

UNITED STATES COURT OF INTERNATIONAL TRADE

SEA SHEPHERD NEW ZEALAND and SEA
SHEPHERD CONSERVATION SOCIETY

Plaintiffs,

v.

UNITED STATES, GINA M. RAIMONDO, *in her official capacity as Secretary of Commerce*, UNITED STATES DEPARTMENT OF COMMERCE, *a United States government agency*, JANET COIT, *in her official capacity as Assistant Administrator of the National Marine Fisheries Service*, NATIONAL MARINE FISHERIES SERVICE, *a United States government agency*, JANET YELLEN, *in her official capacity as Secretary of the Treasury*, UNITED STATES DEPARTMENT OF THE TREASURY, *a United States government agency*, ALEJANDRO MAYORKAS, *in his official capacity as Secretary of Homeland Security*, and UNITED STATES DEPARTMENT OF HOMELAND SECURITY, *a United States government agency*,¹

Defendants,

and

NEW ZEALAND GOVERNMENT,

Defendant-Intervenor.

Before: Gary S. Katzmann, Judge
Court No. 20-00112

**FURTHER ORDER ON PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION**

Upon consideration of the Renewed Motion for Preliminary Injunction, ECF No. 49, filed by Plaintiffs Sea Shepherd New Zealand Ltd. and Sea Shepherd Conservation Society, the Motions to Dismiss Plaintiffs' First Claim filed by Defendant the United States, ECF No. 58, and

¹ Per CIT Rule 25(d), named officials have been substituted to reflect the current officeholders.

Defendant-Intervenor the Government of New Zealand, ECF No. 56, and all other papers and proceedings herein, and for the reasons set forth in the Opinion issued herewith, it is hereby

ORDERED that Defendants' Motion to Dismiss Plaintiffs' First Claim is **GRANTED**; it is further

ORDERED that with respect to Plaintiffs' second and third claims, Plaintiffs are **GRANTED** a preliminary injunction, under which Defendants, their agents and their employees, and those in active concert and participation with them are enjoined and hereby **ORDERED** to immediately ban the importation from New Zealand of all (1) snapper; (2) tarakihi; (3) spotted dogfish; (4) trevally; (5) warehou; (6) hoki; (7) barracouta; (8) mullet; and (9) gurnard deriving from New Zealand's "West Coast North Island inshore trawl fishery" and "West Coast North Island inshore set net fishery."

It is further **ORDERED** that this ban shall include all (1) snapper; (2) tarakihi; (3) spotted dogfish; (4) trevally; (5) warehou; (6) hoki; (7) barracouta; (8) mullet; and (9) gurnard deriving from New Zealand's West Coast North Island multi-species set-net and trawl fisheries, unless affirmatively identified as having been caught with a gear type other than gillnets or trawls.

It is further **ORDERED** that Defendants shall within the next 15 days submit for publication in the Federal Register notice of the ban on all (1) snapper; (2) tarakihi; (3) spotted dogfish; (4) trevally; (5) warehou; (6) hoki; (7) barracouta; (8) mullet; and (9) gurnard deriving from New Zealand's "West Coast North Island inshore trawl fishery" and "West Coast North Island inshore set net fishery."

It is further **ORDERED** that pursuant to USCIT Rule 65(c), during the pendency of the preliminary injunction, Plaintiffs shall post bond with the court, in the amount of \$1.00.

It is further **ORDERED** that Defendants shall refile by December 2, 2022, their Partial

Consent Motion for Remand, ECF No. 106, reflecting the effect of this Opinion and Order, and further briefing the court on the assessed impact of the expiration of the comparability findings presently held by New Zealand's West Coast North Island multi-species set-net and trawl fisheries on January 1, 2023.

It is further **ORDERED** that Plaintiffs shall refile their Response, ECF No. 107, to Defendants' forthcoming refiled Motion by December 7, 2022.

It is further **ORDERED** that a remote oral argument on Defendants' forthcoming refiled Motion and Plaintiffs' forthcoming refiled Response will be held via Webex on December 14, 2022, with the precise time to be determined upon consultation with the parties.

It is further **ORDERED** that this Order shall be effective immediately and continue until further Order of the Court.

Dated: November 28, 2022
New York, New York

/s/ *Gary S. Katzmann*

Gary S. Katzmann, Judge