



SEALORD GROUP LIMITED

Submission in relation to

Ministerial Inquiry into Foreign Charter Vessels

7 October 2011

1. INTRODUCTION

- 1.1 Sealord Group Limited ("**Sealord**") welcomes the opportunity to provide comments to the Ministerial Inquiry ("**Inquiry**") which has been established to consider the use and operation of foreign charter vessels ("**FCVs**") fishing in New Zealand waters.
- 1.2 Sealord is one of New Zealand's leading seafood companies, with half its shareholding owned by Maori through Aotearoa Fisheries Limited, and half by leading Japanese fishing company Nippon Suisan Kaisha, Limited. Sealord is one of New Zealand's top 60 companies in terms of revenue, employing over 1100 people throughout New Zealand and more than 400 people around the world. Sealord has interests in fishing both in New Zealand and internationally. Domestically, the majority of our commercial quota holdings are in deep water fisheries. Sealord also holds interests in significant amounts of inshore quota.
- 1.3 Sealord has utilised FCVs for many years and they have formed, and continue to form, an integral part of Sealord's business. Sealord currently charters three Ukrainian-crewed FCVs, each of which has been chartered by Sealord for more than 10 years.
- 1.4 We would welcome the opportunity to appear before the Panel to discuss the use and operation of FCVs further, including making an oral submission at the public hearing to be held in Auckland.

2. EXECUTIVE SUMMARY AND RECOMMENDATIONS

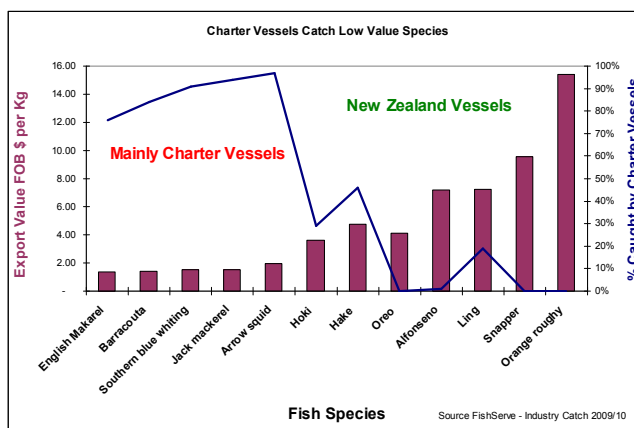
- 2.1 Sealord fully supports the objectives of government specified in the Terms of Reference for the Inquiry, being to ensure that the operation of foreign owned and flagged vessels chartered by New Zealand fishing companies supports the following objectives (together the "**Government's Objectives**"):
- (a) Protect New Zealand's international reputation and trade access.
 - (b) Maximise the economic return to New Zealand from New Zealand's fishing resources.
 - (c) Ensure acceptable and equitable New Zealand labour standards (including safe working environments) are applied on all fishing vessels operating in New Zealand's fisheries waters within the exclusive economic zone ("**EEZ**").
- 2.2 Sealord's view is that there is a vital role for FCVs to play in the New Zealand fishing industry and considers that it is of fundamental importance that they are operated in accordance with existing regulatory requirements. It is also Sealord's view that if FCVs are operated in accordance with these requirements, then their operation will support, and not undermine, the Government's Objectives.
- 2.3 Sealord stands behind the operations of its three FCVs and is entirely comfortable with the use and operation of those vessels and the labour conditions on them. Sealord has robust compliance processes in place to ensure that proper standards are maintained in all aspects of the vessels' operations.
- 2.4 Sealord firmly believes that the existing regulatory framework for the use and operation of FCVs (including the applicable laws and codes of practice) is appropriate. However, it is important to ensure that this framework is being adhered to, and that if there are operators that do not comply with the framework, then those operators are held to account (which could include prosecution and being excluded from operating in the New

Zealand EEZ). The existing framework allows for the monitoring of the operation of FCVs and for appropriate sanctions to be imposed for breaches.

