

S7853

7 March 2007

Minister of Fisheries

REVIEW OF THE CATCH BALANCING (DEEMED VALUE) GUIDELINES:

PART 1: FINAL ADVICE PAPER

Purpose

1 The purpose of this paper is to seek your approval of the Ministry of Fisheries (MFish) amended Catch Balancing (Deemed Value) Guidelines. These amended guidelines constitute the MFish standard on setting and reviewing deemed values.

2 Attached to this paper are copies of the initial position paper (IPP), a summary of submissions and the submissions for your reference. MFish officials are available to brief you on this issue at your convenience.

Executive summary

3 MFish is making four key changes to the existing catch balancing (deemed value) guidelines:

- a) Allow a more flexible, robust and consistent approach to setting deemed values.
- b) Set deemed values following the analysis of a broader range of information sources.
- c) Maintain interim deemed values but allow for interim deemed values to be set at a higher rate, if appropriate.
- d) Maintain differential deemed values but allow their application to be varied on a stock by stock basis.

4 To ensure the management regime can effectively respond to situations where a deemed value change is considered necessary a deemed value review group will be established to monitor both catches against the total allowable commercial catch (TACC) and deemed value invoices on a stock basis throughout the fishing year. This process will ensure the Ministry is able to react appropriately when management intervention is required.

5 These new guidelines will be fully implemented in time for the October 2007 sustainability round. However, MFish also intends to apply the new guidelines for those stocks undergoing a deemed value review as part of the April 2007 sustainability round.

Summary of revised guidelines

6 MFish intends to make the following changes to the catch balancing (deemed value) guidelines:

- a) Replace the current category based rules with a stock by stock analytical approach to setting deemed values.
- b) Establish a set of criteria which will signal when the deemed value rate for a stock should be considered for review.
- c) Set the deemed value rate following analysis of a range of information sources, not just port price.
- d) Interim deemed values will no longer always be set at 50% of the annual rates and may be set higher, although not higher than the annual rate.
- e) Differential deemed values will be applied at varying rates of over catch, depending on the stock.

7 The new guidelines are summarised in Appendix 1.

Submissions received

8 The following submissions were received:

- a) Aotearoa Fisheries Ltd (AFL).
- b) R.J. Butts (Mr. Butts).
- c) Independent Fisheries Ltd (Independent).
- d) Mr. M. Hardyment (Mr. Hardyment).
- e) NZ Federation of Commercial Fishermen (NZ Federation).
- f) Seafood Industry Council (SeaFIC).
- g) Te Ohu Kai Moana (TOKM).

9 A summary of submissions is available in part 2 of this paper and copies of the full submissions are provided in part 3.

Background Information

10 In October 2001 a new way to control catches within the quota management system (QMS) was introduced – the catch balancing regime. Under the new management regime it is no longer an offence to fish without quota.¹ Under the annual catch entitlement (ACE) framework, fishers are now required to balance all their catch at the end of the fishing year through acquiring ACE. If a fisher fails to acquire sufficient ACE then they are required to pay a civil penalty (deemed value).

11 Deemed values are currently set for each fish stock in the QMS using the catch balancing regime guidelines produced in 2001. The Fisheries Act 1996 (the Act) details five ways the balancing regime provides incentives for fishers to cover all their catch with ACE. These are:

- a) *Annual deemed values* (s 75 & s 76) are intended as the main deterrent to a fisher having catch in excess of ACE at the end of the fishing year.
- b) *Interim deemed values* (s 75 & s 76) are intended as a “reminder” for fishers to obtain ACE to cover catch during the fishing year.
- c) *Permit suspension provisions* (s 79) ensure that a fisher is prevented from fishing if they do not pay interim or annual deemed values above a defined threshold (further fishing while suspended is a criminal offence).
- d) *Overfishing thresholds* (s 77, s 77A & s 78) may be set for a stock by the Minister of Fisheries as a percentage of ACE held. If fishers breach this threshold their permit is conditioned to prevent them from continuing to fish in the relevant QMA.
- e) *Tolerance levels* (s 77 & s 78) (specified as a fixed quantity of catch) are designed to prevent overfishing thresholds being triggered by trivial amounts of catch in excess of ACE.

12 In addition to interim and annual deemed values, differential deemed values have been used as an extra deterrent by increasing the annual deemed value rate for an individual as more and more catch is taken in excess of the ACE held. At present, differential deemed values of 120% of the basic deemed value rate start to apply when catch is 20% greater than ACE holdings and increase to 200% of the basic rate when catch is greater than 100% of ACE holdings.

13 If a fisher’s outstanding deemed value invoice reaches \$1000 and remains unpaid then the fisher faces a permit suspension and is unable to continue fishing until the outstanding deemed value amount is reduced below \$1000.

14 Section 75 of the Act also sets out that the Minister of Fisheries is responsible for setting annual and interim deemed values for each stock at the start of the fishing year and is required to ensure that deemed values encourage fishers to balance all their catch with ACE.

¹ The only exception to this is for those stocks where a minimum ACE holding applies and fishers must hold ACE up to this minimum level before they commence fishing.

Why change the guidelines?

