

Summary of Facts

Background

On 14 September 1999, Fishery Officers s 9(2)(a) and s 9(2)(a) of Christchurch were completing routine vessel inspections at Lyttelton and found a number of potential problems with the trawl catch effort and processing returns completed by the master of the fishing vessel IRINA ZHARKIKH, registration number 70884. The vessel having discharged it's fish product and deregistered as a NZ fishing vessel on 9 September 1999.

The Fishery Officers identified from the returns that the vessel had just completed a fishing trip to the West Coast hoki fishery and that they had declared all hoki as being processed to a dressed state. Although the vessel operated a meal plant no hoki was shown as being mealed, indicating that no small or damaged hoki had been taken.

The Fishery Officers also noticed there was a distinct lack of bycatch species and a number of the trawls showed clean bags of hoki with no bycatch recorded at all.

The NZ Charter Company and Permit Holder

The Irina Zharkikh, a Russian fishing vessel, was chartered to Raukura Moana Fisheries Limited, of Hamilton, permit holder number 9330066. Raukura operate out of 38 Grasslands Place on the outskirts of Hamilton. The general manager, up until around April 1999 was s 9(2)(a) who was replaced by s 9(2)(a). The resource and quota manager is s 9(2)(a) (ex Ministry of Fisheries Registrar, Nelson), the accountant is s 9(2)(a) and marketing manager s 9(2)(a).

The company was formally Emeritus Holdings Ltd, which was incorporated on 1 November 1993, but changed its name to Raukura Moana Fisheries Ltd on 1 February 1994. In terms of fishing experience this company is regarded as a relatively new entrant into the industry.

The vessel agents who operate out of Lyttelton are s 9(2)(a) and s 9(2)(a), both ex Russian nationals with NZ residency. It appears that s 9(2)(a) is an authorised agent on behalf of the owners.

The Company Office details the shareholders of Raukura Moana Fisheries Ltd as Tainui Maori Trust Board (81.8%), Maniapoto Maori Trust Board (9.1%) and Raukawa Trust Board (9.1%).

Raukura Moana Fisheries Ltd do not own fish quota and enter into lease quota agreements each fishing year mainly with the Treaty of Waitangi Fisheries Commission and other major quota holders.

The Vessels

Up until the end of the 1998/99 fishing year Raukura chartered four Russian stern trawlers being the Irina Zharkikh, Kapitan Lomaev, Ksenia Zharkikh and the Mys Chaykovskogo; and one Korean stern trawler, the Korvet No 358.

Both the Irina Zharkikh and Ksenia Zharkikh were deregistered at the end of the 1998/99 fishing year and are currently tied up in port Lyttelton for sale. In addition the Mys Chaykovskogo and Kapitan Lomaev completed their last fish product discharges in Lyttelton between 17 and 20 April 2000, were delicensed, and departed NZ EEZ around 10 May 2000.

The only vessel chartered by Raukura at this time is the Korean stern trawler Korvet No 358.

The Investigation to Date

This investigation has been code named "Operation Kenwood" which is a deep-water investigation into Raukura Moana Fisheries Limited, its management staff, the directors of the company and the activity of its fishing vessels. The investigation has been focused on determining whether or not Raukura Moana Fisheries Ltd chartered vessels have been declaring in their returns all fish taken during the 1997/98 and 1998/99 fishing years whilst operating in the West Coast hoki fishery. This includes both the target and by-catch species.

Extensive analysis has been undertaken by SOU, profiling the West Coast hoki fishery over the past two fishing seasons where a large number of vessels have operated.

The profiling methodology has compared the fishing activity of Raukura vessels (unobserved, plus two observed trips on the Kapitan Lomaev) with other Ministry observed vessels (twenty four) fishing in the West Coast at the same time. In addition, independent expert witnesses have been asked to examine the returns submitted by the Raukura vessels and report on the specie mix and provide expert opinion on whether or not the permit holder has declared all fish taken during each trip.

The results of this fisheries profiling has clearly shown that all four of the Russian chartered vessels have not been declaring all fish taken in the TCE&PR's and CLR's . There has been a distinct lack of a number and quantity of bycatch quota and non-quota species recorded.

The profiling of observed vessels and expert advice has also established that a number of key quota bycatch species are frequently taken when vessels are targeting hoki in the West Coast, the main species being Silver Warehou (SWA), Ling (LIN) and Hake (HAK).

The Fisheries Act and Regulations

The Fisheries (Reporting) Regulations 1990, regulation 5, requires the permit holder who **takes** fish to complete and furnish to the Chief Executive catch landing returns in relation to a vessel that is more than 28 metres in length in which trawl catch effort and processing returns (TCE&PR) are required to be furnished under regulation 7 of these regulations.

The four Russian stern trawler vessels chartered by Raukura over the past two fishing years fall into this category.

Section 96(b) of the Fisheries Act 1983 states that every person commits an offence who –
*“Makes any false or misleading statement or any material omission in any communication or application or **return** for the purposes of this Act”.*

The explanatory notes to the TCE&PR paragraph 9 under the heading “Daily Processing Summary” states; *“This section must be completed for each species or class of fish **taken***

*using your vessel, and must be entered on the **return** for the day that the fish were **taken on**, whether or not the processing took place on that day”.*

The explanatory notes to the Catch Landing Return paragraph 7(I) states; “*enter the appropriate fishstock code specified in table 1 in Part 1 of the Second Schedule to the Fisheries (Reporting) Regulations 1990 in respect to the species or class of fish **taken** and the area in which the fish were **taken**”.*

The Fisheries legislation requires the permit holder to declare and record all fish taken by their vessels. This covers all quota and non-quota species and classes of fish whether or not they were taken as a consequence of the taking of other fish.

