

ANZSIL E-Bulletin March 09

MFAT Contributions

Convention on Cluster Munitions - New Zealand among the first to sign

New Zealand was one of ninety-four countries to sign the Convention on Cluster Munitions when it opened for signature at a signing ceremony held in Oslo, Norway, on 3 December 2008. New Zealand's early signature of the Convention was in keeping with New Zealand's leading role during the development of the Convention, where New Zealand was: one of the six States which tabled a mandate demanding a new international instrument in the Convention on Certain Conventional Weapons; a member of the Core Group which guided the Oslo Process and developed the Convention text; host of the Wellington Conference in February 2008 which provided the formal bridge for the convening of the Dublin Conference and laid the ground for outcomes on several key articles; and chair of the discussions in Dublin on the key issue of defining what would be prohibited. New Zealand is now considering the steps necessary to become Party to the Convention.

The Convention will enter into force six months after the deposit of the thirtieth instrument of ratification.

South Pacific Regional Fisheries Management Organisation

New Zealand and Australia continue to engage actively in negotiations to establish a South Pacific Regional Fisheries Management Organisation (SPRFMO) to manage the non-highly migratory fisheries of the South Pacific. The 6th round of negotiations was held in Canberra in October last year. The seventh round of the negotiations is to be held in Lima, Peru in May this year. At the Canberra meeting, considerable progress was made in developing the Convention text, particularly with respect to the powers of the new Organisation to adopt effective measures for the conservation and management of species that straddle the high seas and adjacent areas under national jurisdiction.

New Zealand has continued to work to implement the interim measures agreed by the participants in the negotiations in 2007 in response to General Assembly resolution 61/105 to avoid adverse impacts of deep sea fishing on vulnerable marine ecosystems. The interim measures also put in place interim restraints on fishing for pelagic species on the high seas.

Western Central Pacific Fisheries Commission

New Zealand has been engaged in the ongoing work of Western Central Pacific Fisheries Commission (WCPFC). The major achievement of the Commission

meeting in December 2008 was the agreement on conservation and management measures for bigeye and yellowfin tuna to limit catches of those species which are under stress. The agreement represents a significant milestone for the WCPFC and puts it ahead of the other four tuna regional fisheries management organisations in terms of responding to scientific advice about the status of stocks.

New Zealand's work throughout the year on the issue of cooperating non-members (CNM) led to a far more structured and principled deliberation of new applications, and New Zealand also played a key role in the development and agreement of a revised measure covering decisions on CNM status that will apply from 2009. New Zealand's support for Pacific Island countries tackling Illegal, Unreported and Unregulated (IUU) fishing led to settlements being reached with Tonga and Cook Islands to address IUU fishing incidents by the flag states of the vessels involved. Conservation and management measures were also agreed on swordfish, sharks, turtles and the use of driftnets on the high seas.

Commission for the Conservation of Southern Bluefin Tuna

The meeting of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) in Auckland last year made significant progress, adopting three key measures to better manage the fishery: a catch documentation scheme, a vessel monitoring scheme, and high seas transshipment controls. A two-stage performance review, initially coordinated by New Zealand, was critical of CCSBT's overall performance concluding that CCSBT had failed in its primary role of ensuring the sustainability and optimal utilisation of SBT - as well as on other matters such as protecting ecologically related species (ERS) such as seabirds, sharks and sea turtles. The Commission decided that most of the issues identified in the reports were already being addressed (e.g. through CCSBT 15's adoption of monitoring, control and surveillance measures and an ERS recommendation). However, CCSBT 15 also agreed to take other steps, the most significant of which was to establish a working group to develop a re-building strategy for Southern Bluefin Tuna. The Southern Bluefin Tuna stock is still at a historically low level and hard decisions will need to be taken in 2009 if there is to be any chance of rebuilding the stock. An intersessional meeting will be held in Tokyo in April 2009 to develop a stock re-building strategy for Southern Bluefin Tuna.

Paloma V listed on CCAMLR's IUU list

In October 2008, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) added the fishing vessel Paloma V to CCAMLR's illegal, unreported and unregulated (IUU) vessel list on the basis of information provided by New Zealand.

The information New Zealand provided linked the vessel to IUU fishing, and was obtained in May 2008 during an examination by the New Zealand Ministry of Fisheries of the Paloma V, which had called into Auckland to unload toothfish. In June 2008 the vessel's owners brought judicial review proceedings in the High Court in Wellington, attempting to prevent New Zealand from reporting to CCAMLR the information obtained during the examination and from proposing the Paloma V for inclusion in CCAMLR's IUU vessel list. The High Court found in the Government's favour, and New Zealand filed its CCAMLR report in July 2008.