15 The purpose of the deemed value framework is to provide an incentive for fishers to acquire sufficient ACE to balance against catch. The objectives operating within the catch balancing framework are:

- a) Catch is harvested, landed and balanced with ACE.
- b) There are no significant deemed value payments when ACE is left unused at the end of the fishing year.
- c) Individual fishers are not able to use deemed values to undermine the QMS.

In every instance, MFish strives to identify the optimal point that balances these objectives.

16 The balancing regime is also a key fisheries management tool contributing to both sustainability and utilisation objectives. The sustainability objectives are achieved when deemed value rates encourage fishers to balance catch with available ACE and in so doing constrain harvesting to the TACC. The utilisation objectives are achieved by providing flexibility for operators to manage unexpected and small overruns in ACE holdings and allowing periodic rather than continuous balancing.

17 However, there are concerns that the catch balancing framework is not working as effectively as it could. The existing guidelines are considered overly prescriptive and do not allow sufficient flexibility to take into account the full range of factors that apply to each fishery. A summary of the existing catch balancing (deemed value) guidelines can be found in Appendix 2.

18 Under the existing guidelines, the port price for each fish stock is the predominant information source used to determine the deemed value. Research commissioned by MFish has shown that there are other information sources that can be used to better set deemed values.² In developing this proposal MFish considered each of these proposed information sources for their suitability.

19 MFish also considers it good practice to periodically review frameworks to evaluate their performance, effectiveness and if appropriate to identify improvements. The catch balancing framework was implemented in October 2001 and apart from a minor review in 2003 has remained unchanged since that date.

20 During 2004 a joint working group on deemed values (JWG) was established, consisting of industry and MFish representatives, tasked with addressing some of the key issues with the current catch balancing regime. MFish has recently consulted on the recommendations of this group. These recommendations cover a wide selection of issues ranging from suggested improvements to the way the catch balancing regime operates to the significant issue of repatriation of deemed value revenues back to quota owners.

² D. Holland, 2003. A study of New Zealand's deemed value system for the quota management system. New Zealand Seafood Industry Council, New Zealand.

And

R. G. Newell. 2004. Maximising value in multispecies fisheries. Ministry of Fisheries, New Zealand.

21 Some of the recommendations of the JWG focus on how the current catch balancing regime can be improved. The JWG has expressed a preference for all its recommendations to be implemented as a package but MFish believes this might result in an unnecessary delay to making obvious improvements to the catch balancing regime. Therefore, where appropriate, the JWG recommendations have been considered when developing these proposals.

22 There is also an overlap in the submissions received for both consultation rounds and the submissions on the JWG recommendations have been considered in preparing this paper although they have not been summarised for inclusion in the summary of submissions.

Assessment of management options

23 MFish recommends four key changes to improve the current catch balancing (deemed value) guidelines:

- a) Allow a more flexible, robust and consistent approach to setting deemed values.
- b) Set deemed values following the analysis of a broader range of information sources.
- c) Maintain interim deemed values but allow for interim deemed values to be set at a higher rate, if appropriate.
- d) Maintain differential deemed values but allow their application to be varied on a stock by stock basis.

24 These recommended changes are discussed in more detail below.

Set deemed values on a case by case basis

25 The current catch balancing guidelines group each stock into one of three defined categories and a standard process for setting interim and annual deemed value rates is applied to each category. This process has little flexibility to take into account stock specific issues which could influence where a deemed value rate is set.

26 A key element of this new process is to move towards individual stock deemed values which are set on a case by case basis using the best available information for that stock. The purpose of deemed values will remain unchanged in that they should provide fishers with an incentive to balance their catch with ACE by the end of the fishing season.

27 MFish acknowledges that to achieve this incentive the deemed value rate should be set at a level where it is more cost effective to source ACE than it is to pay deemed values. Therefore, MFish recommends the goal should be to set deemed values so they are at some level above the marginal price of ACE, when the TACC is constraining catch. It will be difficult to accurately identify where this level lies and it may only be through continuing to raise deemed value rates until over catch ceases that we can determine where it is. Therefore, MFish notes that this approach is likely to result in an increase in deemed value rates across a range of stocks.

28 Submissions received on the IPP welcomed the adoption of a more flexible approach. However, the issue of whether this approach would result in a deemed value reduction was also raised. MFish considers there may be occasions when a reduction in the deemed value rate is appropriate.

High value stocks

29 In the IPP MFish recommended that deemed values should be set on a stock by stock basis – the exception to this is the high value stocks where a standard process will be used to set the deemed value. MFish considered that high value stocks can be further subdivided into:

- a) High value single species stocks. For these stocks MFish proposed that the deemed value rates should continue to be set at 200% of the port price. These are high value stocks and the method of harvesting means there should be no incidental bycatch and any catch in excess of ACE holdings suggest fishers are overfishing for economic gain.
- b) High value shared fisheries. These are fisheries where recreational and customary fishers are significant users in addition to the commercial sector. In the IPP MFish proposed setting high deemed value rates for these stocks to prevent continued overcatch of the TACC since such activity significantly undermines non-commercial rights.

30 From the submissions received on the IPP it is clear that industry members do not support the adoption of a high deemed value rate for high value shared fisheries. The following reasons were provided by industry:

- a) If deemed values are appropriately set using the proposed new guidelines this should provide sufficient incentive to ensure fishers land and balance catch with ACE without the need for treating high value shared stocks differently.
- b) This proposal is inequitable because it does not take into account situations when non-commercial fishers breach their limits and therefore under this system only one user group is penalised.
- c) This proposal provides fishers with a greater incentive to dump which will impact on data quality.
- d) Deemed values relate to the TACC only and apply to the commercial sector. The interests of non-commercial users will automatically be protected if deemed values are set so as to protect the integrity of the TACC.

