.
- The penalty for fishing with a cancelled licence should be in accordance with section 252(2) a fine not exceeding \$500,000.

1.7. In principle, the CTU supports the extension to the mandate and powers of observers on fishing vessels. However doing so creates a significant challenge to train observers adequately. The CTU recommends that the Government seeks expert technical advice from the ILO, the IMO and the New Zealand maritime unions to enhance New Zealand's labour inspection, health and safety inspection and marine observation capacity.

1.8. The CTU recommends that observers:

- Work in teams of two (sub-specialisation within the team may alleviate some of the challenge of highly specialised knowledge requirements); and
- Are subject to 'fit and proper person' requirements.

1.9. We note that the issue of whether the observer function is to be contracted out of the public service appears to be unresolved. In light of the importance, vulnerability and potential conflicts of interest of the revised observer roles the CTU recommends that the observers remain employed directly by the State.

Part II: Wider matters

- 1.10. The CTU submits that we can expect to see serious improvement in industry conditions only if Immigration New Zealand actively investigates the history of Code compliance of New Zealand charter partners and refuses visas where there have been breaches of the Code.
- 1.11. The CTU recommends that the minimum rate applicable to foreign crew should be increased to the minimum wage plus \$5 per hour (\$18.75 at 1 April 2013). This would prevent undercutting of New Zealand crew conditions and provide a rate comparable with the living wage (\$18.40 per hour).
- 1.12. The CTU notes the recommendation of Coroner R G McElrea pursuant to section 57(3) of the Coroners Act 2006 that:¹
- That as a matter of priority the Government proceeds in accordance with recommendation 11 of the Ministerial Inquiry relating to the international conventions referred to above [the Torremolinas Protocol and STCW-F] and the International Labour Organisation Convention C188- Work in Fishing.
- 1.13. The CTU agrees that work towards ratification of these conventions should proceed as a matter of urgency and recommend further that all three conventions should be ratified.
- 1.14. Legislation should require that any fish caught in the New Zealand Exclusive Economic Zone must be subject to value-added processing in New Zealand other than legitimate full processing ships based on no more than the number operating in 2007.
- 1.15. There should also be species should be subject to value-added processing in New Zealand, and develop research and development proposals to lift the value of species currently attracting low returns. We recognise this is difficult but the

¹ *In the matter of an Inquiry into the death of Yunaito, Samsuri, Taefur* (16-20 April 2012, Coroner McElrea) CSU-2010-CCH-579 at [226].

development of Orange Roughy and Hoki are examples of how such investment and development can occur.

- 1.16. The Government should establish a fishing industry development project (which encompasses all parties including unions) that promotes employment opportunities (specifically including land-based options), value-added practices, expanded training provision, and investment options. There also needs to be access to sector-development funding.
- 1.17. The Government and industry should also develop a training structure for young workers to see the fishing industry as a career move for the future and look at the skills needed and how the provision of training can be better delivered to develop these skills.
- 1.18. The Government should review their negotiating position on rules of origin in future trade agreements with a view to encouraging the processing of fish in New Zealand.

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3. Introduction

- 3.1. This submission is made on behalf of the 37 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With over 340,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 3.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 3.3. We welcome the opportunity to make a submission to the Primary Production Select Committee on the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Bill.
- 3.4. The CTU has welcomed many of the recommendations of the Report of the Ministerial Inquiry into the use and operation of Foreign Charter Vessels ('the Ministerial Inquiry') and we support the intent of this Bill.
- 3.5. As the Ministerial Inquiry notes (at paras 86 and 87) "the use of foreign flagged vessels to fish privately owned quota under contract to a domestic permit holder within the EEZ is unique to New Zealand... Fishing in the EEZ of most other developed countries such as the United States of America (US), Canada and Australia is carried out almost exclusively by domestically flagged vessels."
- 3.6. Stringer, Simmons and Coulston² note that there have been many documented cases of FCV crew members not being paid, being underpaid, having their wages eaten up by agency fees and being verbally, physically, and in some cases sexually, abused. Their research was based on over 140 interviews as

² Stringer, C., Simmons, G., and Coulston, D. (2011) "Not in New Zealand waters surely? Labour and human rights abuses aboard foreign fishing vessels", New Zealand Asia Institute 11-01, page 3.

well as prior reports, including from the Maritime Union of New Zealand ('MUNZ').

- 3.7. The findings of the Coronial Inquest into the sinking of the O Yang 70 are clear that the inapplicability of New Zealand health and safety laws contributed to the sinking and thereby the deaths of three men.³
- 3.8. We agree with the Ministerial Inquiry that abuses on foreign charter vessels ('FCVs') in our Exclusive Economic Zone ('EEZ') jeopardise New Zealand's international standing as a leader in human rights and 'Brand New Zealand.' They also jeopardise the safety and lives of the crew. As Joe Fleetwood, National Secretary of MUNZ eloquently stated "It is a stain on New Zealand's conscience that these ships of shame were allowed to be operated in New Zealand waters."⁴ We cannot change the past but New Zealand must wash the stain away as quickly and cleanly as we can.
- 3.9. We have read the submission of the Service and Food Workers Union- Ngā Ringa Tota on this Bill. We agree with their recommendations and wish to acknowledge their work in creating the petition calling for a parliamentary inquiry and gathering 12,000 signatures. Without their work this issue may not have been addressed.
- 3.10. The first part of our submission relates to the provisions of the Bill. The second part of our submission refers to other findings of the Inquiry Report not covered in the Bill and fishing industry issues more generally.