The Possible Offending 1997/98 Fishing Year

The profiling of all 11 observed stern trawler fishing vessels which operated in the West Coast hoki fishery from late June to mid September during the 1997/98 hoki season has provided evidence that when vessels target hoki there are a number of other species caught with virtual certainty. During this season, six quota and five non-quota species have been recorded as having been taken during every trip across all 11 observed vessels.

When this data is compared to the reporting of the four target vessels operated by Raukura during the 1997/98 fishing season in the West Coast hoki fishery, huge differences are noted. This is particularly evident in the area of the recorded number of species taken and the frequency in which they are taken.

The main offending during the 1997/98 fishing year by the target vessels supported by attached spreadsheet A, is as follows:

Kapitan Lomaev

The offending by this vessel initially occurred with the landing recorded on **CLR 217151** dated 6 August 1998. This was an observed trip.

- 1. The permit holder failed to declare all ITQ and non-ITQ species taken.*

The observers recorded 14 ITQ and 16 non-ITQ species as having been taken by this vessel. The vessel only reported 7 ITQ and 2 non-ITQ species in the Catch Landing Return.

The offending by the vessel continued with the landing recorded on **CLR 217152** dated 5 September 1998.

1. *The permit holder failed to declare all ITQ and non-ITQ species taken.*

The vessel failed to declare RCO, JAV, RAT and RBM.

MYS Chaykovskogo

The offending by this vessel occurred with two landings recorded on **CLR 205565** dated 12 August 1998 and **CLR 205566** dated 29 September 1998 (2 trips).

1. *The permit holder failed to report all HAK taken.*
2. *The permit holder failed to report all LIN taken.*
3. *The permit holder failed to report all SWA taken.*
4. *The permit holder failed to declare all ITQ and species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

Irina Zharkikh

The offending by this vessel occurred with the landing recorded on **CLR 118556** dated 10 August 1998.

- 1 *The permit holder failed to report all HAK taken.*
- 2 *The permit holder failed to report all LIN taken.*
- 3 *The permit holder failed to declare all ITQ and non-ITQ species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

4. *The permit holder failed to report SWA taken.* No SWA recorded in TCE&PR or CLR.

The offending by the vessel Irina Zharkikh continued with the landing recorded on **CLR 118557** dated 19 September 1998.

1. *The permit holder failed to report all LIN taken. (74kg reported as eaten).*
2. *The permit holder failed to declare all ITQ and non-ITQ species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

3. *The permit holder failed to report SWA taken.* . No SWA recorded in TCE&PR or CLR

Ksenia Zharkikh

The offending by this vessel occurred with the landing recorded on **CLR 206360** dated 28 August 1998.

1. *The permit holder failed to report all HAK taken.*
2. *The permit holder failed to report all LIN taken. (60kg reported as eaten).*
3. *The permit holder failed to declare all ITQ and non-ITQ species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

The offending by the vessel Ksenia Zharkikh continued with the landing recorded on **CLR 206361** dated 24 September 1998.

1. *The permit holder failed to report all HAK taken.*

2. *The permit holder failed to report all LIN taken.*
3. *The permit holder failed to report all SWA taken. (40Kg reported as eaten)*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

The Possible Offending 1998/99 Fishing Year

The profiling of all 13 observed stern trawler fishing vessels which operated in the West Coast hoki fishery from late June to mid September during the 1998/99 hoki season has provided evidence that when vessels target hoki there are a number of other species caught with virtual certainty. During this season, six quota and five non-quota species have been recorded as having been taken during every trip across all 13 observed vessels.

When this data is compared to the reporting of the four target vessels operated by Raukura during the 1998/99 fishing season in the West Coast hoki fishery, huge differences are noted. This is particularly evident in the area of the recorded number of species taken and the frequency in which they are taken.

The main offending during the 1998/99 fishing year by the target vessels supported by attached spreadsheet B, is as follows:

Kapitan Lomaev

The offending by the vessel occurred with the landing recorded on **CLR 217166** dated 21 August 1999.

1. *The permit holder failed to report all SWA taken.*
2. *The permit holder failed to declare all ITQ species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

MYS Chaykovskogo

The offending by this vessel occurred with the landing recorded on **CLR 205573** dated 24 August 1999.

1. *The permit holder failed to report all HAK taken.*
2. *The permit holder failed to report all LIN taken.*
3. *The permit holder failed to report all SWA taken.*
4. *The permit holder failed to declare all ITQ and non-ITQ species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

The offending by this vessel continued with the landing recorded on **CLR 205574** dated 9 September 1999.

1. *The permit holder failed to report all LIN taken.*
2. *The permit holder failed to declare all non-ITQ and species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

3. *The permit holder failed to report SWA taken.* No SWA recorded in TCE&PR or CLR.

Irina Zharkikh

The offending by this vessel occurred with the landing recorded on **CLR 118566** dated 31 July 1999.

The permit holder failed to report all HAK taken.

The offending by the vessel Irina Zharkikh continued with the landing recorded on **CLR 118567** dated 10 September 1999.

1. *The permit holder failed to report all HAK taken.*
2. *The permit holder failed to declare all ITQ and non-ITQ species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.

3. *The permit holder failed to report all SWA taken.* No SWA recorded in TCE&PR or CLR

Ksenia Zharkikh

The offending by this vessel occurred with the landing recorded on **CLR 206369** dated 11 September 1999.

1. *The permit holder failed to report all LIN taken.*
2. *The permit holder failed to declare all ITQ and non-ITQ species taken.*

In each instance the vessel recorded in their tow and processing data less than half of the expected minimum frequency of that recorded by all observed vessels.