

**SUBMISSION TO THE MINISTERIAL INQUIRY INTO THE USE  
AND OPERATION OF FOREIGN CHARTERED VESSELS**

From

**NORTHLAND DEEPWATER LIMITED PARTNERSHIP**

**SUBMISSION**

This submission is written in response to the items the Inquiry Panel has been convened to consider<sup>1</sup>, specifically:-

*a) The application of New Zealand's legislative regime to the use and operation of fishing vessels, and in particular foreign charter vessels (FCVs), with respect to labour, immigration, maritime safety and fisheries management and the compliance with that regime by such vessels and their operators;*

*d) Whether the economic factors supporting the use of FCVs deliver the greatest overall benefit to New Zealand's economy and to quota owners;*

*e) Whether acceptable and equitable labour standards (including safe working environments) are, or can be, applied on all fishing vessels operating in New Zealand's fisheries waters within the Exclusive Economic Zone; and*

*f) Any other matters that the Inquiry considers relevant.*

We do not comment on the following items in this submission:-

*b) Any international reputation risks associated with the use of FCV;s or*

*c) Any trade risks associated with the use of FCVs;*

We understand other industry bodies are addressing these items.

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<sup>1</sup>'Ministerial Inquiry into use and operation of Foreign Charter Vessels – Terms of Reference'

## **BACKGROUND**

**Northland Deepwater Limited Partnership** ('**Northland Deepwater**'<sup>2</sup>) is the joint venture Limited Partnership between **Te Runanga A Iwi O Ngapuhi** and **DSM Ltd**.

**Te Runanga A Iwi O Ngapuhi** is New Zealand's largest iwi. Through its quota holding company, **Ngapuhi Asset Holding Company Ltd**, it is one of the largest iwi holders of the major deepwater quota stocks (for the purposes of this submission they will be collectively referred to as '**Ngapuhi**').

Ngapuhi owns the Annual Catch Entitlement ('**ACE**') equivalent of 4,474 tonnes of deepwater quota including 1,581 tonnes of hoki and 1,062 tonnes of squid. Ngapuhi also owns significant volumes of inshore, highly migratory species, scampi, Orange Roughy and oreo dory quota.

Ngapuhi has been a 50/50 partner in Northland Deepwater since May 1994.

**DSM Ltd** (DSM) is an Auckland based company owned and operated by Peter Dawson<sup>3</sup> and Philip Smith.

Dawson and Smith have been involved in the NZ fishing industry since 1985 when they joined Fletcher Fishing Ltd, at that time New Zealand's largest fishing company. Both were the Charters Manager for that company responsible for the operations of the company's fleet of FCVs. Fletcher Fishing's chartered fleet comprised of 5 large Japanese freezer trawlers, 10 freezer trawlers from the Soviet Union and upwards of 12 Japanese squid jiggers.

In 1991 after the sale of Fletcher Fishing they formed Panpac Seafoods Ltd, an Auckland based inshore fishing, processing, and exporting company with two other New Zealand partners and Nichimo Company of Japan. Panpac Seafoods leased all of Ngapuhi's inshore quota each year.

In 1994, Dawson and Smith formed Northland Deepwater Limited with Ngapuhi as a 50/50 partner. In 2008 Northland Deepwater registered as a Limited Partnership.

The board members of Northland Deepwater are Sir John Goulter [Ngapuhi] (Chair), Paki Rawiri [Ngapuhi], Peter Dawson [DSM] and Philip Smith [DSM]. Two representatives from Kahungunu Asset Holding Company Ltd attend all board meetings.

Dawson and Smith are the managers of Northland Deepwater.

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<sup>2</sup> Northland Deepwater Limited Partnership was previously incorporated as Northland Deepwater JV Limited. Northland Deepwater GP Limited is the general partner for the Limited Partnership. Northland Deepwater Limited (renamed as NDW LFR Limited) is now the Licensed Fish Receiving company. For this submission 'Northland Deepwater' will be used collectively to refer to these entities.

<sup>3</sup> There are three Peter Dawson's involved in the NZ deepwater fishery in different capacities which has led to confusion in the past. Peter Dawson based in Lyttelton has a consultancy practice which includes a management role with Southern Storm Fishing (2007) Ltd. Peter Dawson based in Nelson is a director of Dawson and Associates, Maritime & Commercial Lawyers.

**FV 'GOM 379'**

Northland Deepwater has chartered a Ukrainian vessel and 4 Korean vessels at various times over the past 18 years of its operations.

From 1 October 2009 Northland Deepwater has chartered the 'GOM 379' (formerly the 'Dong Won 522') from the South Korean fishing company 'GOM Co., Limited'.



**FV 'GOM 379'**

Overall length: 59.46m

Gross Tonnage: 746 Tonnes

Engine Power: 2238kW / 3000hp

Year Built: 1974

Crew: 36

The Japanese built 'GOM 379' is registered in New Zealand as a Limited Processing Vessel allowing it to catch and process fish whole and 'headed and gutted' for export.

The 'GOM 379' can freeze about 9.5 tonnes of product every 6 hours (about 38 tonnes per day) and can hold up to 450 tonnes of product before it must return to port to discharge.