³ *In the matter of an Inquiry into the death of Yunaito, Samsuri, Taefur* (16-20 April 2012, Coroner McElrea) CSU-2010-CCH-579. http://www.justice.govt.nz/courts/coroners-court/media-centre/findings-of-public-interest/oyang-70-csu-2010-cch-000579/at_download/file

⁴ 'Findings on Oyang 70 sinking a stain of New Zealand's conscience' MUNZ press release (8 March 2013) <http://www.munz.org.nz/2013/03/08/findings-on-oyang-70-sinking-a-stain-of-new-zealands-conscience/>

PART I: COMMENT ON THE BILL

4. Reflagging of FCVs

4.1. The CTU welcomes the proposal that FCVs should be required to reflag to New Zealand and commends the Government for going further than the recommendations of the Ministerial Inquiry.

4.2. We agree with the Ministry of Primary Industries ('MPI') that reflagging is the best option because:⁵

Reflagging to New Zealand provides New Zealand with full jurisdiction over FCVs. This would reduce legislative and regulatory complexity in the management of vessel safety, health and safety and employment laws. As the vessels would be subject to all domestic laws, policy and operational responsibilities would lie with the agencies best placed to enforce them.

4.3. We also agree with MPI that reflagging is in the best interests of the New Zealand fishing industry by 'levelling the playing field' between FCVs and domestic vessels and addressing significant reputational issues.

4.4. The costs of reflagging raised by the fishing industry must be weighed against the cost of the current regime in human misery and lives lost. Every month of delay compounds this misery and risks a further tragedy.

4.5. In light of the on-going human costs, the deadline of 1 May 2016 for reflagging of all FCVs is too long to wait. The CTU recommends that the deadline for reflagging be brought forward to 1 May 2014.

4.6. We note that the first reflagging of an FCV, the Ukrainian vessel FV *Mainstream*, to New Zealand has already occurred.⁶

⁵ MPI, Regulatory Impact Statement: Government Response to the Ministerial Inquiry on Foreign Charter Vessels, para 95.

⁶ 'First reflagging of foreign charter fishing vessel welcomed' Hon Nathan Guy, MP and Hon Simon Bridges, MP press release (7 March 2013) <http://www.beehive.govt.nz/release/first-reflagging-foreign-charter-fishing-vessel-welcomed>

4.7. Reflagging all FCVs to New Zealand is an important step but must be backed up with a robust registration and inspection regime.

5. Registration process for FCVs

5.1. The CTU agrees with the proposal requiring the chief executive of MPI to consider “any risk associated with fisheries management, employment, or vessel safety that the chief executive considers would be likely to result if the vessel were to be registered.”⁷

5.2. However, given the significant risks and the industry’s poor record relating to health and safety and employment issues we recommend that this provision is strengthened.

5.3. We note the Government’s proposal to strengthen the health and safety regulation relating to the issuance of permits for crown minerals contained in the Crown Minerals (Permitting and Crown Land) Bill awaiting its second reading before the House. Proposed section 33AA requires that:

33AA Exercise of permit conditional on clearance from Health and Safety Regulator

- (1) Subsection (2) applies if the Health and Safety in Employment Act 1992, or regulations made under that Act, expressly provide that the Health and Safety Regulator must give its approval or consent before an activity can be carried out under a permit.
- (2) The activity must not be carried out until—
 - (a) the Health and Safety Regulator has given its approval or consent; and
 - (b) the Health and Safety Regulator has advised the chief executive that it has given its approval or consent; and
 - (c) the chief executive has notified the permit holder of the Health and Safety Regulator’s advice.

5.4. We think this clause is sensible and analogous to the situation applying to FCVs. The CTU recommends that a similar clause is enacted when FCVs are phased out. Our suggested section 103B is as follows:

103B Registration conditional on clearance from Health and Safety Regulator

- (1) Subsection (2) applies if the Health and Safety in Employment Act 1992, or regulations made under that Act, expressly provide that the Health and Safety

⁷ Clause 4(4) of the Bill adding new section 103(6)(ba) from the date of royal assent and identical wording in clause 10 adding section 103A(2)(a) with effect from 1 May 2016.

Regulator must give its approval or consent before the chief executive grants consent to registration.

- (2) Consent to registration must not be granted until—
 - (a) the Health and Safety Regulator has given its approval or consent; and
 - (b) the Health and Safety Regulator has advised the chief executive that it has given its approval or consent; and
 - (c) the chief executive has notified the permit holder of the Health and Safety Regulator's advice.

5.5. Alongside this, the CTU recommends an addition to proposed section 103A(2) (clause 9) as follows:

- (ab) Any necessary consent or approval from the Health and Safety Regulator in accordance with section 103B.

6. Suspension of registration

6.1. The CTU strongly supports the introduction of a power of suspension of registration (clause 5 adding new section 106A).