31 Industry continues to support the high deemed value rates for high value single species stocks.

32 MFish acknowledges the validity of some of these concerns. MFish considers the proposed catch balancing regime should sufficiently mitigate the risks of TACC breaches in shared fisheries without having to treat these stocks differently. However, MFish also notes that the threat of dumping is not a valid reason to change a management approach. Dumping is an illegal activity and will be treated as such if detected.

33 Therefore, MFish intends to apply a standard deemed value regime to high value single species stocks only. Deemed value rates for high value shared fisheries will be set as

part of the general deemed value setting process. However, deemed values will continue to be set at increasing levels to ensure TACC overruns are reduced.

When is a deemed value reviewed?

34 In the IPP MFish proposed that the harvesting of stocks against the TACC and the levels of interim, annual and differential deemed value invoices should be monitored throughout the year. The IPP also set out the criteria, at least one of which a stock would be required to meet before the deemed value rates would be reviewed. If a stock is eligible for a review the outcome could be a deemed value change but it could also mean an alternative management intervention such as a TACC change, may be more appropriate.

35 MFish proposed that a stock should meet one of the following three criteria to become eligible for a review:

- a) Significant catch in excess available ACE³. What is considered significant will vary depending on the stock under review but MFish considers it will apply when a minimum of 5% of the TACC is overcaught.
- b) Catch is in excess of an individuals ACE holdings and deemed values have been invoiced and ACE remains unused.
- c) Changes to the port price of the stock.

36 In the submissions received on the IPP, Industry suggested the following additional criteria should be included:

- a) Following a request from quota owners.
- b) For new QMS stocks where limited information might mean it has not been possible to set an accurate deemed value rate initially.
- c) Following changes to the TACC of a stock including changes to the TACC of relevant bycatch stocks.

37 MFish recognises the merit of these additional criteria and will consider them valid criteria with one exception. MFish's preference is that requests from quota owners for a review of a deemed value rate are made through SeaFIC who can then progress them through the deemed value review group. Evidence of how the stock meets one of more of the relevant criteria above should be provided to support this request. Stakeholders will also have the opportunity to input into this process through fisheries plans. MFish believes this will ensure a coordinated approach to requests for deemed value changes.

38 Therefore MFish considers one or more of the following criteria should be met before a deemed value review is appropriate:

- a) Catch is in excess available ACE.
- b) Catch is in excess of an individual's ACE holdings and deemed values have been invoiced but ACE has remained unused.
- c) Changes to the port price of the stock.

³ Assessing catch in excess of available ACE is more reliable than relying on levels of catch in excess of the TACC since fishers are permitted to carry forward up to 10% of ACE holdings from one fishing year to the next. The exception to this is stocks listed on Schedule 5A of the Fisheries Act 1996.

- d) Direct request from SeaFIC on behalf of quota owners.
- e) Recent changes to a stock's TACC or the TACC of key bycatch stocks.
- f) Stock recently entered the QMS and the deemed value rate was set using limited information.

39 If a stock meets any one of the agreed criteria a review may take place. Stocks may need to be prioritised and the review process rationalised, depending on available resources. Whether the deemed value will change will depend on the results of the subsequent fishery review. This review will consist of an assessment of what is happening in the fishery. The results of this assessment will:

- a) Assess the likely reasons for the TACC overcatch/ACE breaches. Possible reasons include:
 - i) A readjustment period as fishers adjust to new management measures either in that stock or in another fishery.
 - ii) Short term stock abundance variations.
 - iii) Low cost operators finding it cost effective to land catch and to pay the deemed value penalty.
- b) Assess what is happening in bycatch fisheries for the stock under review since it may also be appropriate to amend the deemed values for these stocks at the same time.
- c) Identify whether there have been any changes in market price and/or market structure for the fish product/species under review.
- d) Identify whether there have been changes in the structure of quota/ACE holdings for the stocks under review.

40 MFish also considers that the deemed value requirements under the Fisheries Act (s. 75) should also be considered an appropriate criteria for review. In particular section 75 (2) (a) requires that deemed values should be set so as to provide an incentive for every commercial fisher to acquire and hold sufficient ACE that is not less than the total of that stock taken by the commercial fisher. If the deemed value rates for a stock are not providing this incentive then it is appropriate that they are amended.

41 Through this analysis and assessment stage the appropriateness of a deemed value change will be determined. The deemed value review group will only be empowered to recommend changes to deemed value rates. However, the group will be able to make recommendations to other Ministry processes should alternative management changes be considered more appropriate such as a TACC amendment.

42 Once it has been determined that a deemed value rate amendment is appropriate the new deemed value rate is set using the range of information sources described in the following section.

Using a range of information sources to set deemed values

43 In the IPP MFish proposed that deemed values should be set following an assessment of a range of information sources, rather than just port price. The IPP described the

limitations with using only the port price of the stock. MFish considered the following information sources should also be used:

- a) ACE trading prices;
- b) Export prices as a proxy for gross market value (where appropriate);
- c) Bycatch information (including shadow values⁴) and ratios (where appropriate);
- d) Previous deemed value invoices.

