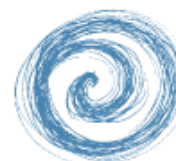


OCEANS POLICY SECRETARIAT

WORKING PAPER ELEVEN
14 March 2003



OCEANS POLICY

INTERNATIONAL OCEANS ISSUES

Contents

<i>Introduction</i>	2
<i>Desired outcomes</i>	2
<i>Current management</i>	3
<i>Key issues arising for New Zealand</i>	3
New Zealand's priorities and policy positions	4
The effectiveness of New Zealand's role internationally	5
Implementation of New Zealand's international obligations	6
<i>Conclusions</i>	7

Introduction

1 The scope of the Oceans Policy extends to the 200-nautical mile limit and the limits of the Continental Shelf beyond. However there are important links to be made between our domestic policy and our international work. This paper explores the connection between domestic and international oceans management, and issues arising. It is intended to be read in conjunction with Background Paper One: ‘Setting The Scene: New Zealand’s Oceans-Related Obligations And Work On The International Stage’.

2 In its role as an international citizen, and in the pursuit of its economic, strategic security and environmental objectives, New Zealand contributes to a wide range of international oceans management and policy initiatives. It has already achieved an impressive track record, including its contributions to oceans governance, biodiversity conservation and management, and Antarctic governance. In the light of this experience and in the context of newly emerging issues, a number of refinements have been identified which could assist New Zealand in playing a more effective role internationally. Addressing these would allow New Zealand to take a more proactive role in relation to its existing obligations, and to be better prepared for issues that may arise in the future.

3 It is important for New Zealand to continue to engage effectively in this work, as oceans issues are by nature transboundary, and therefore cannot be successfully addressed only by domestic action. Broader regional or global approaches to oceans management should influence the development of New Zealand’s Oceans Policy. The relationship between New Zealand domestic Oceans Policy and international initiatives is, however, reciprocal. Future development of policy positions in the international context will need to be informed by New Zealand’s domestic policy.

Desired outcomes

4 The desired outcomes that would strengthen New Zealand’s performance on international marine related issues, and provide clear links and complementarities between New Zealand’s international and domestic oceans policy, might be:

- New Zealand having clear priorities and policy positions on international oceans issues which are developed through input from relevant domestic oceans management agencies and the public
- New Zealand playing an effective role on key emerging issues relating to global oceans management, and providing leadership with respect to regions of special importance to New Zealand (e.g. the Tasman, Pacific and Southern Ocean)
- New Zealand meeting its commitments under all international oceans management instruments that it has agreed to
- New Zealand acceding to those international oceans management instruments that deliver on its objectives, which it has not yet acceded to.

Current management

5. Background Paper One sets out details about:

- how international law is made and applied
- current activities under way in key international institutions with oceans responsibilities and functions
- oceans policy programmes in other countries and regions
- development of New Zealand's position on international oceans issues.

6 New Zealand has a strong record of achievement in international oceans management. It has played a leading role in the development of the principal oceans treaties, especially the United Nations Convention on the Law of the Sea, and Pacific regional fisheries agreements. Its advocacy of oceans affairs led to the establishment of a regular dialogue on oceans at the United Nations. It has made a strong contribution to strengthening the Antarctic Treaty System including through its efforts in the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). New Zealand has also taken a high profile stance on whale protection issues internationally¹.

7 Examples of the type of work programmes of international institutions that New Zealand is engaged with are the programmes on illegal, unreported and unregulated (IUU) fishing, fisheries subsidies, fisheries incidental by-catch, marine protected areas, marine biosecurity, and whaling. The oceans within and beyond New Zealand's jurisdiction also provide the stage for many activities with other countries, such as:

- cooperation programmes for research
- ship visits, training and exercises
- enforcement of international obligations
- intelligence sharing.