6.2. Overall, the proposed section is a reasonable one. However, subsection 106A(2) and (3) ought to be strengthened. They currently state:

- (2) If any person, department, or agency in the course of performing or exercising functions, duties, or powers under any Act obtains any information that is relevant for the purposes of subsection (1) the person, department, or agency **may** provide the information to the chief executive.
- (3) For the purposes of subsection (1), the chief executive **may** take into account information provided by any person, department, or agency.

[Emphasis added]

6.3. The use of the permissive 'may' is unjustified. Under proposed subsection (1) the chief executive may only suspend "if satisfied on reasonable grounds" that registration poses a risk of a breach of fisheries management, employment or vessel safety laws or has breached conditions of registration. The chief executive ought to be required to take into account information they receive from other official sources and these sources ought to be required to disclose any relevant information to the chief executive. The CTU therefore submits that 'must' should be substituted for 'may' in proposed subsections 106A(2) and (3).

6.4. Maximum penalties for continuing to fish in a vessel that has had its registration suspended (proposed section 103A(9)) or cancelled (proposed section 107(10))

are set out in section 252(5) of the Act. These offences carry a maximum penalty of \$100,000. We believe this may not constitute a sufficient deterrent and recommend that:

- The penalty for fishing with a suspended licence should be in accordance with section 252(3) a fine not exceeding \$250,000. This penalty is in line with related offences such as fishing in breach of permit condition (section 252(3)(c)) or unlawful use of foreign vessel on high seas by New Zealand national (section 252(3)(hc)).
- The penalty for fishing with a cancelled licence should be in accordance with section 252(2) a fine not exceeding \$500,000. This penalty is in line with that for using foreign fishing vessels to take fish without a license (section 84(1)(a)).
- Clause 7 of the Bill should be amended to reflect these changes.

7. Observer's powers and responsibilities

- 7.1. The CTU supports the extension of the observer's mandate to include observation of vessel safety and employment matters with some significant caveats.
- 7.2. The effect of the proposal is to delegate some of the functions of health and safety inspectors and labour inspectors to observers. This is a pragmatic solution to the problem of enforcement of the standards but the largest issue that the solution creates is that observers will require expertise in four disparate and extremely specialised functions (marine biology, ship maintenance, minimum employment standards and health and safety).
- 7.3. A considerable number of observers will also be needed to effectively discharge their duties and the number of people who currently have the required skill set extremely small (and many will be involved in the New Zealand maritime

unions). The Ministerial Inquiry's notes⁸ that MAF (as it then was) intends to have an observer on all vessels fishing in the EEZ. We commend this goal note but note that it raises the question of how the additional observers will be trained adequately.

- 7.4. The United Nations bodies; the International Maritime Organisation ('IMO') and the International Labour Organisation ('ILO') have considerable experience and expertise in these matters. Along with ratification of important ILO and IMO Conventions (discussed below) the CTU recommends that the Government seeks expert technical advice from the ILO, the IMO and the New Zealand maritime unions to enhance New Zealand's labour inspection, health and safety inspection and marine observation capacity.
- 7.5. Policing several different jurisdictions also places observers at significantly greater risk of either harm or corruption. For example, penalties under the Health and Safety in Employment Act 1992 range as high as \$500,000 and two years in prison (for undertaking an action knowing that it is likely to cause serious harm). It is important that observers be adequately protected from harm and of good character.
- 7.6. The CTU recommends that observers:
- Work in teams of two (sub-specialisation within the team may alleviate some of the challenge of highly specialised knowledge requirements); and
 - Are subject to 'fit and proper person' requirements.
- 7.7. We note that the issue of whether the observer function is to be contracted out of the public service appears to be unresolved. In light of the importance, vulnerability and potential conflicts of interest of the revised observer roles the CTU recommends that the observers remain employed directly by the State.

⁸ Ministerial Inquiry, para 304.

PART II: WIDER MATTERS

8. Immigration New Zealand: Foreign Crew in Fishing Vessels Instructions

- 8.1. The Department of Labour conducted an investigation into the fishing industry in December 2004. Although the focus of the inquiry was conditions on New Zealand vessels employing foreign crew, the investigators realised there were real areas of concern over the use of overseas-owned contract vessels operating in New Zealand waters.
- 8.2. The report revealed the Fisheries Act section 103 was woefully inadequate. Problems with enforcement and a lack of reporting meant operators of foreign charter vessels in New Zealand waters were able to flout the Act's requirements with impunity. Further, the Act did not address the non-financial problems of abuse and poor working conditions.
- 8.3. The public release of the report in May 2005 resulted in a number of questions in Parliament, with National, United Future, New Zealand First and the Greens all exhorting the government to take action. The Government's response was to announce a review of the process by which visas allowing foreigners to work in the EEZ were granted. In October 2006, the review resulted in the introduction by the Department of Labour of a new Code of Practice on Foreign Fishing Crew.
- 8.4. The Code of Practice outlined the minimum work conditions to be met before visas to work in the EEZ will be granted to foreign crew members. All New Zealand parties to foreign fishing vessel charter arrangements were required to be signatories to the Code. The New Zealand charter partner could then request an Approval in Principle from Immigration New Zealand to allow the foreign charter partner to employ foreign crew members. An Approval in Principle would only be granted if the Department is satisfied the Code of Practice will be adhered to and that the charter partners have a history of

compliance with the Code. If an Approval in Principle is not granted, the foreign crew will not receive visas to work in New Zealand waters.