44 SeaFIC submitted that cost recovery levies should also be used as an indicator of the lowest possible level where a deemed value should be set. If the deemed value is set below a stock's cost recovery levy it provides a disincentive for individuals to retain quota. MFish acknowledges this assessment and considers it may be appropriate to include cost recovery levies in the assessment particularly in situations when ACE prices appear to be low.

45 Submissions received on the IPP questioned how data sources would be analysed and how MFish will respond to changes to the data. AFL, in particular, recommended that these information sources should be assessed not just for the primary stock under review but also for the bycatch stocks associated with that fishery.

46 MFish supports the recommendations provided in the submissions setting out options for analysing these information sources. A more detailed description of these information sources, including their limitations can be found in the IPP. A case study showing how these new guidelines could be applied including how these information sources can be used can be found in Appendix 3.

47 Therefore, MFish intends to consider the following information sources when setting deemed values rates:

- a) Port price;
- b) ACE trading prices;
- c) Export prices;
- d) Bycatch information (ratios and shadow values);
- e) Previous deemed value payments;
- f) Cost recovery levy rates.

Interim deemed values

48 The purpose of interim deemed values is to remind fishers of the need to balance and to reduce ACE transaction costs by allowing fishers to consolidate their ACE trading. Interim deemed values are usually set at 50% of the annual deemed value rate. However, interim deemed value payments may encourage fishers to delay sourcing ACE until the end of the fishing year when there is a rush to purchase ACE to avoid paying the higher annual deemed

⁴ Shadow value: In fisheries where the bycatch species acts as a constraint on the target species, the economic value of being able to continue to fish the target species may be many times the sale value of the bycatch species. Therefore the actual value of the bycatch species is higher than that implied from the market prices realised. This is termed the shadow value or the shadow price. In this situation the market price for this fish would be an unsuitable guide for where to set the maximum deemed value rate.

value payment. It then may not be possible to balance all catch since sufficient ACE may not be available. There is a risk that interim deemed value rates may facilitate catch in excess of available ACE.

49 In the IPP, MFish proposed a more flexible and effective use of interim deemed values by recommending that interim deemed values should not automatically be set at 50% of the annual rate. In situations where more regular balancing throughout the year is likely to assist with the management of the stock, interim deemed value rates will be set close to the stocks annual deemed value rate. MFish intends to continue setting interim deemed values at 50% of the annual rate unless the stock is reviewed using these new guidelines and a change is considered appropriate.

50 The IPP also proposed the interim deemed values for high value stocks should remain at 50% of the annual rate to enable fishers to consolidate their ACE transactions before they are required to pay the high annual deemed value rate. However, if there are instances where more regular balancing during the year is required for these stocks then the interim deemed values may be amended.

51 SeaFIC supports the flexible use of interim deemed values but considers once deemed values for a stock are set appropriately there should be no further need for them. They further submit that lower interim deemed value rates are only appropriate for high value stocks.

52 MFish considers the original reasons for adopting interim deemed values, to reduce ACE transaction costs enabling fishers to consolidate their ACE trades and to remind fishers of the need to balance, are still relevant. However interim deemed values rates should not contribute to the problem of over catch as fishers compete for ACE at the end of the fishing season. MFish intends to operate a more flexible interim deemed value regime and therefore, interim deemed values may be set at any proportion of the annual deemed value rate.

Differential deemed values

53 MFish intends to adopt a more flexible approach to how differential deemed values are set and used as a fisheries management tool. This will mean:

- a) Differential deemed values as a management tool will be retained but their application will be varied on a stock by stock basis to assess how they should be set and applied and if they are required in a specific fishery.
- b) There will be greater flexibility in deciding the rates at which ramping will be applied. For example, under the current system differential deemed values first apply when fishers land catch 20% in excess of their ACE holdings. In some cases, it may be more appropriate to apply differential deemed values when catch levels are 5% or 10% in excess of ACE holdings. Under the new system the appropriate rate will be determined on a stock by stock basis.
- c) The actual differential deemed value rate applied will be determined following the analysis of the information sources described above. The differential deemed value rate may not necessarily relate to the annual deemed value rate as is currently the case under the existing guidelines. Ultimately they will be set at a level to ensure the appropriate incentives are applied.

54 MFish intends to use differential deemed values to deal with blatant overcatch of ACE holdings by individuals or individual companies. In these situations the low operating costs

experienced by some fishers make it profitable for fishers to land and deem their catch rather than balance with ACE. Such practices could result in the TACC being breached but it also undermines the property right asset value of quota holders.

55 SeaFIC has requested that the application of differential deemed values should not be an automatic management response if the stock meets any of the review criteria described above. MFish does note that when a stock meets one of the review criteria this is not an automatic trigger for a deemed value change, rather it will result a more comprehensive review and assessment of what is happening in that fishery. The appropriate management response may be to amend the differential deemed value rate but equally an annual deemed value rate change or an alternative management measure may be more appropriate.

56 Industry has also expressed some concerns that differential deemed values may distort the ACE market. MFish acknowledges these concerns but does not consider it appropriate to interfere in this aspect of the ACE market.