New Zealand's Continental Shelf Rights Confirmed

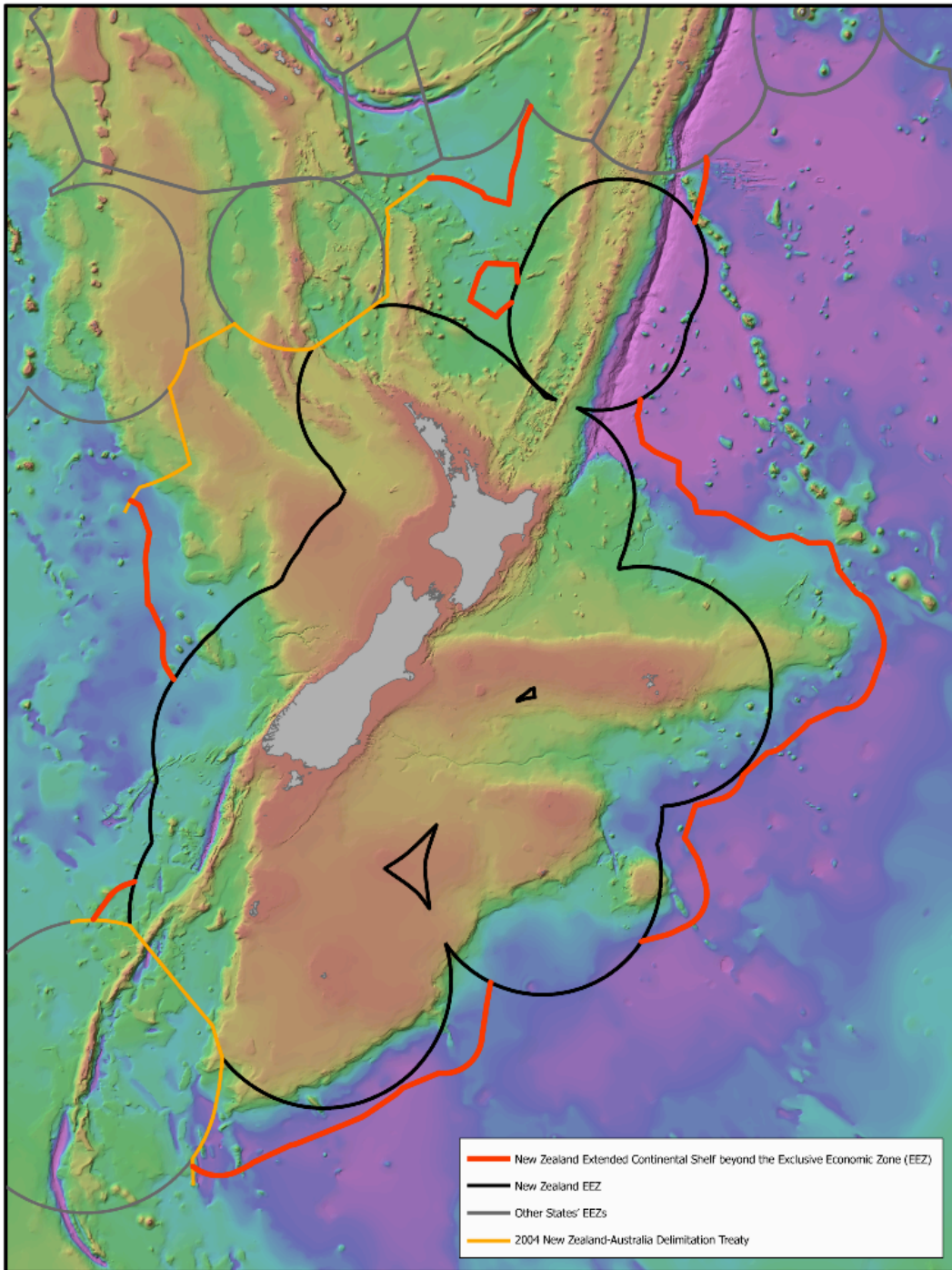
On 12 September 2008, the UN Commission on the Limits of the Continental Shelf (the Commission) confirmed New Zealand's rights over approximately 1.7 million square kilometres of continental shelf. This continental shelf area lies beyond 200 nautical miles from the coast, and is approximately six times the land area of New Zealand. The continental shelf is shown in the map below.