- 8.5. Two significant procedural requirements aided. The New Zealand charter party was required to enter into a Deed of Guarantee of Financial Obligations in Respect of Foreign Crew. This Deed requires the New Zealand party to reimburse the Department of Labour for any costs incurred in accommodating, maintaining and repatriating crew. It also gives crew the right to enforce wages claims against the New Zealand party if they cannot enforce them against the foreign employer (however this right only extended to wages and the timeframe to claim was extremely limited). The Code also required employment contracts to contain a dispute resolution procedure involving the Labour Inspectorate, the Mediation Service and then the Employment Relations Authority and Employment Court. If resolution is not achieved and if the claim concerns wages, the crew can then pursue the New Zealand charter partner through the Department of Labour and the District Court.
- 8.6. In February 2012, the Ministerial Inquiry recommended significant changes to the code to tighten it up (in particularly recommendation 3).
- 8.7. Cabinet agreed to the recommendation and effective from 17 December 2012, the Code was superseded by a new version of the immigration instructions WJ Foreign Crew of Fishing Vessels. These changes meant that:⁹

[T]he Foreign Crew of Fishing Vessels instructions have been amended to:

- subject all fishing vessels employing foreign crew in New Zealand's fisheries waters to immigration requirements for foreign crew
- give all foreign crew the option of payment into a New Zealand bank account, with payment in cash (default under Wages Protection Act 1983) as the only alternative allowed

⁹ See <http://www.immigration.govt.nz/NR/rdonlyres/1BB1B212-4526-41E1-890B-96DF7AB4AAA2/0/AmendmentCircular201218.pdf> for detail.

- prohibit all foreign crew's employers, manning agents or authorised representatives (and any persons associated with the employer, manning agent or authorised representative) from having power of attorney, or any other form of control, over crew's bank accounts
- apply the standard immigration labour market test to all applications to recruit foreign crew on fishing vessels in New Zealand's fisheries waters
- add a fit and proper person test for the employer (or the New Zealand Charter Party where the employer is a foreign company)
- require that all foreign crew on New Zealand-flagged fishing vessels be sponsored by their employer
- require that all foreign crew on FCVs be sponsored by the New Zealand Charter Party and be subject to a Deed of Guarantee protecting their wages, signed by the New Zealand Charter Party
- apply current minimum remuneration requirements in immigration instructions to all foreign crew
- require employers to give crew at least 24 hours' notice of departure (the end of a crew member's engagement) to enable them to contact, and meet with, their representative before departing New Zealand, and
- specify standard timeframes for the provision of information and documents to auditors.

8.8. Other useful changes such as a more realistic dispute resolution timeframe were also included. The CTU supports this 'tightening up' but notes potential difficulties regarding enforcement. Intimidation and threats against families of crew, together with language barriers and difficulties of access to New Zealand support institutions mean abuses of fishing crew are likely to remain under-reported.

8.9. The CTU submits that we can expect to see serious improvement in industry conditions only if Immigration New Zealand actively investigates the history of Code compliance of New Zealand charter partners and refuses visas where there have been breaches of the Code and this should occur. It is doubtful whether this will happen in practice. Lack of the resources to proactively

investigate conditions on the vessels is likely to mean the Code is enforced only where complaints are made by crew.

- 8.10. The minimum remuneration rate for foreign crew (WJ5.45.15) is currently the New Zealand statutory minimum wage plus \$2 per hour (never less than 42 hours per week on average). The CTU recommends that the minimum rate be increased to the minimum wage plus \$5 per hour. On the basis of the 2012 Minimum Wage Order this would bring the minimum rate for foreign crew to \$18.75 per hour.
- 8.11. This approximates the New Zealand living wage¹⁰ of \$18.40 per hour. It is acknowledged that foreign crew may have lower costs of living in their home countries. However, setting the minimum remuneration rate at near the living wage prevents foreign workers from undercutting New Zealand workers' terms and conditions and thereby reducing overall wages below an acceptable level.

9. International Conventions

- 9.1. New Zealand is a member of the International Labour Organisation ('ILO'), the International Maritime Organisation ('IMO'), and the United Nations. There is a detailed discussion of New Zealand's compliance with our international obligations in section 5 of the CTU's submission to the Ministerial Inquiry and we refer you to that document rather than repeating that discussion here.¹¹
- 9.2. We note that following the recommendations of the Ministerial Inquiry (recommendation 11) official assessments are being undertaken in relation to New Zealand's current and potential compliance with:¹²

- ILO Convention C188- Work in Fishing;

¹⁰ See research report here for detail of how the New Zealand living wage was calculated:

<http://www.livingwage.nz.org.nz/files/embargo%20file/Living%20Wage%20Investigation%20Report.pdf>

¹¹ The CTU's submission is available at: <http://union.org.nz/policy/ctu-foreign-fishing-vessels-submission>

¹² See <http://www.mfat.govt.nz/downloads/treaties-and-international-law/ITL-International-treaties-list-july-2012-edition.pdf>. We understand that work is ongoing in relation to possible ratification of these instruments but that it is being given a low priority.