Deemed Value Review Group

57 MFish proposes to establish a central deemed value review group tasked with:

- a) Assessing whether a deemed value adjustment is warranted.
- b) Reviewing the information and recommending deemed value rates for the relevant stocks. This information and discussion will form the basis of the advice to the Minister.
- c) Identifying those fishstocks where consideration of other management measures such as a TACC adjustment may be appropriate.

58 An analyst from Fisheries Operations will be assigned as the permanent member of the review group. This analyst will provide a shortlist of stocks that have met one or more of the review criteria, for further consideration by the review group. The analyst will also analyse the relevant information for each of the fishstocks, as recommended in the section on Information Sources and provide the deemed value review group members with a summary of this analysis.

59 SeaFIC will also be invited to participate in the review group to provide industry input.

60 In general the submissions received on this part of the IPP indicated a strong support for this deemed value review group. However, there were some concerns that creating a centralised group might distance the decision making process from localised management approaches such as fisheries plans. Industry is also concerned that the deemed value review group might not contain the expertise of people who are familiar with the operational and management characteristics of the fishery under review. MFish intends that regional fisheries analysts will participate in this group when the stocks that they are responsible for are under review. The analyst assigned permanently to the group will have economic analysis experience and SeaFIC will also be invited to participate. MFish will ensure the appropriate skills, knowledge and expertise is represented on the group.

61 If, during the fisheries plan process a deemed value review or adjustment is considered appropriate then this review will be carried out as part of this central deemed

value review process. In this case the MFish analyst leading the Fisheries Plan development will have direct input into the deemed value review group. Stakeholders will be fully consulted on any proposed changes to a deemed value rate.

62 NZ Federation has also requested the opportunity to participate in this group. MFish considers the views of industry will be represented through SeaFIC. MFish will consult with the NZ Federation as part of the normal consultation process.

63 Finally, SeaFIC also requested that this review group should be linked to the process of adjusting TAC/TACCs. As noted above this review group will have the ability to provide information into other MFish processes but will only be empowered to recommend changes to deemed value rates.

Other management issues

Compliance Issues

64 Industry also questioned the responsiveness of the Compliance Business Group to deal with the likelihood of increased dumping as the increase in deemed value rates, especially for a bycatch stock, provides a greater incentive for fishers to dump their catch.

65 Dumping is an offence and will be dealt with if detected. The Compliance Business will continue to monitor activity on the water to ensure levels of dumping do not increase as a result of the application of these guidelines. Compliance efforts will be supported by the increased surveillance capability at sea through Project Protector and increased aerial surveillance.

Market distortion of ACE prices

66 Industry has also expressed concern that by setting deemed values deliberately above ACE prices the result will be that ACE prices spiral upwards. The NZ Federation are particularly concerned this is likely to have greatest impact on the smaller ACE fisher. It is also concerned that the proposed catch balancing regime rests on the assumption that there is ACE available for fishers to balance their catch with. It asserts that the reality is different because ACE is not always available for a variety of reasons such as:

- a) ACE owners retaining 10% of their holdings to carry forward to the next fishing year
- b) ACE owners deliberately holding on to ACE to try and drive the price up when fishers are faced with annual deemed value bills.

67 The result of raising deemed value rates may be to increase ACE prices in some cases. This will occur if deemed values have been previously set below the marginal ACE price and have effectively undercut the value of ACE in the market by providing a cheap substitute. This has been one of the key concerns raised by quota owners in respect of the deemed value system to date.

68 MFish acknowledges these concerns but considers that if fishers are unable to source ACE then their first option should be to investigate alternative fishing practices rather than catch and land fish well in excess of their ACE holdings. The principles of the catch balancing regime apply.

Application of guidelines

69 These guidelines have been used by MFish to propose changes to the deemed value rates for stocks within the three deepwater crab species (red crab, giant spider crab and king crab). MFish is consulting with stakeholders on the proposed amendments to these deemed value rates and will provide you with a final advice paper on this issue for your decision by the middle of March.

70 MFish intends to fully adopt these guidelines in time for the October 2007 sustainability round.

Statutory considerations

71 **Section 8** - The proposed amendments to the deemed value guidelines fulfil the requirements under s. 8 of the Fisheries Act. The balancing regime is a key fisheries management tool contributing to both sustainability and utilisation objectives. The sustainability objectives are achieved when deemed value rates encourage fishers to balance catch with available ACE and in so doing constrain harvesting to the TACC. The utilisation objectives are achieved by providing flexibility for operators to manage unexpected and small overruns in ACE holdings and allowing periodic rather than continuous balancing.

72 **Section 9** – Section 9 sets out the environmental principles that should be considered when performing functions, duties or powers under this Act. These principles have been taken into consideration and MFish is of the view that they do not impact on this proposal.

73 **Section 10** – The proposed amendments to the deemed value guidelines fulfils the requirements under s. 10 of the Fisheries Act in that deemed value rates will be set using best available information.

74 **Section 75** - Section 75 of the Act sets out the requirements of when and how deemed values should be set. MFish considers that the proposal changes to the Catch Balancing Guidelines meet the requirements under this section of the Act.

75 **Section 75 (2) (a)** – Section 75 (2) (a) requires the Minister to take into account the need to provide an incentive for every commercial fisher to acquire or maintain sufficient ACE that is not less than the total of that stock taken by the commercial fisher. MFish considers that the proposed amendments to the guidelines satisfy the requirements under this section of the Act.