Key issues arising for New Zealand

8 Issues have been identified under four main headings:

- New Zealand's priorities and policy positions on international oceans issues, with provision for input from relevant agencies and the public
- The extent to which New Zealand is playing an effective role internationally and leading in regions of special importance
- Whether New Zealand is implementing existing international obligations

¹ A large proportion of New Zealand's EEZ lies within the Southern Oceans Whale Sanctuary, with the remainder lying within the proposed South Pacific Whale Sanctuary. New Zealand has a clear international obligation to ensure that decisions affecting our oceans do not result in adverse impacts on the great whales, including impacts on their potential recovery from the currently depleted populations. Issues include entanglement in marine farms and other structures, boat strike, maintenance of healthy populations of food species, and the protection of sheltered coastal waters that formerly were important breeding grounds for great whales.

- Whether New Zealand has acceded to all international oceans management instruments that deliver on its objectives.

New Zealand's priorities and policy positions

9 Although there is no unified overarching policy direction at the national level to guide New Zealand's role in international oceans issues, standing policy and emerging policy debates – often with provision for input from government agencies and the public – shape New Zealand's participation in international forums. Central government (and other) agencies acting on the international stage take their cue from a wide range of themes, objectives, and outcomes described in international and domestic legal instruments, and high-level government policy statements and strategies. Differences between these themes and outcomes can arise, in which case there is a risk of some inconsistency unless messages are managed and delivered carefully in international oceans forums.

10 An example where there has been successful coordination on oceans policy issues is the recent Ross Sea and Southern Ocean review process (May 2002) which has provided clear, whole of government guidance for New Zealand's participation in the Commission for the Conservation of Antarctic Marine Living Resources.

11 There are some doubts about whether there has been sufficient prioritising to achieve effective New Zealand input into some other oceans forums. Some agencies do not have sufficient capacity to respond to international issues; this includes insufficient resources to work with other interested agencies and groups to develop agreed positions. Examples of forums or programmes that New Zealand has had patchy input to are:

- the Asia Pacific Economic Council (APEC) Marine Resources Working Group
- the United Nations Environment Programme (UNEP) Regional Seas (South Pacific) programme
- the Pacific Islands Regional Oceans Policy
- the Global Programme of Action on Marine Pollution from Land Based Activities.

12 These shortfalls can mean that New Zealand is not represented at all at some meetings, or that our representation is not adequately informed by experts or through the formulation of whole-of-government policy positions and briefings. This may contribute to a perception by non-governmental organisations that there is a lack of transparency in decision-making. Patchy uptake of opportunities in these areas also results in a lack of ownership of outcomes and of responsibility for implementing them.

13 These examples highlight the need for improved mechanisms for prioritising international issues across government, especially on emerging issues, and the provision of adequate resourcing to deal with them. An absence of these things means that there are more likely to be gaps in alignment between New Zealand's positions internationally, and the legal and policy context at home. For example, in relation to fouled ship hulls, New Zealand has no regulations or strategies in place, and there are

no international guidelines to aid domestic thinking about how to assess the relative priority of what appears to be an important issue.

14 In addition, new developments in certain marine-based sectors – such as recent growth in off-shore fishing activities – require ongoing assessment of priorities and positions. Proper consideration of how New Zealand’s values and principles will be applied in new contexts requires full engagement by the range of interested agencies and stakeholders.

15 There is a feeling among non-governmental organisations and community groups that provision for their input into international marine-related negotiations is patchy, haphazard and difficult for them to understand. These groups can often experience difficulty in being involved on some issues, although consultation with non-governmental organisations is well-established in some areas of the Ministry of Foreign Affairs and Trade’s (MFAT’s) work. MFAT has a clear process for its various divisions to conduct outreach and communications work with the public as a part of country and issue-specific policy development.

The effectiveness of New Zealand’s role internationally

16 As mentioned in paragraph 6 above, New Zealand has achieved much over the past decades to improve international oceans management, especially in the Pacific Ocean and in Antarctica. It continues to play leading roles in these areas.

17 New Zealand is also well-placed to continue to build on its strengths as they might apply to emerging issues. In the areas of oceans use and management, New Zealand is at the forefront of international best practice and is well-placed to demonstrate that improved management does not necessarily come at the cost of efficient use of the oceans environment. New Zealand’s experience of state-of-the-environment reporting and methods for marine protection may also provide a useful focus to influence initiatives and directions in the international arena in a way that aligns with our own oceans management approach.