- IMO Convention STCW-F: International Convention on Standards of Training, Certification and Watchkeeping for Fishers; and
- IMO's Torremolinos Protocol (and that New Zealand negotiators have been involved in discussions around the modification to the protocol by way of the 2012 Cape Town Agreement).

9.3. As New Zealand's Worker's Organisation representative to the ILO, the CTU must be consulted in relation to potential ratification of ILO Conventions. We note that that according to the MFAT document this consultation is planned (p 7) but has not occurred yet.

9.4. We note the recommendation of Coroner R G McElrea pursuant to section 57(3) of the Coroners Act 2006 that:¹³

That as a matter of priority the Government proceeds in accordance with recommendation 11 of the Ministerial Inquiry relating to the international conventions referred to above [the Torremolinas Protocol and STCW-F] and the International Labour Organisation Convention C188- Work in Fishing.

9.5. We concur with Coroner McElrea that work towards ratification of these conventions should proceed as a matter of urgency and recommend further that all three conventions should be ratified.

10. Economic Return

10.1. The picture the economic data presents is of considerable potential for added value from processing the fish caught in our waters, but a declining industry with processing output falling along with other parts of the industry, despite increases in prices in the last four years. It is an industry with falling employment and low wages.

¹³ *In the matter of an Inquiry into the death of Yunaito, Samsuri, Taefur* (16-20 April 2012, Coroner McElrea) CSU-2010-CCH-579 at [226].

- 10.2. Fishing benefits the New Zealand economy through direct and indirect channels. The direct channels include catching the fish, and processing of the fish in New Zealand. These have a multiplier effect on the economy because fish catching and processing activities purchase goods and services, including capital plant and equipment, in order to function, and the profits and wages in turn buy more goods and services.
- 10.3. Some of the purchased goods and services come from New Zealand while others are imported. To the extent that profits are earned by New Zealand owned companies, they stay in New Zealand. Similarly, wages earned by New Zealand residents stay in New Zealand. However, when fish is caught by vessels owned overseas, crewed by overseas residents, and processed either on board the vessel or overseas, the benefits to the New Zealand economy will be much less and they represent a lost opportunity for the New Zealand economy.
- 10.4. The following information on multipliers was provided by Christchurch economic consultant Geoff Butcher. Note that this approach is a useful but partial one. A “general equilibrium” model of the economy would allow a more complete analysis of the effects of a change in the fishing industry, including its effect on tax revenue, wages, profits and the Balance of Payments.
- 10.5. The most recent multipliers for fishing (i.e. taking catch) available are for 2006-07. These do not include the impacts of fish processing (considered below), and treat chartered foreign vessels simply as a cost to the local quota holders (so for example do not include the wages paid to the vessels’ crew or the profits paid to their owners).
- 10.6. Value added directly was \$0.31 million per \$1 million of catch value. However the total value added including indirect effects was 3.27 times the direct effects, so the total national value added per \$1 million of catch was \$1.02 million.

- 10.7. Direct employment was 3.6 full-time equivalent employees (FTEs) for every \$1 million of catch. However the indirect employment effect was 3.3 times that, bringing it to approximately 12 FTEs for each \$1 million of catch in 2006/07 dollars.
- 10.8. Prices received in the Fishing and Aquaculture sector increased 36.4 percent between September 2006 and December 2012¹⁴, so the employment per \$1 million catch will have fallen accordingly, but the exact change will also be affected by productivity in the fishing effort. If there was no change in productivity the current employment ratio would be approximately 8.8 FTEs per \$1 million of catch.
- 10.9. Again, the most recent multipliers available for fish processing are from 2006/07. In that year, every dollar of fish that went into processing emerged as \$3.70 of processed product. Butcher's best estimate is that there were 3.6 FTEs directly engaged in fish processing for every \$1 million of output,
- 10.10. Total value added nationally was \$0.81 m per \$1 million of processed output (excluding fishing activities themselves).
- 10.11. In 2006/07 approximately 9.8 FTEs were employed per \$1 million of processed output (excluding fishing itself). Prices received by the Seafood Processing sector have increased 39.6 percent since then. So if \$3.70 of processed product still results from each dollar of raw fish, for each \$1m of fish processed, there were \$2.7m of processed product and employment of 26 FTEs in 2012, assuming no change in productivity.
- 10.12. Adding the two together, for each \$1m of catch which is processed, we get \$2.7m of processed product and employment of 34.8 FTEs. For each \$1m of processed product, there are 9.4FTEs.

¹⁴ Statistics New Zealand, Producer Price Index (outputs).