76 **Section 75A** – The Minister will continue to consult, with representative persons or organisations, on any recommended changes to deemed value rates which have been proposed using these guidelines.

Recommendations

77 MFish recommends you

- a) **Approve** the amended the Catch Balancing (Deemed Value) Guidelines;
- b) **Note** these Catch Balancing (Deemed Value) Guidelines constitute the Ministry of Fisheries standard on setting and reviewing deemed values;
- c) **Note** the Catch Balancing (Deemed Value) Guidelines have been used to recommend changes to the deemed value rates for all deepwater crab stocks;
- d) **Note** the Catch Balancing (Deemed Value) Guidelines will be fully implemented in time for the October 2007 sustainability round;
- e) **Note** that Ministry officials are available to brief you on this issue at your convenience.

Tom Chatterton
Manager Deepwater and National Issues

APPROVED/DECLINED/APPROVED AS AMENDED

Hon Jim Anderton
Minister of Fisheries

/ 3 / 2007

Summary of Proposed Guidelines for Setting Deemed Values (2007)

<p>Aim</p>	<p>To set a deemed value rate above the ACE price where the TACC is constraining catch, to encourage fishers to balance catch through the purchase of ACE rather than the payment of deemed values.</p> <p>For high value stocks the deemed value rate will be considerably above the ACE price</p>
<p>When is a deemed value reviewed?</p>	<p>(1) When a fish stock enters the QMS.</p>
	<p>(2) If one of the following indicators listed below is met:</p> <ul style="list-style-type: none"> • Catch is in excess of available ACE • Deemed Value payments invoiced in the previous fishing year but ACE remained unused • Changes to the port price of the stock • Direct request from SeaFIC on behalf of quota owners • Recent changes to a stocks TACC or the TACC of key bycatch stocks • Stock has recently entered the QMS and the deemed value rate was set using limited information. <p>And</p> <p>Following a review of the fishery to analyse and assess:</p> <ul style="list-style-type: none"> • Likely reasons for the TACC over catch/ACE breaches • Performance of bycatch fisheries associated with the stock under review • Changes in the structure of quota/ACE holdings • Changes in the market price/market structure for the fish product/species under review. • Risk that the deemed value requirements set out in s. 75 of the Fisheries Act 1996 may not be met.
<p>How are deemed values set?</p>	<p>Deemed values will be set on a stock by stock basis for all fish stocks apart from those categorised as high value fishstocks.</p>
<p>High value fishstocks</p>	<p>These are high value single species stocks - paua, rock lobster, scallops, oysters and eels</p>
<p>Information sources used</p>	<p>Deemed values set following analysis of the following information sources</p> <ol style="list-style-type: none"> 1. Port price

APPENDIX 1

	<ol style="list-style-type: none"> 2. ACE trading price 3. Export prices as a proxy for market value (where appropriate) 4. Bycatch information (ratios and shadow values) 5. Review of previous deemed value payments 6. Cost recovery levy rates.
Annual deemed values	High value to the commercial sector - set at 200% of the highest port price
Interim deemed values	Greater flexibility in setting interim deemed value rates. Interim deemed values will continue to be set at 50% of the annual deemed value as standard.
Differential deemed values	Differential deemed values maintained but flexibility in when and how they are applied.
All other Fish stocks	The goal is to set the deemed values on a stock by stock basis using the best available information for that stock. The goal will be to set the deemed value rate at some level above the marginal price of ACE where the TACC is constraining catch.
Information sources used	<p>Deemed values set following analysis of the following information sources</p> <ol style="list-style-type: none"> 1. Port price 2. ACE trading price 3. Export prices as a proxy for market value (where appropriate) 4. Bycatch information (ratios and shadow values) 5. Review of previous deemed value payments 6. Cost recovery levy rates
Annual deemed values	Annual deemed value set above the ACE price that would exist if the TACC was constraining catch
Interim deemed values	Greater flexibility in setting interim deemed value rates. Interim deemed values will not be set at 50% of the annual deemed value as standard.
Differential deemed values	Differential deemed values maintained but flexibility in when and how they are applied.

Table 1: Summary of Existing Deemed Value Guidelines 2001

Type of Fish Stock	Guidelines for Setting Deemed Values				Overfishing Thresholds	
	Annual Deemed Value	Interim Deemed Value	Differential Annual Deemed Value	Chatham Islands Deemed Values	Thresholds	Tolerance Levels
High value single species fisheries	<ul style="list-style-type: none"> 2001/02 level to be set at 200% of the highest port price in the previous year. Increase by 20% each time total catch exceeds available ACE by more than 2% in one year or by more than 1% in each of 2 consecutive years (or is likely to be exceeded by these amounts). Review where the port price for a stock has changed significantly since deemed values were last set. May be reduced if total catch does not exceed available ACE for a number of years. 	<ul style="list-style-type: none"> To be adjusted as required to remain at 50% of annual deemed value. 	<ul style="list-style-type: none"> To be applied (See separate table). 	<ul style="list-style-type: none"> Interim deemed values: same value as that used for mainland. Annual deemed values: same value as that used for the mainland. 	<ul style="list-style-type: none"> To be applied Set initially at 5% 	<ul style="list-style-type: none"> To be applied Set initially at 25 kg
Low knowledge	<ul style="list-style-type: none"> 2001/02 level to be set at level of 2000/01 deemed value (reviewed where appropriate). To be adjusted as required, to achieve objectives for fishery. 	<ul style="list-style-type: none"> To be adjusted as required to remain at 50% of annual deemed value. 	<ul style="list-style-type: none"> Not to be applied. 	<p>Annual deemed value - 2001/02 to be set at the level of the 2000/01 deemed value (reviewed where appropriate).</p> <ul style="list-style-type: none"> To be adjusted as required to achieve objectives for fishery May be different from mainland annual deemed value Use Chatham Islands price/value data as appropriate <p>Interim deemed value to be set at 50% of Chatham Island annual deemed value.</p>	<ul style="list-style-type: none"> Not to be applied 	<ul style="list-style-type: none"> Not Applicable