Northland Deepwater currently catches around 5,500 tonnes of fish each year with this vessel.

The vessel's production is sold internationally, some directly to end markets and some for further processing – this vessel can only process fish to a headed and gutted stage.

*a) The application of New Zealand's legislative regime to the use and operation of fishing vessels, and in particular foreign charter vessels (FCVs), with respect to labour, immigration, maritime safety and fisheries management and the compliance with that regime by such vessels and their operators;*

#### **MAF Fisheries**

Neither Northland Deepwater nor its managers have ever been prosecuted by the Ministry of Fisheries.

Northland Deepwater has chartered the 'GOM 379' since 1 October 2009. Ministry of Fisheries Observers have been on board for 8 of the 21 voyages the vessel has made to date - 38% of the voyages (*refer page 15*).

#### **Department of Labour**

The Department of Labour has conducted audits on the payments made to crew on board Northland Deepwater vessels in 2006, 2008 and 2010.

Northland Deepwater has never been denied its Approval in Principle – the Department of Labour approval needed to enable us to recruit foreign crew to work on our FCVs.

#### **MAF Food Safety Authority**

'GOM 379' is registered by MAF Food Safety as a 'Limited Processing Vessel' and is subject to the Animal Products (Regulated Control Scheme – Limited Processing Fishing Vessels) Regulations 2001.

Compliance with the Regulated Control Scheme is audited by MAF inspectors every fourth port-call. 'GOM 379' is on Performance Level 6 - the highest level.

#### **Maritime NZ/SSM programme**

'GOM379' carries a current Maritime NZ 'New Zealand Safe Ship Management Certificate'.

The vessel has been inspected by Maritime NZ on 16 February and 24 November 2010 and 21 April 2011. Between 25-27 September 2011, two Maritime NZ inspectors conducted an extensive compliance audit of the vessel. All of the Korean fleet has been subject to an increased level of scrutiny in this current political environment. The vessel passed the audit and was cleared to sail. One of the inspectors made the comment that "the presentation of the vessel left a favourable impression".

### **Korean Register**

'GOM379' is certified by the Korean Register of Shipping (KR). KR registration requires the vessel to be inspected annually by a KR Surveyor sent from Korea.

KR is a member of both the International Association of Classification Societies (IACS) and the European Maritime Safety Agency (EMSA)

A 'Special Survey' dry-dock inspection of the vessel was conducted by a KR Surveyor on 26/10/09 and an 'Annual Survey' (in-water) inspection was completed on 05/11/10.

The vessel will be inspected by KR again in November 2011 during its scheduled dry-docking ('Annual Survey/Docking Survey'). In November 2012 the vessel will undergo an 'Intermediate Survey' (in-water) and the process will begin again in November 2013 with another 'Special Survey' in the dry-dock.

### **Codes of Practice**

Northland Deepwater is a signatory to, and participant in, the following NZ fishing industry management Codes of Practice:-

Squid Management Plan;

Hoki Operational Procedures;

Vessel Management Plan for the Mitigation of Seabird Capture;

Marine Mammals Operational Plan.

Northland Deepwater is also a participant in the 'Code of Practice on Foreign Fishing Crew' - Department of Labour/Seafood Industry Council/ NZ Fishing Industry Guild (October 2006)

### **Northland Deepwater**

At least one manager from Northland Deepwater together with a shore-based GOM Co., Ltd manager or agent attends every port-call the vessel makes to oversee the discharge and audit the vessel's compliance with the relevant regulations, control systems, and Codes of Practice.

***d) Whether the economic factors supporting the use of FCVs deliver the greatest overall benefit to New Zealand's economy and to quota owners.***

#### **RETURN TO NEW ZEALAND**

Northland Deepwater has chartered the FCV 'GOM 379' for the last 24 months. During that time Northland Deepwater has:-

- paid over \$7.8 million to New Zealand quota holders for ACE of which over \$6.8 million (87%) has been paid to iwi;
- paid New Zealand engineering companies over \$1.02 million for the vessel's repairs and maintenance;
- paid NZ provedoring and packaging companies over \$675,000;
- paid NZ port companies, associated unloading companies and coldstores over \$820,000;
- paid fuel companies over \$4.3 million;
- paid carbon and excise tax of over \$95,000
- paid other NZ companies in respect of the operation of the vessel over \$650,000;

Apart from the payment for fuel this money is generally not going to the major metropolitan centres. It is going to smaller towns such as Lyttelton, Timaru, Bluff and Kaikohe.

#### **RETURN TO IWI**

Since its incorporation in 1994 Northland Deepwater has paid to iwi for quota/ACE in excess of \$29 million.

## **WHY NORTHLAND DEEPWATER WAS FORMED**

Prior to 1994, although Ngapuhi had access to a deepwater allocation as a result of the 1989 interim settlement of Maori commercial fisheries claims, Ngapuhi did not exercise its option to uplift this annual quota allocation from the Treaty of Waitangi Fisheries Commission (**'TOWFC'**).

This was not surprising, as each year to actually get the quota released by TOWFC a qualifying iwi had to pay TOWFC a substantial sum of money. Ngapuhi paid \$445,000 in 1993/94 and \$538,000 in 1994/95 to TOWFC for their deepwater quota alone.