Under the United Nations Convention on the Law of the Sea (UNCLOS), a coastal State has exclusive rights to the resources of the seabed beyond 200 nautical miles (extended continental shelf) if it can show that the seabed is the natural extension of its land territory. UNCLOS requires that a State asserting rights to an extended shelf must submit information on the limits of its extended continental shelf to the Commission. New Zealand lodged its submission with the Commission in April 2006. It was the fifth country to make a submission.

The Commission and its 7-member sub-Commission examined New Zealand's submission for two years before issuing final recommendations on the outer limits of New Zealand's continental shelf. The recommendations endorse over 98% of the shelf area contained in New Zealand's original submission.

New Zealand can now set its continental shelf boundary on the basis of the Commission's recommendations. This will be done by Order in Council under the Continental Shelf Act 1964. The boundary will be binding on other countries.

A boundary will also be negotiated with Fiji and Tonga over the continental shelf north of New Zealand. A continental shelf boundary was agreed with Australia in July 2004.



Protocol to the New Zealand – United States Double Tax Agreement

A protocol to amend the existing *Convention between New Zealand and the United States of America for the Avoidance of Double taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income* was signed in December 2008. It is not yet in force. The main purpose of the US Protocol is to reduce the withholding tax rates that apply on dividend, interest and royalty payments made between New Zealand and the United States.

New Zealand – Republic of Korea Film Co-Production Agreement

The *Agreement between the Government of New Zealand and the Government of the Republic of Korea Concerning the Co-Production of Films* entered into force in December 2008. Film co-production agreements allow approved film projects to gain the status of “official co-productions”. This status entitles a co-production film project access to the benefits accorded to national films in each of the co-producers’ countries.

Amendments to the New Zealand – United Kingdom Air Services Agreement

An Exchange of Letters constituting an agreement to amend the *Agreement between the Government of New Zealand and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services* was concluded in October 2008. The main purpose of the agreement is to remove the right to place a quota on the number of passengers that New Zealand airlines could carry between the United States and London.

New Zealand – EC Scientific & Technological Cooperation Agreement

The *Agreement on Scientific & Technological Cooperation between the European Community and the Government of New Zealand* entered into force in January 2009. The purpose of the Agreement is to foster stronger scientific connections between New Zealand and its major bilateral research partners in the European Community.

Working Holiday Schemes

In the last quarter of 2008 New Zealand concluded Agreements on working holiday schemes with Latvia and Peru. These supplement the already extensive network of working holiday schemes New Zealand has in place. The purpose of these Agreements is to promote people-to-people links between New Zealand and working holiday scheme partner countries by allowing people between the age of 18 and 30 to travel to the other country and engage in employment.

The *Agreement on a Working Holiday Scheme between the Government of New Zealand and the Government of the Republic of Latvia* was signed on 10 September 2008 in Riga, Latvia and entered into force on 2 March 2009. The *Agreement on a Working Holiday Scheme between the Government of New Zealand and the Government of the Republic of Peru* was signed on 22 November 2008 in the margins of the APEC summit in Lima, Peru. This Agreement has not yet entered into force.

Entry into Force of China FTA

The *Free Trade Agreement between the Government of New Zealand and the Government of the People's Republic of China* entered into force on 1 October 2008. New Zealand became the first developed country to sign a free trade agreement with China when the two countries signed the Agreement in China on 7 April 2008. The entry into force of the Agreement saw the immediate elimination of tariffs on over \$200 million worth of New Zealand exports to China while further tariff cuts would see the phasing out of tariffs on over 96% of New Zealand's exports to China by 2017.

Agreement Establishing the ASEAN – Australia-New Zealand – Free Trade Area

New Zealand and Australia, along with the ten members of the Association of South-East Asian Nations (ASEAN) signed the *Agreement Establishing the ASEAN - Australia-New Zealand – Free Trade Area* in Cha-am, Phetchaburi, Thailand on 27 February 2009. This Agreement is the first time that ASEAN has negotiated a comprehensive free trade agreement as part of a 'single undertaking' which, as well as Goods, Services and Investment commitments, includes areas such as Sanitary and Phytosanitary, Competition Policy and Intellectual Property.

As a whole, the ASEAN region is New Zealand's third largest export market and in 2008 was worth \$4.6 billion. The Agreement will gradually make 99% of New Zealand's exports to key ASEAN members, Indonesia, Malaysia, the Philippines and Viet Nam tariff-free.

The Agreement will enter into force once New Zealand, Australia and four ASEAN member states have advised of the completion of their internal requirements necessary for entry into force of the Agreement. New Zealand is currently in the process of drafting legislation to implement the Agreement.