18 There are immediate opportunities for New Zealand to build on its position as a key player in addressing gaps and emerging issues, particularly in areas outlined in paragraph 11 and in the following areas:

- the sustainability of fish stocks
- the removal of damaging subsidies
- as a contributor to the proposed new global assessment of the state of the marine environment
- as a proponent of ‘polluter pays’ in the event of accidents at sea.

In addition, New Zealand could reinforce its involvement in the United Nations Informal Consultative Process on Oceans and the Law of the Sea, which is a key forum for promoting integrated oceans management at the global level, and which requires active participation of oceans experts from national agencies.

19 Greater clarity in respect of New Zealand’s overall priorities for ocean management, including the prioritisation of inputs and resources, would allow New

Zealand to play a more effective role internationally and regionally. For this to happen, more work may be needed across relevant government agencies to develop a cross-government strategy for our international involvement.

Implementation of New Zealand's international obligations

20 Further work could be done to ascertain New Zealand's performance under the international marine-related law it has agreed to, and potential agreements it may be interested in agreeing to in the future. Any such work would involve consultation with government departments, non-governmental organisations, industry, and other stakeholders. OECD² country reporting would also be a key source in gauging New Zealand's performance.

21 However, there are strong suggestions in other areas that New Zealand's work to implement international frameworks could be improved. A recent report by the Auditor-General³ finds, in relation to New Zealand's commitments under the RAMSAR agreement⁴, that domestic agencies need to give more attention to measures to arrest the continuing degradation of wetlands. In the context of an Oceans Policy, it is significant that wetlands under the RAMSAR agreement include coastal lagoons and estuaries.

22 Looking ahead, it is clear New Zealand could improve its performance in all of the areas identified in paragraphs 11 and 18, given adequate resourcing and prioritising. In addition, there are a few gaps in New Zealand's adherence to international treaties that deliver on core oceans interests: for example, the Convention on the Protection of the Underwater Cultural Heritage awaits attention. New Zealand has signed this convention, but has not yet decided whether to accede to it. The Ministry of Culture and Heritage proposes to investigate the implications of the Convention for domestic law, and requirements for accession.

23 It is useful to conclude this section by highlighting four elements set out in the Auditor-General's report that would increase the chances of successful implementation and ongoing compliance with international agreements. These are:

- specific enabling legislation for each agreement
- clear mandates, roles and accountabilities for departments and agencies responsible for the agreement in New Zealand
- well-defined working and reporting relationships between the departments and agencies responsible for implementing the agreement
- close and effective consultation and liaison with people and organisations most affected by the domestic implications of the agreement.

24 The issues raised in this paper suggest that these criteria are not being met consistently in the context of New Zealand's international oceans involvement.

² Organisation for Economic Cooperation and Development

³ *Meeting International Obligations*

⁴ Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971

Conclusions

25 New Zealand has a strong record of achievement in oceans management and has taken a leading role in developing the foundation instruments of international oceans policy such as the United Nations Convention on the Law of the Sea. A number of New Zealand's domestic policy approaches are at the forefront of international oceans management practice.

26 For New Zealand to improve its contribution on international oceans issues, work needs to be focused on:

- setting clear priorities and policy positions on international oceans issues. The mechanisms by which domestic agencies coordinate and develop positions New Zealand wishes to pursue in regional and international forums should be improved. This should include the development of mechanisms to ensure that the views of relevant non-government stakeholders are considered
- playing a more effective role on key emerging issues relating to global oceans management (especially the management of marine and coastal waters, invasive and alien species and biodiversity), and providing better leadership with respect to regions of special importance to New Zealand (e.g. the Tasman, Pacific and Southern Ocean)
- meeting commitments under all international oceans management instruments that New Zealand has agreed to
- acceding to those international oceans management instruments that deliver on New Zealand's objectives, and which it has not yet acceded to.