Back in the mid 1990's, apart from the Orange Roughy quota, there was effectively no lease market for most iwi deepwater quota and certainly very little opportunity for profit on that quota after it had been secured from TOWFC.

The only way for iwi to make money from most of the deepwater quota at that time was to catch the fish, process it and sell the product. Ngapuhi recognised this and their board were very keen that Ngapuhi should be involved in the "business and activity of fishing".

Dawson and Smith had contacts and experience in the deepwater fishery and an established relationship with Ngapuhi through their inshore fishing company. Ngapuhi saw that with a deepwater joint venture they would not only underwrite the value of their quota each year but also become a participant in the fishery and have the opportunity to make additional income from their quota.

In 1994 Northland Deepwater Ltd was incorporated and the company imported the freezer trawler 'Meridian 1' from the Ukraine.



**As an example...**

In the 1993/94 fishing year, chartering the 'Meridian 1', Northland Deepwater paid TOWFC \$445,000, on behalf of Ngapuhi, to get Ngapuhi's deepwater quota released, then paid Ngapuhi \$320,000 in addition for that quota at the beginning of the fishing year and made a further payment to Ngapuhi for the quota after the fishing year of \$243,000 – a total payment of \$1,008,000 of which \$543,000 went to Ngapuhi.

In 1994/95 the quota was not released from TOWFC until after the New Year and as a result Northland Deepwater lost the 'Meridian 1' to Sealord (it was illegal at that time to fish without quota). Northland Deepwater paid TOWFC \$538,000 to release Ngapuhi's quota, leased out that quota - primarily the Orange Roughy quota as there was no market for squid and hoki - and paid Ngapuhi an additional \$85,000 – a total payment of \$623,000 of which \$85,000 went to Ngapuhi.

**ANNUAL CATCH ENTITLEMENT FOR THE NORTHLAND DEEPWATER OPERATION**

Of Ngapuhi's 4,474 tonnes of deepwater ACE, 3,285 tonnes is utilised by the Northland Deepwater fishing operation.

Of the remaining 1,200 tonnes of Ngapuhi's deepwater ACE, 556 tonnes (LIN6/135 tonnes and JMA3/422 tonnes) has effectively no ACE value as the TACC's for these fishstocks are largely uncaught each year<sup>4</sup>. The balance of the ACE (primarily 391 tonnes of JMA7) is traded.

Ngapuhi's deepwater ACE currently provides about 50-70% of the catch plan for this vessel.

In October 2009 Northland Deepwater formed a relationship with Kahungunu Asset Holding Company adding that company's 2,472 tonnes of deepwater ACE to the operation.

In addition to the Ngapuhi and Kahungunu ACE, Northland Deepwater purchases ACE from most of the New Zealand fishing companies when required.

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<sup>4</sup> The TACC for Ling in Quota Management Area 6 (LIN6) was 28% caught in 2009/10; Jack Mackerel (JMA3) was 15% caught.

## **UNDERWRITING THE VALUE OF NGAPUHI'S ACE**

The most important thing that Northland Deepwater offers to its quota owning partners is that it underwrites the value of their deepwater quota by offering a consistent vehicle to have that quota caught.

We firmly believe that it has been the FCVs, and in particular the independent operators of Korean vessels, that have increased the demand for deepwater ACE and in particular iwi ACE. As these FCV operators have competed for both volumes and the high value fishstocks to make their operations sustainable the price of that ACE has increased accordingly.

The danger, and we believe the motivation for some of the companies so opposed to the presence of FCVs in New Zealand, is that if there was not a FCV option for iwi the ACE would only be of interest to the large NZ companies operating their own deepwater freezer-trawlers - there are three - Sanford, Sealord and Talley.

Ngapuhi cannot afford to purchase a suitable freezer-trawler to catch its quota nor does it have anywhere near the quota needed to justify such a purchase if it did have the funds. If Ngapuhi does not want to simply sell its ACE each year to one of the large companies the only option available to Ngapuhi to catch its own quota is through the use of FCVs.

Generally, ACE only has a value if the fish can be caught, processed, and then sold for a profit. Ngapuhi are keenly aware that ACE has no value in and of itself - it is a right to catch fish.

### **As an example...**

Ngapuhi has no catching options for its scampi ACE and as such sells this ACE each year. In 2006/07 Ngapuhi's parcel of scampi ACE returned \$202,275 when traded on the open market.

Last year Ngapuhi received only \$23,495 for the same parcel of ACE. 53% of Ngapuhi's scampi ACE remained untraded. Demand for scampi ACE on the quota market has collapsed because the scampi is not being caught. Notably, Ngapuhi's SCI6A ACE was not caught at all with a number of vessels unable to get to the fishing grounds<sup>5</sup>.

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<sup>5</sup> In the case of the scampi trawler 'Adelaide Pearl', the vessel was unable to recruit an engineer with the requisite tickets to fish in the Southern Ocean.

It wasn't just Ngapuhi's scampi ACE that remained uncaught. In the 2009/10 fishing year 47% of the TACC's of all scampi was not caught; the previous year 54% was uncaught.

