Governance Arrangements for the Management of Indigenous Common Property

The Allocation of Maori Commercial Fishing Assets
A Case Study
New Zealand Commercial Fisheries

- A common pool resource;
- Access by transferable quota in each fish stock;
- Quota allocated to individuals fishers or corporates;
- Annual Catch Entitlement derived from Quota;
- Quota allocated for the indigenous settlement only tradeable to Iwi and Te Ohu Kai Moana
Background

To settle indigenous fishing rights claims the Government:

Established the Treaty of Waitangi Fisheries Commission and allocated it:

- 10% of existing quota;
- 20% of new quota; and
- Funds to purchase Sealord Products Limited.
Background

Commission built assets to own:

- >40% of all commercial quota;
- Controlling interest in NZs largest fishing company;
- Wide range of other commercial company interests;
- Total value >$700 million.
Settlement Requirements

Commission to allocate to Iwi (Maori tribes):

- Quota; and

- Benefits from commercial companies;

- For the benefit of all Maori (present and future)
Maori Fisheries Act 2004
Provide for the development of Iwi interests in fisheries, fishing and fisheries related activities in a manner that is ultimately for the benefit of all Maori.
Establishes framework for the allocation and management of the settlement assets.

Putea Trust
Promote education training and research for Maori including in fishing

Wai Maori Trust
Advance Maori interests in freshwater fisheries

Te Ohu Kai Moana
Advance the interests of Iwi primarily in respect of fisheries and fishing

Aotearoa Fisheries Ltd
Manage settlement company assets in a commercial manner for Iwi

Must act on behalf of all Iwi members regardless of where they reside

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All Maori
Receive benefits primarily through Iwi affiliation.
May receive benefits directly from Putea or Wai Maori Trust.
Unaffiliated Maori and the general community may benefit from activities of MIOs
Corporate Trustee Model

- Applies company law to manage directoral functions, financial reporting and transactions;
- the ability to apply social objectives through Trust Deeds, including distribution of benefits
Corporate Trustee Model

- Provides financial accountability to shareholders (company law);
- Provides accountability to non-shareholder beneficiaries (trustee law); and
- Is enforceable by both beneficiaries and shareholders
Overall Governance Structure

Te Kawai Taumata (Electoral College) 11 members

TOKM Trustee Ltd. Board

TOKM Trust

1 member

Representative Maori Assoc.

10 members

Regional Group

Mandated Iwi Organisation

Fish co.

Asset Mgt.

MIOs

ACE

1 member

Regional Group

Total of 10 IWI Regional Groups

Mandated Iwi Organisation

Fish co.

Asset Mgt.

ACE

Aotearoa Fisheries Ltd

Sub Company

Sub Company

Sub Company

Sub Company

Sub Company

Te Putea Whakatupu Trustee Ltd.

Putea Trust $20 mil.

Te Wai Maori Trustee Ltd.

Wai Maori Trust $10 mil + $10 mil

Overall Governance Structure

ACE

ACE