- 2.5 In this context Sealord considers that the campaign spearheaded by the University of Auckland, the Service and Food Workers Union and the Sunday Star-Times has been overstated and misdirected. As a consequence New Zealand's reputation in foreign markets has already been damaged to some extent. In particular, allegations made by these parties relating to Sealord have been made without factual foundation.
- 2.6 As noted above, Sealord considers the existing regulatory framework for FCVs is appropriate and effective – provided there is responsible management performance and accountability, and regulatory compliance. To the extent that this does not happen there is clearly potential for damage to New Zealand's international reputation and trade access (as would also be the case where there is non-compliance by vessels crewed by New Zealanders). Furthermore, if serious allegations (e.g. such as "slave ships") are found to have validity this has serious implications for not only the seafood sector but, more generally, for New Zealand industry.
- 2.7 The Inquiry clearly has a mandate to generally investigate whether there are any FCV operators who demonstrate a lack of management performance or regulatory non-compliance which undermine the Government's Objectives. If compelling evidence of such issues is found then it is important that the specific operators are clearly identified and the best regulatory means for rectifying or avoiding any such problems carefully assessed.
- 2.8 In considering the best means of rectifying any serious management non-performance or non-compliance it is important the Inquiry carefully evaluates the efficacy of the existing regulatory framework – if properly implemented and complied with. It would clearly be unfair if any recommended regulatory or policy changes unreasonably impacted on FCV operators who act responsibly. Similarly, the consequences of limiting or prohibiting the use of FCVs would be serious (see paragraph 3.4).
- 2.9 Any new regulatory policy or policy changes considered should also be carefully assessed so as to avoid unintended consequences, including unwarranted or unfair new obligations or unreasonable additional compliance costs on those FCV operators who can demonstrate they have managed their operations responsibly and in compliance with the existing regulatory framework.

3. FOREIGN CHARTER VESSELS IN NEW ZEALAND'S EEZ

- 3.1 Foreign vessels have been employed since the very beginning of commercial deep water fishing in New Zealand. Over the past 30 years the number of foreign vessels operating in the deep water fisheries has reduced significantly. Sealord is of the view that FCVs continue to have a crucial role to play in the New Zealand fishing industry.
- 3.2 FCVs generally harvest low value species that are unprofitable and/or not practicable for New Zealand vessels to harvest, given the vessel configuration and specialised skills required to do so. The catches of FCVs and New Zealand vessels are depicted on the graph below. Sealord's catch percentages by vessel type are discussed in section 4 of this submission.



3.3 FCVs make fishing for some deep water species possible, and it is unlikely that quota owners would be able to profitably harvest (if they are able to harvest at all) some of these low value fish without FCVs. Few New Zealand operators could afford the capital expenditure required to purchase an equivalent vessel (or vessels) and receive an acceptable return from such a level of investment. Every deep water quota owner in New Zealand derives substantial benefits from the operation of FCVs. These benefits arise either directly through utilising FCVs as is the case with Sealord, or through the sale of annual catch entitlement (“ACE”) to FCV operators as is the case with, for example, Talley’s.

3.4 Without FCVs a large proportion of fish caught today would go uncaught. This would have significant negative implications for both industry participants and the New Zealand economy more generally, including:

- (a) The estimated direct loss of export earnings to New Zealand would be approximately \$196 million a year in relation to barracouta, jack mackerel, english mackerel, southern blue whiting and squid.¹
- (b) Lower profits being generated by New Zealand companies and therefore less New Zealand tax being paid. Lower financial returns would also have an adverse impact in terms of enabling quota holders to reinvest in other parts of their businesses.
- (c) FCVs help to create a significant number of supply, service and processing jobs. For example, they contribute to providing year round employment/income for New Zealand maintenance staff, provedores, engineering firms, fabrication firms, fuel suppliers, packaging suppliers and port company workers. In addition, some of their catch helps to support shore-based processing jobs, such as Sealord’s dedicated squid processing line. Some of these jobs would be threatened if the operations of FCVs were significantly reduced or restricted.
- (d) A potential loss in the value of quota shares and ACE for low value pelagic species which are caught by FCVs (i.e. value would reduce if it was not possible to economically harvest the fish).
- (e) The low value species harvested by FCVs include predatory species such as barracouta and mackerel. These species feed on, amongst other things, higher value species which could otherwise be commercially harvested. If these predatory species are not harvested it is possible that they may predate on other stocks (such as hoki). As the diagram above shows, these predatory species are predominately harvested by FCVs.