With no demand for the much of the scampi ACE, much of that scampi ACE is currently worthless and by extension the Quota Shares from which that ACE is generated have no virtually value.

Scampi might be an extreme example but it does illustrate the danger of having only a small number of players competing (or not) for ACE.

### **THE BEST OPTION FOR NGAPUHI?**

Ngapuhi owns quota across almost all of the New Zealand fisheries. In terms of the annual return from the ACE value of that quota the deepwater quota is by far the most important of the Ngapuhi quota holdings.

In 2000/01 Ngapuhi put their deepwater quota to the market and received a written offer in competition to Northland Deepwater's offer. In that year Northland Deepwater, utilising a FCV, was able to return to Ngapuhi for their quota \$455,000 more than the written offer.

Again, in 2001/02 Ngapuhi put their deepwater quota to the market and received three written offers, two from large established fishing companies. Northland Deepwater returned to Ngapuhi for their quota \$332,000 more than the highest competing bid.

The cost of ACE is one of the biggest factors in any fishing operation - this is where the interests of the quota owner and the operator diverge.

Obviously it is in the best interests of the quota owner to get the best possible price for its ACE each year. However, it is in the best interests of the vessel operator to get the ACE at the lowest possible price.

With no competition for ACE from the operators of FCVs the operators of New Zealand vessels would control the ACE price.

With no FCVs the price of ACE and therefore the value of Ngapuhi's quota asset would plummet.

*e) Whether acceptable and equitable labour standards (including safe working environments) are, or can be, applied on all fishing vessels operating in New Zealand's fisheries waters within the Exclusive Economic Zone;*

## **THE CREW**

'GOM 379' currently has a complement of 36 crew - 5 Korean officers and engineers, 3 Indonesian officers and engineers, and 3 Korean and 25 Indonesian deck and factory hands.

For the Korean crew fishing is a career. They attend specific fishing universities and many are highly qualified. They are generally contracted for 2 years at a time and are able to enter NZ on multi entry Visa's and as such can return to the vessel after holidays back in Korea.

The Indonesian crew will typically stay on board for either a 1 or 2 year contract term in line with the terms of their NZ Work Permits. All crew (including the Korean crew) are free to return home at any time however the fact that the Indonesian crew are only able to get a single-entry Visa into New Zealand means that if a crew member wishes to return home within the first year it is unlikely he will return to the vessel. After the first year the Indonesian crew can, and some do, return home for a holiday – typically for 1- 3 months – then re-join the vessel on a renewed Visa.

- Fifty three Indonesian crew members have served on board 'GOM 379' during the 2 years the vessel has been under charter to Northland Deepwater.
- Of those 53 crew members 5 have returned to work on Northland Deepwater FCVs for 3 terms (generally 2-year terms)
- 11 have returned to work on Northland Deepwater FCVs for 2 terms.
- Of the 16 crew members that have worked on Northland Deepwater FCVs for 2 or 3 terms, 11 are currently on board and 3 are on holiday scheduled to return.
- 11 of the crew currently back in Indonesia are scheduled to return to the vessel – 3 for their fourth term in New Zealand.

**SUBMISSION TO THE MINISTERIAL INQUIRY INTO THE USE  
AND OPERATION OF FOREIGN CHARTERED VESSELS**

October 6, 2011

**INDONESIAN CREW MEMBERS ON BOARD 'GOM 379' AT 6 OCTOBER 2011**

Crew Member	First worked for Northland Deepwater	Number of terms in NZ for Northland Deepwater	Voyages on 'GOM 379'	Voyages on 'Pantas No.1' <sup>6</sup>	Other Northland Deepwater FCVs worked on
Sanudin	19/12/2002	3	18	11	'Paciniui'
Wahyudin	8/12/2005	3	15	22	'Marinui'
Mukari	26/10/2001	2	11		'Paciniui'
Supendi	18/12/2005	2	20	1	'Marinui'
Rustono	8/08/2007	2	15	19	
Tarsono	7/01/2008	2	18	27	
Ainung	17/03/2008	2	8	18	
Wartomo	17/03/2008	2	8	18	
Wara	13/10/2008	2	12	11	
Iis Sugiarto	24/12/2008	2	18	29	
Mastukhi	13/01/2010	2	15		
Mawardi	13/01/2010	1	20		
Bambang Rusdiono	15/03/2010	1	18		
Abudin	15/03/2010	1	18		
Dhian Permana	27/07/2010	1	16		
Rumekso	28/10/2010	1	11		
Hartono	28/10/2010	1	11		
Bambang Hermanto	28/10/2010	1	11		
Agus Edi Hartono	28/10/2010	1	11		
Edi Sulistiyanto	28/10/2010	1	11		
Suwara	5/11/2010	1	11		
Kasnuri	5/11/2010	1	11		
Edy Sutoyo	28/01/2011	1	9		
Abdullah Zaeni	28/01/2011	1	9		
Alim	28/01/2011	1	9		
Moh Abdul Azis	23/08/2011	1	2		
Anung Jatmika Adi	24/09/2011	1	1		
Yadi Saefullah	24/09/2011	1	1		