Type of Fish Stock	Guidelines for Setting Deemed Values				Overfishing Thresholds	
	Annual Deemed Value	Interim Deemed Value	Differential Annual Deemed Value	Chatham Islands	Thresholds	Tolerance Levels
All other	<ul style="list-style-type: none"> • 2001/02 value to be set at level of 2000/01 deemed value (reviewed where appropriate). • Increase by 20% each time total catch exceeds available ACE by more than 10% in one year or by more than 5% in each of 2 consecutive years (or is likely to be exceeded by these amounts). • Review where the port price for a stock has changed significantly since deemed values were last set. • May be reduced if total catch does not exceed available ACE for a number of years. 	<ul style="list-style-type: none"> • To be adjusted as required to remain at 50% of annual deemed value. 	<ul style="list-style-type: none"> • To be applied (See separate table). 	<ul style="list-style-type: none"> • 2001/02 annual deemed value to be set at the level of the 2000/01 deemed value (reviewed where appropriate). • Increase by 20% each time total catch exceeds available ACE by more than 10% in 1 year or by more than 5% in each of 2 consecutive years (or is likely to be exceeded by these amounts). • Periodically review whether Chatham Island-specific deemed values required. • Interim deemed value to be set at 50% of Chatham Island annual deemed value. 	<ul style="list-style-type: none"> • Not to be applied initially. • Over-fishing thresholds to be set where increased deemed values have proved ineffective in preventing significant ongoing catch in excess of ACE and there are sustainability concerns for stock. 	<ul style="list-style-type: none"> • Not applicable, initially. • If overfishing threshold is set then use tolerance level on a case by case basis as appropriate.

Proposed Catch Balancing (Deemed Value) Guidelines 2007: HOK1 case study

The purpose of this case study is to illustrate how a stock would move through the process set out in the proposed Catch Balancing (Deemed Value) Guidelines 2007. This case study shows how and when a stock fulfils the criteria for a review, practical examples of the relevant information sources and an assessment of how these information sources will determine/influence where the deemed value rate should be set.

This case study does not go as far as to recommend a new deemed value rate for HOK1 as this stock will go through the full review process as part of the October 2007 sustainability round. Rather this material will be provided to the deemed value review group.

A. Overview:

Current deemed value rates:

Interim: \$0.30/kg

Annual: \$0.59/kg

Differential deemed values apply.

Key bycatch stocks: Hake/Ling

B. Criteria for determining if a review is appropriate:

Criteria	HOK1
a) Catch in excess of TACC	Yes – 104% during previous fishing year
b) Deemed value payments in previous years	Yes - Deemed value invoices for \$2.7m were issues at the end of the 2005-06 fishing season
c) Changes to the port price of the stock	No
d) Request from quota owners	Yes – Request from Eric Barratt of Sanfords and Tom McClurg of AFL
e) Recent changes to the stocks TACC or the TACC of key bycatch stocks	Yes – HOK1 TACC was reduced in 2004 from 180,000 tonnes to 100,000. The deemed value rates were not amended at the same time. HAK4: TACC reduced from 3,500 tonnes to 1800 tonnes at the start of the 2004-05 fishing season. HAK7: TACC increased from 6855 tonnes to 7700 tonnes at the start of the 2005-06 fishing season. LIN5: TACC increased from 3001 tonnes to 3595 tonnes at the start of the 2005-06 fishing season. LIN6: TACC increased from 7100 tonnes to 8505 tonnes at the start of the 2005-06 fishing season.
f) Stock has recently entered the QMS	No

HOK1 fulfils criteria a), d) and e) above and therefore is considered appropriate for a review.

C. Assessment of the fishery:

C.1 Review of key bycatch stocks

Hake:

Current deemed value rate:

Stock	Interim (\$/kg)	Annual (\$/kg)
HAK1	.59	1.17
HAK4	.63	1.25
HAK7	.69	1.38

Differential deemed value rates apply

Criteria	HAK
a) Catch in excess of TACC	No overcatch in the most recent fishing season recorded. There has been overcatch in the previous fishing seasons but this has been mitigated by the recent increases to the TACCs of some hake stocks and the reduction in the HOK1 TACC in 2004.
b) Deemed value payments in previous years	HAK1: nominal HAK4: nominal HAK7: nominal
c) Changes to the port price of the stock	No
d) Request from quota owners	No
e) Recent changes to the stocks TACC or the TACC of key bycatch stocks	Some recent TACC changes recorded. HAK4: TACC reduced from 3,500 tonnes to 1800 tonnes at the start of the 2004-05 fishing season. HAK7: TACC increased from 6855 tonnes to 7700 tonnes at the start of the 2005-06 fishing season.
f) Stock has recently entered the QMS	No