¹ Based on SeaFIC export statistics for 2010.

- (f) New Zealand may come under pressure to allow foreign nations to enter our waters and harvest fish that was unable to be caught in order for New Zealand to comply with its obligations under the United Nations Convention on the Law of the Sea.

3.5 In Sealord's view, the above implications are inconsistent with the Government Objective of maximising the economic return to New Zealand from its fisheries resources.

3.6 Sealord's view is that the current regulatory framework relating to the operation of FCVs is appropriate and fully supports its monitoring and enforcement by the relevant authorities. Sealord considers that if the condition of specific vessels, or the labour standards on such vessels, undermines the Government's Objectives, this is likely to result from the regulatory framework not being complied with by the operator in question rather than the framework itself being deficient. The framework includes:

- (a) Requiring FCVs to be registered under the Fisheries Act 1986. Vessels owned or operated by overseas persons cannot be registered without the consent of the Chief Executive of the Ministry of Fisheries (which consent may be granted subject to such conditions as the Chief Executive thinks fit to impose).
- (b) The Code of Practice on Foreign Fishing Crew which has been agreed between the Department of Labour, the New Zealand Seafood Industry Council ("SeaFIC") and the New Zealand Fishing Industry Guild Inc., which sets minimum standards for foreign fishing crews, including vessel working and living conditions and minimum remuneration requirements. Compliance with the Code of Conduct is audited by the relevant authorities.
- (c) Registration of FCVs with the New Zealand Food Standards Authority, and associated audits.
- (d) Requiring FCVs to enter the Safe Ship Management System within two years of arrival in New Zealand, and inspections by the relevant authorities.

3.7 Sealord understands that SeaFIC and the Deepwater Group have provided a submission in relation to the use of FCVs in the New Zealand EEZ, including more detail in relation to the regulatory framework.

4. SEALORD'S USE OF FOREIGN CHARTER VESSELS

Sealord's Fleet

4.1 Sealord currently operates seven fishing vessels in the New Zealand EEZ, catching over 90,000 tonne of fish each year. From time to time Sealord also uses other New Zealand vessels to catch fish under contract. Four of the seven vessels are New Zealand crewed vessels, which collectively employ approximately 250 masters and crew. Three of these vessels are owned by Sealord and the fourth vessel is chartered (but, as noted above, crewed by New Zealanders).

4.2 The other three vessels are factory trawlers (each of which is crewed by 80 Ukrainian officers and crewmen²) which are chartered by Sealord, namely:

- (a) FV Meridian 1 (which has the Commonwealth of Dominica as its flag state), which has been part of Sealord's fleet since 1994 (except for two years).

² Each vessel has two crews of 80 which rotate on a six-monthly basis, which means that there are 240 officers and crewmen employed across the three vessels at any point in time.

- (b) FV Aleksandr Buryachenko (which has Ukraine as its flag state), which has been part of Sealord's fleet since 1999.
- (c) FV Professor Aleksandrov (which has Ukraine as its flag state), which has been part of Sealord's fleet since 2000.

4.3 In addition to the seven vessels referred to in paragraph 4.1:

- (a) Sealord jointly manages two New Zealand long line vessels which are owned as part of joint ventures (including with another major New Zealand fishing company).
- (b) There are three vessels owned by Sealord which are operated in foreign waters but which employ senior New Zealand crew and/or utilise New Zealand expertise.

4.4 Sealord also has a 50% shareholding in Westfleet Seafoods Limited which operates several vessels out of Greymouth.

Role of Ukrainian Charter Vessels

4.5 The three Ukrainian-crewed vessels chartered by Sealord are operated as an integral part of Sealord's operations and are treated with the same level of professionalism as all other parts of Sealord's business. All fish caught by these vessels is owned by Sealord and is marketed and sold by Sealord.

4.6 The Ukrainian-crewed charter vessels play a crucial role in Sealord's business and contribute to the overall viability of the business. A balanced fleet configuration (for example, in terms of vessel size and whether owned or chartered) relative to its quota portfolio is of huge importance to the financial performance of fishing companies.