- 10.13. Processing the fish quadruples the number of jobs created from about 8.8 per \$1 million of catch to 34.8 FTEs. It increases the national value added in a similar ratio, but this is difficult to estimate more exactly because of the significant price changes over the period.
- 10.14. The contributions of fishing and seafood processing to New Zealand's total GDP are available until 2010 and are shown in Tables 1 and 2. For fishing, the contribution was \$228 million in 2010, made up of \$85 million in compensation of employees, \$129 million in gross operating surplus (profits, interest, etc), and \$14 million in taxes on production less subsidies. Payments to workers in the industry were around 40 percent of total value added, and operating surplus 60 percent. The labour share is higher than agriculture and forestry, but lower than most manufacturing (e.g. employees in food, beverage and tobacco manufacturing received over 50 percent of the income) and the economy as a whole (a around 50 percent).
- 10.15. It is notable that since 2000 both gross operating surplus and employee earnings have fallen in dollar and real terms. Operating surplus peaked in 2001, while employment costs peaked in 2002. In real terms (relative to the CPI), gross operating surpluses fell by 57 percent between 2000 and 2010, while compensation of employee fell 31 percent. Output prices barely changed over this period – they fell by 4 percent having peaked in 2001. As a proportion of national GDP, fishing's share more than halved from 0.32% to 0.13% between 2000 and 2010.
- 10.16. Seafood Processing contributed \$441 million to GDP in 2010, made up of \$293 million in compensation of employees, \$141 million in gross operating surplus, and \$7 million in taxes on production less subsidies. Payments to employees were around 67.5 percent of total value added, but this reflected poor profitability rather than mounting wage bills: compensation of employees fell from \$338 million in 2009 to \$293 million in 2010. In real terms, profits in 2010 were half those in 2000, and this followed three years of even lower surpluses -

\$134 million in 2007, \$70 million in 2008 and \$10 million in 2009 (in March 2010 dollars). In real terms, employee costs fell almost a third (29 percent) between 2000 and 2010. Over the same period, the sector's contribution to GDP fell from \$538 million to \$441 million in March 2010 dollars, or from 0.40 percent of GDP to 0.25 percent.

Table 1: Contribution of Fishing to GDP (\$ million)					
	Operating surplus	Compensation of employees	Taxes less subsidies	Contribution to GDP	Proportion received by Employees
2000	232	95	8	335	29.1%
2001	251	90	7	348	26.4%
2002	228	116	5	349	33.7%
2003	162	107	2	271	39.8%
2004	167	95	4	266	36.3%
2005	166	87	4	257	34.4%
2006	164	65	4	233	28.4%
2007	163	79	4	246	32.6%
2008	114	76	4	194	40.0%
2009	67	88	13	168	56.8%
2010	129	85	14	228	39.7%

Table 2: Contribution of Seafood Processing to GDP (\$ million)					
	Operating surplus	Compensation of employees	Taxes less subsidies	Contribution to GDP	Proportion received by Employees
2000	221	170	22	413	43.5%
2001	270	202	23	495	42.8%
2002	227	223	23	473	49.6%
2003	215	238	24	477	52.5%
2004	187	217	24	428	53.7%
2005	225	212	24	461	48.5%
2006	208	200	25	433	49.0%
2007	123	263	19	405	68.1%
2008	67	285	14	366	81.0%
2009	10	338	6	354	97.1%
2010	141	293	7	441	67.5%

10.17. The following wages data shows, there was a sharp decrease of 25 percent in the number of employees between 2005 and 2009, but average annual employee earnings in real terms (taking account of inflation) rose by 24 percent in the same period. Real average earnings were virtually unchanged between 2000 and 2005.

10.18. Average earnings were very low at \$24,580 per year in 2009, less than half the economy-wide average weekly earnings (\$951 per week or equivalent to \$49,451 per year in March 2009). Gross annual earnings for all employees in the industry rose by 5.2 percent and PAYE deductions rose by 9.3 percent in real terms between 2000 and 2005, but fell by 7.2 percent and 2.8 percent respectively between 2005 and 2009. These data would be consistent with fewer employees working longer hours, though with few working all year and full time. Employees in the industry contributed \$54 million in income tax in 2009.

Table 3: Wage and Salary Employees and Annual Earnings in the Seafood Processing Industry⁽¹⁾			
	Tax year⁽²⁾		
	2000	2005	2009⁽³⁾
Count of employees ⁽⁴⁾	11,172	11,769	8,820
Average annual earnings (\$)	15,600	17,610	24,580
Average annual PAYE deductions (\$)	-3,550	-4,170	-6,090
Average annual earnings after PAYE deductions (\$)	12,050	13,440	18,490
Gross annual earnings (\$)	174,252,570	207,201,830	216,826,700
Gross annual PAYE deductions (\$)	-39,660,180	-49,021,360	-53,724,460
Gross annual earnings after PAYE deductions (\$)	134,592,390	158,180,460	163,102,240

Table 4: Earnings in the Seafood Processing Industry after inflation (March 2009 dollars)			
	Tax year⁽²⁾		
	2000	2005	2009⁽³⁾
Count of employees ⁽⁴⁾	11,172	11,769	8,820
Average annual earnings (\$)	19,893	19,864	24,580
Average annual PAYE deductions (\$)	-4,527	-4,704	-6,090
Average annual earnings after PAYE deductions (\$)	15,366	15,161	18,490
Gross annual earnings (\$)	222,208,200	233,727,143	216,826,700
Gross annual PAYE deductions (\$)	-50,574,963	-55,296,917	-53,724,460
Gross annual earnings after PAYE deductions (\$)	171,633,238	178,430,215	163,102,240