**INDONESIAN CREW MEMBERS THAT HAVE RECENTLY LEFT THE VESSEL FOR THEIR HOLIDAYS - ALL ARE INTENDING TO RETURN**

Crew Member	First worked for Northland Deepwater	Number of terms in NZ for Northland Deepwater	Voyages on 'GOM 379'	Voyages on 'Pantas No.1'	Other Northland Deepwater FCVs worked on
Yachya	20/12/2004	3	20	22	'Marinui'/'Tasnui'
Hepi	7/05/2004	3	18	26	'Paciniui'/'Tasnui'
Dani Hendarman	7/05/2004	3	18	26	'Tasnui'
Asep Saepudin	13/01/2009	1	11	29	
Yosrizal	24/12/2008	1	11	29	
Sutarno Dukiman	14/12/2008	1	11	29	
Wahyu Hidayat	24/12/2008	1	11	29	
Nasoi	26/08/2008	1	3	12	
Hermantoni	7/01/2008	1	2	20	
Imamudin	21/04/2009	1	15	6	
Dartam Suta	4/08/2009	1	17	2	

**INDONESIAN CREW MEMBERS THAT HAVE RECENTLY LEFT THE VESSEL - NOT SCHEDULED TO RETURN AT THIS TIME**

Crew Member	First worked for Northland Deepwater	Number of terms in NZ for Northland Deepwater	Voyages on 'GOM 379'	Voyages on 'Pantas No.1'	Other Northland Deepwater FCVs worked on
Sunandar	22/02/2007	2	19	18	
Wandi	10/09/2007	2	17	16	
Muhammad Amirudin	25/10/2009	1	20		
Widi	4/08/2009	1	18	2	
Slamet Riyadi	4/08/2009	1	18	2	
Darsono	21/04/2009	1	15	6	
Imamudin	21/04/2009	1	15	6	
Herman Susilo	13/01/2010	1	11		
Asep Saepudin	13/01/2009	1	11	29	
Dede Tisna	13/01/2009	1	11	29	
Diyono	4/08/2009	1	9	2	
Durokhim	21/04/2009	1	5	6	
Putra Ardinata	7/01/2008	1	2	20	
Alif	21/04/2009	1	2	6	

<sup>6</sup> 'Pantas No.1' was under charter to Northland Deepwater from October 2006 to September 2009 - immediately prior to the 'GOM 379' charter. That vessel was sold to Dong Won Company and is now under charter to Sanford Ltd

A Northland Deepwater manager attends every port-call the vessel makes and talks with senior Indonesian crew members at that time, away from any of the other crew.

30/06/11: Philip Smith had a discussion with Yachya<sup>7</sup> after the voyage and asked if everything was OK, specifically asking about the crew pay. Yachya said “everything good”. According to Yachya there were no issues and no problems with pay.

30/07/11: Philip Smith had a meeting with Yachya and Wahyudin<sup>8</sup>, the two longest serving Indonesian crew members on board. He asked if they were aware of the situation with Oyang’s Indonesian crew. They knew there had been some problems but didn’t know the details. He asked if they or any of the Indonesian crew had any issues on board. Yachya said everyone was happy. Asked if there were any issues with their pay or their hours of work Yachya replied “no, all OK”. Philip specifically asked if they were aware of any problems with the newer crew. Yachya said all crew, “old crew, new crew - all happy”. Philip told them that if they had any issues they were to talk with the Captain and if there were still issues they couldn’t get sorted out they were to talk to Peter Dawson or Philip Smith. Yachya responded that he still had our telephone numbers.

25/09/11: Peter Dawson spoke with Bambang Rusidiono, an engine room oiler who’s been 18 months on the ‘GOM 379’ – his first time in New Zealand. Bambang speaks good English. When asked, Bambang said he had no complaints and confirmed ‘GOM 379’ was a happy ship. He said he enjoys his work and is well treated; there are no issues as far as he is concerned. He said that likes the Captain and the officers. At the end of his term he would like to renew his contract.

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<sup>7</sup> Yachya was one of the senior Indonesian crew members on board. Yachya first arrived in New Zealand in December 2004 to work on Northland Deepwater’s FCV ‘Tasnui’. Yachya has completed 20 voyages on ‘GOM 379’ and 22 voyages on ‘Pantas No.1’ as well as working on the ‘Tasnui’ and ‘Marinui’. Yachya has done three terms in New Zealand, returning to Indonesia between terms. He is currently on holiday.

<sup>8</sup> Wahyudin is also one of the senior Indonesian crew members on board. Wahyudin first arrived in New Zealand in December 2005 to work on ‘Marinui’. Wahyudin has completed 14 voyages on ‘GOM 379’ and 22 voyages on ‘Pantas No.1’ as well as working on the ‘Marinui’. Wahyudin has also done three terms in New Zealand, returning to Indonesia between terms.

## **MAF FISHERIES OBSERVERS**

MAF Fisheries places Observers on board fishing vessels to complete a range of tasks including collecting biological information and ensuring compliance with industry standards and regulations. Many of these observers are very experienced and have logged hundreds of sea-days on all types of vessels ranging from inshore vessels, tooth fish vessels, ling long-liners and large freezer trawlers, both domestic and FCVs.