4.7 Sealord's charter vessels enable it to specialise its fleet and concentrate its investment in vessels specifically designed to catch and process higher value fish. Sealord's New Zealand vessels catch premium deep water species (e.g. hoki, hake, orange roughy, oreo dory and ling), while the Ukrainian-crewed vessels mainly catch lower value, high volume, species such as jack mackerel, barracouta, squid and southern blue whiting. Please see paragraphs 4.9 and 4.10 for further information.

4.8 It is not just the vessels themselves that provide the benefits to Sealord. The masters and the crew of the vessels are highly skilled and qualified. For example:

- (a) There are six masters working on Sealord's three Ukrainian vessels and each one has at least 10 years' experience working in the New Zealand EEZ. During this time each master has developed considerable specialised experience and knowledge of the fisheries in which they operate. In particular, their knowledge of the squid and pelagic fisheries is critical to the ability of the FCVs to harvest those species profitably.
- (b) All crew on our Ukrainian vessels are holders of internationally recognised STCW95 certificates of competency and have had specialist training to comply with international standards for seagoing personnel. All masters, officers and engineers have completed studies at marine colleges or institutes for three to five years before they receive their certificates of competency. Crew members do not qualify to work in New Zealand unless, in addition to his or her qualification and training documents, he or she can provide evidence of at least 12 months' seagoing experience.

- (c) As noted in paragraph 4.18 below, the retention of crew from year to year is very high which contributes to high levels of continuity and retained experience.
- 4.9 The catch plan for each Ukrainian crewed vessel ranges from between 15,000 GWT and 17,000 GWT annually (with the variances occurring as a result of changes in the performance of particular fisheries) and the availability of ACE for the other species that make up a catch plan. The make-up of a typical catch plan for one of Sealord's Ukrainian crewed vessels is as follows:
- (a) pelagics (jack mackerel and barracouta) – 50 to 55%
 - (b) squid – 10 to 15%
 - (c) southern blue whiting – 25 to 30%
 - (d) hoki – 10 to 15%
- 4.10 The Ukrainian-crewed fleet contributes approximately 50% of Sealord's overall catch by volume (not including joint venture or overseas subsidiaries). However, the percentage by value is materially lower than this given that, as noted above, the majority of species caught by these vessels falls into the low value, high volume category. Sealord's percentage catch by species by vessel type is shown in the table set out in the appendix to this submission. The FCV hoki catch was boosted in 2009/10 due to the fact that one of our New Zealand crewed vessels (which would otherwise have harvested more hoki) suffered a prolonged mechanical failure. However, this demonstrates another advantage of FCVs, in that they provide a valuable back-up harvesting option for higher value species where necessary. In the normal course of our fleet management Sealord aims to maximise the proportion of its hoki ACE caught on its New Zealand crewed vessels.
- 4.11 The benefits to Sealord of utilising Ukrainian-crewed charter vessels include:
- (a) A more balanced and flexible fleet configuration. Through being able to specialise its catch plan in the manner outlined above Sealord is able to land a proportion of its deep water catch for shore based processing in Nelson. Without specialisation it is unlikely that Sealord could continue to sustain this operation.
 - (b) Sealord can avoid capital outlay to achieve a return on low value high volume quota assets. In any event, the availability of equivalent vessels (and the crew necessary to operate them) is relatively limited.
 - (c) The catch from these vessels supports Sealord's investment in its off-shore marketing businesses, given that all fish caught on these vessels are marketed through Sealord's international marketing network.
 - (d) The use of these vessels generates a good and taxable profit for Sealord, which contributes to the overall viability of its business.
 - (e) Apart from the pelagic species, all other target species can be further processed by Sealord in either New Zealand or other countries, which gives Sealord the opportunity to take these products further through the value chain or be sold in a protein commodity form.
- 4.12 In addition to the benefits to Sealord, virtually all servicing, maintenance, dry docking, provisioning, fuel and lubes purchases, and other consumables flow through to New Zealand businesses. The main exception is the supply of specialist parts required to maintain these particular vessels.