Ling:

Current deemed value rate:

Stock	Interim (\$/kg)	Annual (\$/kg)
LIN1	.85	1.69
LIN2	.75	1.49
LIN3	.88	1.75
LIN4	.64	1.27
LIN5	.91	1.81
LIN6	.84	1.67
LIN7	1.11	2.21

Differential deemed value rates apply

Criteria	LIN
a) Catch in excess of TACC	Yes: LIN7 overcaught by 111% in the most recent fishing season.
b) Deemed value payments in previous years	Yes: Relatively small amounts apart from LIN7 where deemed value invoices for \$768,000 were invoiced for the 2005-06 fishing season.
c) Changes to the port price of the stock	Yes – Reduction in port price rates across all ling stocks.
d) Request from quota owners	No
e) Recent changes to the stocks TACC or the TACC of key bycatch stocks	Yes - see hake and hoki above
f) Stock has recently entered the QMS	No

Following this assessment it is apparent that the deemed value rate for LIN7 is a candidate for review.

C.2 Assessment and analysis of information sources:

Information source	Hoki	Hake		Ling		
Port price	HOK1	\$0.61/kg	HAK1	\$1.00/kg	LIN1	\$1.40/kg
			HAK4		LIN2	\$1.36/kg
			HAK7		LIN3	
				LIN4		
				LIN5		
				LIN6		
				LIN7		
ACE trading price (most recent fishing year)	HOK1	\$0.5246/kg	HAK1	\$0.8663	LIN1	\$0.7372
			HAK4	\$0.7089	LIN2	\$0.9943
			HAK7	\$1.1490	LIN3	\$0.9976
					LIN4	\$0.4658
					LIN5	\$1.0641
					LIN6	\$0.6422
					LIN7	\$1.4704
Export price data*	Hoki	\$3.82	Hake	\$6.47	Ling	\$6.61
Bycatch: ratios ¹	Hoki	83% ²	Hake	3.5%	Ling	2.7%
Bycatch: shadow values ³	Not applicable		Hake	\$15	Ling	\$26
Previous deemed value invoices**	HOK1	\$2.7m	HAK1	nominal	LIN1	\$1.317
			HAK4		LIN2	\$0
			HAK7		LIN3	\$4,667
					LIN4	nominal
					LIN5	nominal
					LIN6	\$0
					LIN7	\$768,081
Cost recovery levies	HOK1	\$0.06228/kg	HAK1	\$0.081/kg	LIN1	\$0.042/kg
			HAK4	\$0.093/kg	LIN2	\$0.053/kg
			HAK7	\$0.028/kg	LIN3	\$0.054/kg
					LIN4	\$0.043/kg
					LIN5	\$0.067/kg
					LIN6	\$0.050/kg
					LIN7	\$0.086/kg

* Export price data for year ending September 2006

** Deemed value invoices issue for fishing in excess of ACE holdings for 2005-06 fishing season.

¹: In a study of fish discards and non-target fish catch in the New Zealand hoki trawl fishery, 1999-2000 to 2002-03 hoki accounted for 83% of the total estimated catch from all observed trawls targeting hoki between 1 October 1999 and 30 September 2003, hake accounted for 3.5% and ling 2.7%. However there is variation within these figures depending on the area being fished and the time of year the fishing takes place.

²: Hoki as the target species

³: The maximum shadow value is calculated by dividing the value of the ACE of the target stock by the bycatch-to-target proportional catch rate.

Key points:

- Current HOK1 deemed value is already set above the average ACE price but is not constraining catch.
- Port price is higher than the current annual deemed value rate and, based on the proposed guidelines, the deemed value rate for HOK1 may be set within the range of \$0.61/kg and \$3.82/kg.
- Deemed value rates are currently, and will continue to be, set above the cost recovery levy rates for each stock.

- Hoki is the target stock and the purpose of increasing the deemed value rate is to reduce a TACC overcatch in this stock. However, increasing the deemed value rate for the target will also impact on those bycatch stocks which are being over fished because they are constraining the target fishery e.g. LIN7. Given the information available on the LIN7 fishery described above it would be appropriate to also amend the deemed value rate of this stock.
- Note: The importance of analysing the bycatch ratio and shadow value of a stock is more relevant if amending the deemed value of a bycatch stock that is constraining the target species. In this situation the shadow value is likely to be set well above the ACE trading price or export value associated with the stock/species.
- Implications for differential deemed value rates: Of the total deemed value invoices issued for hoki at the end of the 2005-06 season, six were to companies who had incurred deemed value penalties in excess of \$200,000. Differential deemed value rates are triggered when an individual/organisation reports catch 20% in excess of their ACE holdings. An appropriate response may be to amend the overcatch rate at which the differential deemed value rate applies for example, differential deemed value rates would apply when catch 5% in excess of ACE holdings is landed by a individual/organisation.

C.3 Recommended deemed value amendments

The analysis in this case study is indicative only. A more inclusive analysis and assessment of these information sources will occur as part of the wider deemed value review process for the October 2007 sustainability round.