According to the Observer Services 2010-2011 Annual Plan ([www.fish.govt.nz](http://www.fish.govt.nz)) to 31 May 2011 the Ministry of Fisheries had delivered 554 Observer sea-days (of a planned 100 sea-days) specifically covering 'Foreign charter vessel – risk monitoring'. We are uncertain whether this is in addition to the 1760 coverage days achieved on West Coast SI, Chatham Rise, Sub Antarctic Hoki; Area 1&4 Hake and Ling; Area 7 Hake; Ling – trawl; and Squid for the same period.

Korean FCVs have had significant Observer coverage and our vessel, 'GOM 379', has been no exception. Of the 21 approximately 30-day voyages the 'GOM 379' has completed under charter to Northland Deepwater, 10 Ministry of Fisheries Observers and one independent observer<sup>9</sup> have covered 9 of the voyages (43% of the voyages - approx. 270 days).

Typically an Observer will observe the shooting and hauling of each trawl and conduct a detailed sampling programme in the factory during the processing of the trawls. We would expect an Observer to be in a position to observe the crew for up to 16 hours a day. On some voyages two Observers will be on board and in these instances there is often 24 hour coverage.

It is not unreasonable to assume that an Observer on board a 60m vessel of 36 crew would notice if there was any significant issues over the treatment of the crew or the morale on board.

On the completion of each observed voyage the Ministry of Fisheries supplies the company with a copy of the report completed by the Observer for that voyage - the Observer Programme, Trawl Trip Report.

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<sup>9</sup> Northland Deepwater contracts at-sea observers from the Nelson based company 'Fisheries Audit Services' when deemed necessary, particularly in the event of significant changes in crew or when the vessel moves to a new fishing ground.

There is no adverse comment at all with regard to the crew treatment, crew morale or the interaction between the Korean and the Indonesian crew members in any of the reports received for the 'GOM379' observed voyages. On the contrary, in every case where crew are referred to, the comments are complimentary as evidenced by the following extracts from the Trawl Trip Reports.

"The vessel was warm, tidy and comfortable and the attitude of the officers and the crew towards the observer was excellent."

*Source: Observer Programme, Trawl Trip Report - Trip No. 3072 - 15 Feb 2010 to 16 Mar 2010*

"Quality of food was good; tea and coffee were available in the mess or on the bridge at all times." The Observer also commented that "Minimal stores are required for this vessel, ..." indicating that the food on board was sufficient and an Observer would not need to bring much in the way of supplementary food supplies for a voyage.

"Officers and crew were courteous and helpful to observer at all time[s] during the trip."

*Source: Observer Programme, Trawl Trip Report - Trip No. 3111 - 15 Apr 2010 to 13 May 2010*

"Food was Korean style and of good quality. Fruits and hot drinks were available 24/7 either in the mess or on the bridge. Snacks and bottled water were also supplied by the vessel ... No stores would be required."

"The officers and crew were very helpful at all times ..."

"Overall for this type of vessel, conditions were reasonably comfortable"

*Source: Observer Programme, Trawl Trip Report - Trip No. 3241 - 30 Nov 2010 to 29 Dec 2010*

"The Korean officers and the Indonesian crew were observed to work well together ..."

"Fishing vessel GOM 379 is an older vessel and has been well used, and is showing signs of wear. However the Officers and Crew make every effort to keep the vessel well maintained and in a clean and very habitable condition. It was observed that the companion ways, passages, mess and galley and toilet areas were on a daily basis swept and washed. The Bridge was swept and washed to a spotless standard and slippers or scuffs were mandatory footwear."

"As expected the meals are of a Korean style food and as preferred by Koreans relatively hot from chilli spicing. The meals provided a soup, rice and a selection of dishes that usually included a fish dish. The meals were adequate and were prepared in a fashion and set of hygiene conditions that were acceptable."



“The overall conditions on the vessel are good and the Captain and crews attitude to an Observer’s requirements were found to be most helpful.”

*Source: Observer Programme, Trawl Trip Report - Trip No. 3267 - 28 Jan 2011 to 27 Feb 2011*

“Officers, Factory Manager, Bosun and all crew were extremely helpful with all aspects of Observer operations. Crew seemed generally in good spirits, were respectful of each other and worked well together. Working conditions seemed good.”

“The GOM 379 was a comfortable and well provisioned boat with easy access to all work areas and ample space for paperwork and storage of gear’

*Source: Observer Programme, Trawl Trip Report - Trip No. 3339 - 25 May 2011 to 27 Jun 2011*

In addition to information obtained from the Trawl Trip Reports when the managers from Northland Deepwater attend each port-call they will endeavour to meet with the Observers at the end of their voyage to have an informal debrief with them and to see if there are any issues on board that we need to address.

During the time Northland Deepwater has chartered the ‘GOM379’, and the ‘Pantas No.1’ before that, no Ministry of Fisheries Observer, or contracted observer, has raised any concerns at all over the treatment of any of the crew on board these vessels.

30/06/2011: After the allegations published in the newspapers, Philip Smith had a number of discussions with the Observer after the voyage. In particular he asked about the Observer’s impressions of the treatment of the other crew by the officers and the interactions between the Korean and Indonesian crew members. The Observer responded that there were no problems or issues that she was aware of. She thought they were a very happy crew and worked well together. All the crew treated her very well and she stated that she had had no problems with any of the crew on board. She had no issues with the accommodation and the food was “great”.