Source: Statistics New Zealand

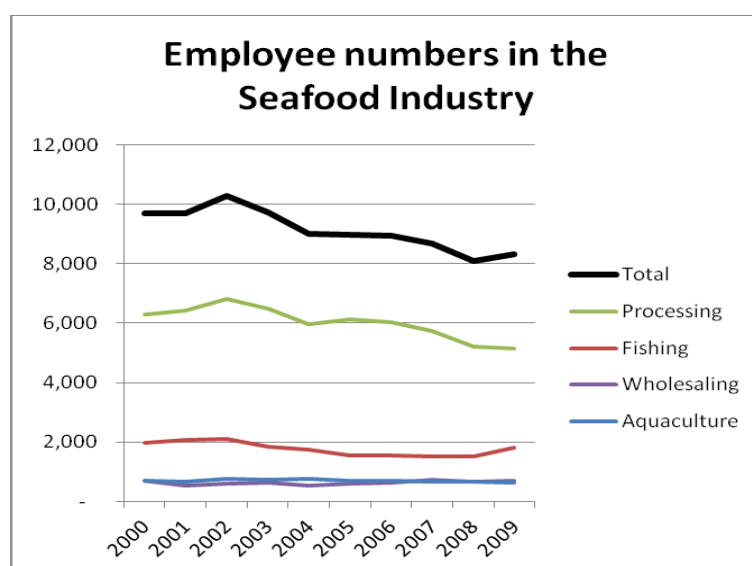
Note:

- (1) The seafood processing industry is ANZSIC 06 classification C112000.
- (2) Covers all wage and salary jobs in the year ending March.
- (3) Includes provisional data for the March 2009 quarter.
- (4) People are only counted once regardless of how many jobs they have within the tax year in this industry.

10.19. In the seafood industry as a whole (including Aquaculture, Fishing, Fish and Seafood Wholesaling, and Seafood Processing), the number of people employed fell steadily between 2000 and 2010, apart from the years 2002 and

2003. In 2010, numbers were less than four-fifths (79 percent) of their peak in 2002. Seafood processing has been by far the largest employer – but also the area in which employment has fallen most steeply. The industry has laid off nearly 50 percent of the number of on-shore workers at the peak of 2002. In 2005, the closure of Sealord’s Dunedin operation resulted in the loss of 850 jobs.

Year	Aquaculture	Fishing	Processing	Wholesaling	Total
2000	690	1,990	6,300	700	9,680
2001	660	2,070	6,430	520	9,680
2002	750	2,100	6,830	590	10,270
2003	730	1,860	6,490	640	9,720
2004	750	1,740	5,970	540	9,000
2005	700	1,560	6,120	590	8,970
2006	710	1,550	6,040	640	8,940
2007	680	1,520	5,750	720	8,670
2008	670	1,530	5,220	680	8,100
2009	650	1,820	5,160	700	8,330



Source: Statistics New Zealand, Business Statistics, Detailed industry by territorial authority.

10.20. The decline in processing is a reflection of the failure of the industry to add value to its catch. Table 6 shows a large decline in TACC from 716,806 tonnes to 593,514 tonnes in 2005 and decreasing more slowly into 2009 (578,033 tonnes), indicating depletion of the fishing resource.

10.21. On top of the depletion, the percentage with added value declined steeply between 2000 and 2009, whether expressed as a proportion of the value exported (falling from 61 to 40 percent) or the TACC (falling from 16 to 10 percent). (“Added Value” was defined for these purposes as all forms of processing other than Headed & Guttled, Whole fish and Other Forms. This could be seen as generous.)

Table 6: Added Value of Finfish for years 2000, 2005 and 2009.

NETT	2000		2005		2009	
	Tonnes	NZ\$FOB	Tonnes	NZ\$FOB	Tonnes	NZ\$FOB
Finfish with Added Value						
Fresh fillets	708	\$10,164,083	570	\$6,147,435	780	\$10,886,804
Live	397	\$3,816,638	207	\$1,793,978	323	\$2,228,902
Frozen fillets	49,575	\$373,236,419	33,159	\$221,392,225	19,675	\$164,833,960
Processed & other fish meat	34,454	\$59,850,371	25,706	\$29,096,683	22,164	\$48,452,529
Meal, Blocks, Minced	19,323	\$89,274,931	12,988	\$46,276,909	9,179	\$55,161,818
Prepared	8,812	\$53,762,645	5,441	\$29,040,733	8,153	\$58,916,388
Smoked, Salted or in Brine	236	\$7,606,549	271	\$4,288,383	209	\$7,124,990
Total Finfish with Added Value	113,506	\$597,711,636	78,341	\$338,036,346	60,484	\$347,605,391
Total Export of Finfish	217,092	\$980,594,358	220,466	\$698,837,167	207,633	\$858,623,164
TACC (tonnes)	716,806		593,514		578,033	
Added Value as a % of Exports	52.28%	60.95%	35.53%	48.37%	29.13%	40.48%
Added Value as a % of TACC	15.83%		13.20%		10.46%	

Source: “New Zealand Seafood Exports, Report 7 Seafood exports by species by country”, New Zealand Seafood Industry Council

10.22. Much of the fish processing done on-shore is done by foreign labour – back in countries like China and Thailand.

10.23. We acknowledge that there are some service, maintenance and provedores jobs under the current model but different economic models would result in

much higher levels of employment directly involved in harvesting and processing deepwater fish.