- 4.13 The use of Ukrainian crew on vessels chartered by Sealord is not denying New Zealanders job opportunities. All positions on the Ukrainian vessels are advertised through the New Zealand Deep Sea Fishing Crew Employment Register but, in our experience, there are very few applicants, and it would simply not be possible to recruit the numbers of crewmen required. If the use of FCVs was prohibited or significantly restricted, it is unlikely that material numbers of jobs would be created for New Zealanders as it is unlikely that the FCVs would be replaced with New Zealand crewed vessels. In any event, even if they were, our experience indicates that it would be difficult to recruit sufficient New Zealanders to fill such job vacancies.

Labour Conditions

- 4.14 Sealord considers that the conditions on its chartered Ukrainian-crewed vessels are very good. For example:
- (a) The vessels comply with all aspects of the Code of Practice on Foreign Fishing Crew (which is referred to earlier in this submission).
 - (b) Health and safety standards on the vessels are benchmarked against both Sealord and New Zealand industry standards. The health and safety records of the vessels are reported to Sealord's board of directors in the same manner as that of Sealord's New Zealand vessels.
 - (c) The vessels are kept extremely clean and tidy and have designated crew who are responsible for cleaning and laundry.
 - (d) All provisioning for the vessels is arranged through Sealord, which means Sealord is able to monitor the quality and volume of supplies. The standard of food supplied to the vessels is of an equivalent standard to Sealord's New Zealand vessels. At sea, meals are provided at four-hourly intervals by three cooks on board each vessel. Each vessel is even bakes its own bread.
 - (e) Each crew includes a fully qualified doctor who provides medical assistance to the crew when necessary. Each vessel has appropriate treatment facilities and medical supplies.
 - (f) Sealord pays all hospital and other health-related costs. A recent example of this involved Sealord arranging a helicopter to rescue at sea of one of its Ukrainian crew members, who had a perforated stomach ulcer, and transfer him to Invercargill's hospital for successful emergency surgery.
- 4.15 There are regular inspections and audits by the relevant authorities (e.g. the Department of Labour and Ministry of Fishery observers) and by Sealord personnel. For example, at each port call the vessels are visited and inspected by members of Sealord management. In addition, Sealord runs its own training and auditing regime and benchmarks charter vessel performance against its New Zealand fleet standards. The vessels are subject to the same internal checking processes and receive the same level of training in compliance matters (primarily in the area of fisheries compliance and Maritime New Zealand compliance). Sealord monitors the compliance in every area and all of its charter vessels have good compliance records and history.
- 4.16 Crew are paid directly by Sealord (and not through an agent) on behalf of the vessel charter party and all receive at least the amounts required by the Code of Practice.
- 4.17 Sealord goes beyond what is legally required in terms of how it treats the crew, and considers that it looks after the Ukrainian crews like it does the crew of its New Zealand vessels. Sealord considers the Ukrainian crew to be part of the Sealord family. For example, at the end of each fishing season Sealord arranges and pays for a picnic for

the crew. Sealord also arranges for Russian news and television programmes to be made available to the crew on a regular basis while they are at sea.

- 4.18 At the end of each six month crew rotation, applications are generally received from about 90% of crew members to return for the next season. The average crew retention, across the entire crew, from year to year across the fleet is approximately 74%. The main reasons for crew not returning are changing ships following promotion to a more senior position on another vessel or performance issues. Sealord considers that the high retention rate (and an even higher proportion of crew who apply to return) provides a good indication as to the labour conditions on Sealord's charter vessels.

APPENDIX

Sealord Catch by Vessel Category

Specie	2008/2009		2009/10	
	FCV	NZ Crewed	FCV	NZ Crewed
Barracouta	99%	1%	100%	0%
English mackerel	100%	0%	100%	0%
Jack Mackerel (excludes JMA1)	100%	0%	100%	0%
Squid	100%	0%	99%	1%
Southern blue whiting	100%	0%	100%	0%
Hoki	17%	83%	21%	79%
Oreos	6%	94%	0%	100%
Hake	17%	83%	9%	91%
Silver warehou	36%	64%	42%	58%
Alfonsino	1%	99%	0%	100%
Ling (excludes LIN1 and LIN2)	2%	98%	2%	98%
Orange roughy	0%	100%	0%	100%