On one voyage in 2010 the vessel experienced several gales with winds in excess of 50 knots. At the post-voyage discussion with the Observer on board Peter Dawson asked as to whether he felt safe. The Observer responded that “this a great hull and a great boat to see out a gale. I was never anxious about the seaworthiness of this ship.”

*f) Any other matters that the Inquiry considers relevant.*

## MEDIA COMMENT

Much of the reportage on FCVs is coming from one individual. It is difficult to accept that this individual's reporting is unbiased. As an example of what we consider to be 'agenda driven' reporting we include the following.

On 8 May 2011 Peter Dawson was "quoted" in an article in the Sunday Star Times – "Iwi blamed for the state of the fishery".

Dawson had made a submission on the February 2008 Ministry of Fisheries' Initial Position Paper: 'Proposed Management Measures to Mitigate the Risk from Foreign Charter Vessels Operating in New Zealand' EEZ'.

The purpose of this IPP was to set out the Ministry of Fisheries "proposed management measures to mitigate the risk from the operation of some FCVs in New Zealand's EEZ ... **to observer and fishery officer health and safety**, and the likelihood that the operation of some FCVs may compromise the integrity of the New Zealand fisheries management regime".

This was set out on page 1 of the 20 page IPP. There is only one reference in the whole paper to foreign crew, on page 3 "*e) MFish's inability to use foreign crew as witnesses in prosecution cases*". Nowhere in the paper are conditions as they relate to foreign crew mentioned.

Dawson was responding to four topics in the IPP:-

- "Require all vessels greater than 46m to adhere to an approved standard of accommodation, food and amenities for observers.
- Increase observer coverage onboard FCVs ...
- Require FCV operators to submit valid vessel safety inspection certificates as part of their registration application
- Require vessel operators seeking to register a FCV to supply a specified and comprehensive package of information as part of the registration approvals process."

It is difficult to believe that the reporter was unaware of the subject of the IPP when he wrote his piece in the SST yet the reporter refers to the four page submission by Peter Dawson as "resisting bids to improve conditions on foreign vessels" in the paragraph after he used the phrase "sweatshop labour at sea".

In Dawson's conclusion in his submission he wrote "We have been in this business (FCV's) for 23 years and have watched them evolve from being the only source of catching our deepwater species to a "necessary evil" which some companies would like banished from our shores, and yet they acknowledge that they cannot afford to catch SQU, JMA, SBW and BAR with domestic vessels"

The reporter rejigged these words to quote Dawson as saying "We have been in this business for 23 years and have watched them evolve from being the only source of catching our deepwater species to a "necessary evil" that some companies would like banished from our shores, and yet they acknowledge that they cannot afford to catch with domestic vessels"

Dawson also wrote "This has major consequences for Maori as FCVs are the only way they can participate and be involved in the Activity of fishing. If the opportunity to charter vessels is removed Maori ACE holder[s] will have no option but to become passive lessors of ACE, an option some Maori groups do not want"

The reporter 'quoted' Dawson as saying "This has major consequences for Maori ... if forced out of using the cheap foreign boats, Maori would end up being 'passive lessors' of their catch"

Dawson did not say this. Nowhere in his submission does he use the words "cheap foreign boats". The reporter hasn't even bothered to quote Dawson out of context – he has just made up a 'quote' and attributed it to him.

## **RECOMMENDATIONS**

We firmly believe each of the relevant Government agencies has the necessary legislative framework to manage the use of FCVs in the NZ EEZ. However, the standards within that framework can be confusing and open to varying interpretations; both by the FCV operators charged with their implementation and by the individuals within these agencies auditing compliance. These standards need to be made available to, and understood by, all relevant parties and they need to be consistently and transparently applied.

There is currently some confusion over the standards Maritime NZ requires from Korean FCVs and the role and standing of the Korean Shipping Register with regard to these vessels. Strong, clear standards that all affected parties agree to and comply with can only improve safety on board.

MAF VA standards vary between ports and inspectors. In our experience, what is acceptable to one inspector in one port may not be acceptable to an inspector in another port. In October 2009 we met with senior NZFSA officials after they had inspected the 'GOM 379' in port. Our understanding from that meeting was that there was to be a standard 'manual' for all vessels licenced for export fishing in NZ. A Limited Processing vessel would be required to meet a certain, known, standard. Similarly, a Full Processing vessel would be required to meet a different, known, standard. This has not yet happened.

The Department of Labour standards regarding the payment of crew are still open to interpretation. Stronger, clearer guidelines need to be established. A pro-forma for payments to crew would make compliance easier and the auditing of compliance a more simple matter than it is currently.

The current strict liability provisions and draconian penalties for some fisheries offences are more than adequate for controlling the fishing activities of FCVs in NZ. In some cases, we would argue they are too severe. The problem with such an extreme penalty regime is that it immediately sets up an adversarial environment between the operator and MAF. As a result, operators and MAF seldom work together for the good of the NZ fishing industry, unlike the collaborative environment that appears to exist in the agriculture industry.