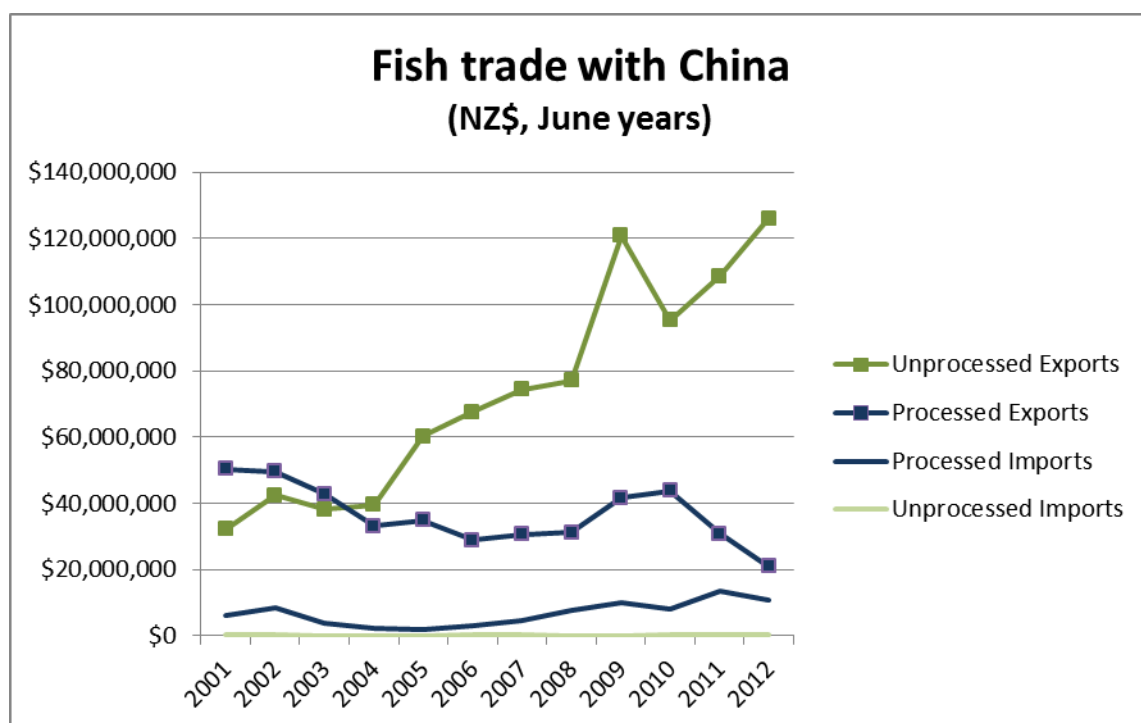
- 10.24. We understand that foreign vessels catch close to 80% of all iwi deepwater quota. We are not alone in assuming that as a result of Treaty of Waitangi settlements, and resulting division of fishing quota, a positive environment for Māori employment would grow alongside harvesting of this indigenous resource.
- 10.25. Of course there are complexities. It is a difficult industry. ITQ confers a right to a defined percentage of the economic rent available from the specified fish stock. Annual catch entitlements, the value of the species in parcels of quota, total allowable catch pathways, fish prices, exchange rates, fisheries management costs and so forth are all important factors in addition to labour costs.
- 10.26. Yet we also see in the industry some positive models that include value-added processing on-shore and New Zealand owned, operated and crewed vessels. Of course, some in the industry argue that the value of quota and other factors have a huge bearing on the economics of these models..
- 10.27. We recommend that the Government establish a fishing industry development project (which includes all parties including unions) that promotes employment opportunities (specifically including land-based options), value-added practices, expanded training provision, increased cooperation between producers in maximising the value of exports, and investment options. There also needs to be access to sector-development funding.
- 10.28. We also recommend greater resources are put into training and developing career options in the fishing industry.

11. Trade and Tariff Issues

- 11.1. Another significant impediment in the drive towards value-added processing is the terms of current and future free trade agreements. The fate of seafood

exports under the New Zealand-China Free Trade Agreement is an instructive example.

- 11.2. All vessels and quota owners can get preferential access to China under the New Zealand-China Free Trade Agreement because the rules of origin used by New Zealand and that FTA regard all catch from New Zealand waters as of New Zealand origin, independent of the ownership or flag of the fishing vessel.
- 11.3. All tariffs on the entry into China of fish products (including molluscs, crustaceans, etc.) have now been removed. Such tariffs have never been high: most started at about 10-12 percent, and have reduced in equal steps from 2008. The agreement has been a further incentive to export unprocessed product, have it processed in China and either sell it there or re-export it. The accompanying graph shows the steep rise in value of exports to China of unprocessed (i.e. frozen, not otherwise processed) fish and the fall in exports of processed fish, while imports of processed fish have risen and unprocessed fish imports are negligible.



11.4. Again, these rules are encouraging processing of the New Zealand catch overseas rather than in New Zealand and help explain the fall-off in the New Zealand processing industry.

11.5. These rules should be reviewed and lessons learned for future trade agreements with a view to encouraging the processing of fish in New Zealand.

12. Conclusion

12.1. The CTU welcomes the intent behind this Bill.

12.2. As we set out in the recommendations we submit that FCVs should be phased out of our EEZ faster. Enforcement provisions should be strengthened.

12.3. More generally, New Zealand should strengthen the code for foreign crew, ratify the relevant international conventions as a matter of urgency and consider regulation to shift our fishing and fish processing industries to a higher value model.