



# Southern bluefin tuna Annual Catch Entitlement carry-forward provisions

Regulatory Impact Statement

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## REGULATORY IMPACT STATEMENT

### **Southern bluefin tuna Annual Catch Entitlement carry-forward provisions Agency Disclosure Statement**

1. This Regulatory Impact Statement has been prepared by the Ministry for Primary Industries (MPI).
2. It provides an analysis of options to implement changes to the management of southern bluefin tuna that would allow limited carry-forward of uncaught allocation from one year to the next.
3. Proposals in this paper are constrained to those which are consistent with the decisions of the Commission for the Conservation of Southern Bluefin Tuna.
4. The preferred options will provide commercial fishers with greater flexibility in managing their allocation and enable them to potentially lower business costs. The proposal will not impair property rights, competition or inhibit innovation and investment.

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/ /2012

## Status quo

1. Southern bluefin tuna is a highly migratory species that is seasonally present in New Zealand waters where it is valued by commercial and non-commercial fishers. New Zealand cooperates with other countries in conservation and management of southern bluefin tuna because of its highly migratory nature. Since 1994, this cooperation has taken place through the Commission for the Conservation of Southern Bluefin Tuna (CCSBT). CCSBT's objective is to ensure, through appropriate management, the optimum utilisation of southern bluefin tuna.
2. At its October 2011 meeting, the CCSBT adopted a management procedure designed to rebuild the stock and a range of measures to ensure the total global catch limit is not exceeded. The Commission has agreed to global catch limits for southern bluefin tuna and country allocations within these totals for a three year period. A further decision by CCSBT was to adopt a provision to allow the limited (i.e. no more than 10%) carry-forward of underfishing from one year to the next within the three year quota blocks. Members are not forced to implement the carry-forward provisions but can chose to do so based on the dynamics of their fishery.
3. The Fisheries Act 1996 (the Act) provides a general provision to allow the carry-forward of up to 10% of underfishing from one year to the next unless a species is listed on Schedule 5A of the Act. Southern bluefin tuna is a quota species subject to the Quota Management System (QMS) and was listed on Schedule 5A to manage the risk that the carry forward of underfishing may have led to New Zealand exceeding its national allocation in a given year. CCSBT's past rules would have required that this over-catch be paid back in subsequent years. The adoption by CCSBT of its own carry-forward provisions have mitigated this risk.
4. The management procedure adopted by CCSBT now provides some certainty regarding future allocations and how these are to be managed. These decisions can now be reflected by the reinstatement of the general domestic provisions for the carry-over of up to 10% of uncaught catch of southern bluefin tuna from one year to the next subject to the general legislative conditions that apply. This will provide greater flexibility to industry in managing its catch against annual catch entitlements (ACE). Importantly carry-forward provisions apply to ACE holdings so that those who purchase ACE in a given fishing year are not compelled to "catch it or lose it" with the associated risk of overcatch.

## Problem definition

5. The current domestic regime where carry-forwards are not permitted does not reflect the seasonal variability in the stock and the fleet's vulnerability to limited access based on inclement weather in a given year. The lack of transferability from year to year limits New Zealand's potential to fully exploit its full country allocation.
6. MPI therefore propose that southern bluefin be removed from Schedule 5A of the Act with the effect that the underfishing provisions outlined in section 67A of the Act would now apply for this species allowing the carry-forward of up to 10% of unfished ACE from one year to the next.

## Objectives

7. The objective of this proposal is to ensure that New Zealand is in the best position to manage its national allocation and provide its domestic fleet with the needed flexibility to extract value from the resource. The proposal must also be consistent with the recent management decisions made by the CCSBT.
8. This change must take place before the start of the 2013/14 fishing year (October 1<sup>st</sup> 2013) in order to allow carry-forward from the current fishing year to take place.

## Regulatory impact analysis

9. The status quo is not considered to meet the objectives of improving commercial flexibility or maximising utilisation of the New Zealand southern bluefin tuna allocation since it does not effectively account for the variability of the stock or the weather based nature of the fleet's access to fishing grounds.
10. MPI considered the use of non-regulatory options (such as voluntary reporting and consensus group management around use of carry-forward). The lack of effective mechanisms for implementing group decisions, the need for individual fisher flexibility, and the need for accurate reporting to ensure domestic and CCSBT obligations are met; meant these were sub-optimal solutions.
11. MPI considers that amending Schedule 5A of the Fisheries Act by removing southern bluefin tuna (STN1) from the list of stocks exempt from carry-forward provisions is the only effective means of implementing this change.
12. MPI is of the view that the provision to allow 10% underfishing carry-forward is an important mechanism to recognise the annual variability in access to the fishery (it is weather dependant) and abundance of southern bluefin in New Zealand waters. The importance of an underfishing regime has now been recognised by CCSBT which has adopted a limited provision for carry-forward within a three year quota block.
13. The flexibility that carry-forward provisions provide may also allow commercial fishers to avoid penalties (deemed values) for overcatch and therefore reduce their operating costs. Although overcatches are rare, the penalties applied are substantial and even limited catches in excess of annual entitlements can have severe consequences. Current deemed value rates are \$46.92/kg and average fish size is between 70-100kg which could lead to a multi thousand dollar deemed value payment simply for catching a single fish if no annual catch entitlement is held.
14. Although it is difficult to quantify how much southern bluefin tuna was uncaught due to the restrictions on carry-forward the loss of potential earnings could be as high as \$33,700 per tonne based on 2012 average export prices.

## Consultation

15. MPI discussed these proposed changes with the Highly Migratory Species Fish Plan Advisory Group and released an initial position paper (IPP) for consultation on 29 June 2012. In total 10 submissions were received.
16. All industry submissions and that of Te Ohu Kaimoana strongly supported reinstatement of provisions for carry-forward of unfished quota, noting that these provisions are an important contributor to efficient operations for the industry.
17. The application of underfishing provisions was opposed by the New Zealand Recreational Fishing Council (NZRFC) and the New Zealand Sport Fishing Council (NZSFC). NZRFC submitted that fishers should manage the catch to their ACE portfolios within a fishing year. NZSFC do not support a 10% carry-forward of ACE to the following season in the absence of (carry-back) regulations that allow the reduction of ACE the following year where catch has exceeded ACE. NZSFC considers that this is not likely to be much of a problem with southern bluefin tuna but is an issue for a number of other important stocks.

## Conclusions and recommendations

18. MPI recommends that southern bluefin tuna (STN1) be removed from Schedule 5A of the Fisheries Act 1996, thereby allowing the underfishing provisions of section 67A to apply.

## Implementation

19. Amendments to Schedule 5A of the Fisheries Act to remove a species can be made by an Order in Council under section 67B of that Act. The Order in Council would be submitted to the Economic Growth and Infrastructure Cabinet Committee and the Legislative Cabinet Committee for approval before being submitted to the Executive Council.
20. The administrative functions relating to balancing of catch entitlement from one year to the next are largely undertaken by FishServe which is the Approved Service Delivery Organisation (ASDO) to whom the services have been devolved. The proposed changes are in line with current FishServe practices and do not require any significant change to implement.
21. There are no additional compliance costs associated with these proposals. The changes are administrative in nature and are similar to the current management regime in place for a number of QMS species.

## Monitoring, evaluation and review

22. Catches of southern bluefin tuna will continue to be monitored closely to ensure that New Zealand does not exceed its national allocation. This is done through the analysis of data collected from Monthly Harvest Returns which every commercial fisher must submit and is verified by a catch documentation specifically adopted for southern bluefin tuna.