## **CONCLUSION**

Northland Deepwater has been fishing Ngapuhi's deepwater quota for the 16 of the last 18 years utilising Ukrainian and Korean FCVs. In October 2009 the deepwater quota held by Kahungunu Asset Holding Company was added to the operation.

Ngapuhi and Kahungunu have chosen to best utilise the deepwater quota they received from the Treaty of Waitangi fisheries settlement by entering into a joint venture arrangement and to fish that quota with FCVs. Ngapuhi, one of the largest iwi holders of deepwater quota, is not now, nor will it be anytime in the foreseeable future, in a position to purchase and operate its own vessel to catch that quota.

Properly managed FCVs make a huge contribution to the New Zealand fishing industry. FCVs catch 62.3% of the nine key species that make up the deepwater fishery – 94% of the squid, 99% of the jack mackerel, 80% of the barracouta and 77% of the hake<sup>10</sup>. We would suggest that the FCV percentage catch of iwi owned deepwater quota would be significantly higher. For the 2009/10 fishing year the estimated export revenue of catch by FCVs was \$274.6 million<sup>11</sup>. The use of FCVs to catch the quota allocated to iwi under the Treaty of Waitangi settlement allows iwi the opportunity to share in the value FCVs generate.

Without FCVs iwi will be relegated to leasing their quota to a very few large companies that have the wherewithal to own and operate their own large freezer-trawlers. If this were the case the annual return from iwi quota and the underlying value of that quota would be dramatically affected.

All of the major fishing companies either continue to use or have used FCVs at some time in their recent history. Only one New Zealand fishing company has invested exclusively in domestic catching capacity. We note that even this company sells the ACE it is unable to catch economically to a FCV operator.

It would appear there is a well organised and well-funded campaign against FCVs operating in New Zealand, including the use of documentaries, legal opinions and the media. This campaign against FCVs seems to be aimed at either removing or restricting the use of FCVs in New Zealand and increasing the cost structure of the FCVs, and ultimately driving the value of the ACE/quota down.

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<sup>10,11</sup>Background Paper on the Use of Foreign Charter Vessels, Ministry of Fisheries - [www.fish.govt.nz](http://www.fish.govt.nz).

Much of the recent negative publicity seems to relate to one company in particular yet has been used, whether knowingly or not, to damage the reputation of the entire FCV industry. It would be interesting to know who is providing the funding for this campaign and what they stand to gain by the restriction or removal of FCVs within the NZ EEZ.

The managers of the Northland Deepwater operation have been working in the New Zealand fishing industry since 1985. Neither Northland Deepwater nor any of its management has been prosecuted for any fisheries offence.

The standard of the FCVs fishing in New Zealand has continued to improve. Many of the vessels fishing when the Quota Management System was introduced in NZ would not be able to fish here today under the current legislative regime. In the 25 years we have been involved in chartering FCVs, safety on board, fisheries compliance, food safety, environmental standards, and crew working conditions have all improved. Most NZ fishing companies are far more involved in the operations of FCVs than they ever have been. At the same time, whatever the motivation, these FCVs are under more scrutiny than ever.

Despite some claims to the contrary, finding suitably qualified crew willing to fish in the deepwater industry is not easy. Korean fishing companies are expressing concerns that the number of entrants into the fishing training schools in Korea is dropping. They can see a time when even the captains and officers on board are contracted from another country. Last year, at least one of the NZ scampi trawlers could not fish in southern ocean because it could not recruit an engineer with the requisite tickets – that company has been forced to recruit an engineer from the UK.

The 'GOM 379' is currently crewed by 8 Korean and 28 Indonesian nationals. Three of the 8 officers and engineers on board are Indonesian. Sixteen of the 53 Indonesian nationals that have served on the 'GOM 379' while it has been under charter to Northland Deepwater have returned to New Zealand from Indonesia to work on Northland Deepwater FCVs for at least two terms, 5 of them have returned 3 times. Fourteen of the 25 crew currently in Indonesia are scheduled to return to the vessel, three of them for the fourth time. It is inconceivable, if conditions on board are as they have been reported by some in the media, that these crewmen would want to return to work on these vessels for terms up to 2 years, not once but four times.

Every comment we have read or had from MAF Observers on board the GOM 379 in respect of the crew noted that they seemed happy and were respectful of one another. Northland Deepwater managers attend every port-call and this has been our experience as well. We discuss issues with

the senior Indonesian crew and are confident there are no significant problems, neither on board nor with their pay. The payments to crew have been audited by the Department of Labour and Northland Deepwater conducts its own checking regime to ensure compliance with the NZ labour regulations. We are confident that every effort is being made by the Korean owners of the 'GOM 379' and the officers on board to provide a safe and fair working environment.

Northland Deepwater has expanded its quota base with the inclusion of the Kahungunu Asset Holding Company deepwater quota and, with its Korean partners, is actively seeking an additional FCV expand its operation and further underwrite the value of its iwi partners' quota into the future.

Northland Deepwater is committed to achieving the best possible returns for its iwi partners. We are firmly of the view that this can only be achieved by the use of FCVs. We believe the New Zealand fishing industry can not realise its potential without FCVs and iwi in particular would be dramatically affected by their removal or restriction.