

**AUSTRALIA'S SECOND NATIONAL PLAN OF ACTION TO  
PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED  
AND UNREGULATED FISHING**



Australian Government  
Department of Agriculture

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## Foreword



**Senator the Hon. Richard Colbeck**

Parliamentary Secretary to the Minister for Agriculture, Senator for Tasmania

Australia has a long history of combating illegal, unreported and unregulated (IUU) fishing and recognises that international collaboration is required to address the problem. It is crucial that we remain vigilant and stay ahead of the illegal operators in our own waters, regional waters and on the high seas.

IUU fishing depletes fish stocks through overfishing and is a serious threat to our region's food security. It also results in large financial losses to coastal States and can seriously damage marine environments and fish habitats.

Australia's second National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOA-IUU) represents a shared vision to tackle the issue.

At the national level, Australia combats IUU fishing through aerial surveillance, sea patrols and real-time monitoring of fishing vessels. Vessel apprehensions, to combat illegal foreign fishing in our northern waters, declined from 365 in 2005-06 to 26 in 2013-14; some vessels were destroyed, many offenders prosecuted and, in some cases, imprisoned.

Australia is active at an international level promoting stronger measures to combat IUU fishing. We participate in the United Nations Food and Agriculture Organization, the International Maritime Organization, the Organisation for Economic Co-operation and Development and the International Monitoring, Control and Surveillance Network. We also provide important technical knowledge, surveillance and patrol assets.

In South-East Asia and the Pacific region, Australia works with fishing countries and regional fisheries organisations to improve fisheries management capacity, strengthen surveillance and enforcement programmes, share information and data and raise awareness of the impacts of IUU fishing through education and outreach programmes.

Jointly with Indonesia, Australia has helped fund and implement a public information campaign in eastern Indonesia to raise local fishers' awareness of the impacts of IUU fishing and the serious consequences if caught operating illegally.

Other regional assistance measures include registration of authorised vessels, listing of IUU vessels, reporting of fishing activity by flag States, implementation of port State measures to prevent landing and sale of illegally caught fish and adoption and implementation of strong conservation and management measures by regional fisheries management organisations.

This second Australian NPOA-IUU reflects the intent and actions promoted in the FAO's 2001 *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (IPOA-IUU) and builds on our successes in implementing our first NPOA-IUU 2005.

On behalf of the Australian Government I commend this national plan of action to all agencies, countries and organisations that, like Australia, are committed to preventing, deterring and eliminating IUU fishing in all its forms.

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## Purpose

1. Australia's second National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (NPOA-IUU) elaborates, builds and reports on some of the key measures and arrangements resulting from the first NPOA-IUU.
2. Australia's initial NPOA-IUU was completed in 2005 in accordance with paragraph 25 of the *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (IPOA-IUU) of the Committee on Fisheries (COFI) of the Food and Agriculture Organization of the United Nations (FAO). Illegal, unreported and unregulated fishing continues to be defined as in paragraph 3 of the IPOA-IUU.
3. This second Australian NPOA-IUU has four key components:
  - **Part I** provides an overview of impacts of IUU fishing on Australia and Australia's fisheries management arrangements.
  - **Part II** outlines Australia's key domestic measures to help combat IUU fishing
  - **Part III** outlines Australia's key regional and international initiatives to combat IUU fishing.
  - **Part IV** outlines future actions Australia will pursue to combat IUU fishing.

## Part I: Overview of impacts of IUU fishing on Australia and Australia's fisheries management arrangements

4. IUU fishing can occur within areas of national jurisdiction or on the high seas. IUU fishing continues to be of particular concern and challenge for Australia because Australia has the world's third largest exclusive economic zone. Australia's commercial fishing and aquaculture industry is worth over \$2.2 billion annually and employs an estimated 8608 people (5050 in fishing and 3558 in aquaculture). In 2013-14 exports of fisheries products were valued at \$1.3 billion and imports totalled \$2 billion (ABARES 2014).
5. IUU fishing risks millions of dollars of investment and thousands of jobs for Australia. IUU fishing threatens the Australian harvest of fish stocks both within and beyond the Australian Fishing Zone, and thus impacts fishing industries and communities in Australia and in neighbouring countries.
6. IUU fishing continues to threaten Australia's commercial fishing interests. It causes:
  - damage to fish habitats through destructive fishing practices
  - rapid and severe depletion of fish stocks
  - reduced value and condition of fish due to poor handling and illegal processing
  - pressure on legitimate markets and producers due to unfair competition
  - threats to fisheries officers and legitimate operators.
7. IUU fishing can have serious environmental impacts. IUU fishing operators have little regard for minimising bycatch or eliminating catch of rare, threatened and protected species.
8. Key species at particular risk of illegal fishing in Australia's domestic fisheries include abalone, Patagonian toothfish, rock lobster, prawns and some other high value species such as snapper, mulloway, King George whiting, calamari, shark and West Australian dhufish.
9. The threats from IUU fishing to Australia can be divided into two parts:
  - a. Domestic IUU fishing in Australian waters
    - i. Fishing in commercial and non-commercial sectors—conducted mostly by small-scale fishers and akin to low-level non-compliance with fishing regulations (Putt & Anderson 2007). Illegal activity is mainly attributed to opportunistic exploitation, although some commercial fisheries are vulnerable to organised crime, particularly in low volume, high value fisheries.
    - ii. Fishing in national waters—Australia has policies and regulations in place to minimise and deter IUU fishing activities (see Part II). This includes regulation so that no commercial fishing activity can occur without a licence or similar concession and that all commercial fishers must report their catch to a relevant authority.
  - b. Foreign IUU fishing in Australian waters

- i. Fishing in Australia's northern waters—conducted typically by small-scale operators from neighbouring countries. Fishers target shark, reef fish and sedentary species such as bêche-de-mer (sea cucumber). Most operate close to Australia's outer maritime borders and make opportunistic illegal incursions. In recent years these operators have only very rarely come close to the Australian mainland.
- ii. Fishing in the Southern Ocean—conducted in waters surrounding Australian external island territories in the sub-Antarctic region. Historically, IUU fishing in these waters has been by large commercial vessels operating under flags of convenience. However, since 2000 the waters around Heard Island and McDonald Islands, and Macquarie Island have been routinely patrolled and since 2005 no IUU fishing incursions have been detected in these waters.

## 1.1 Principles and strategies underpinning Australia's second NPOA-IUU

10. Consistent with the IPOA-IUU, Australia's second NPOA-IUU is based on the following overarching principles and strategies:
  - Participation and coordination: All relevant stakeholders in industry, government and the wider community (including fishing communities, non-governmental organisations, and those involved in fish processing, transport, distribution, marketing, selling and consumption) are encouraged to participate in developing and implementing measures to combat IUU fishing.
  - Collaboration—regional and international: Australia continues to take an active and collaborative role in regional and international forums to develop and implement conservation and management measures to combat IUU fishing.
  - Phased implementation: Australia continues to take a phased approach to combating IUU fishing, so there are minimal delays in responding to emerging issues. New and improved measures continue to be developed.
  - Comprehensive and integrated approach: Australia employs an integrated approach to combat IUU fishing, including direct domestic and international action and bilateral, regional and global cooperation. Domestic control measures additional to those outlined in the IPOA-IUU, or measures stronger than those in the IPOA-IUU, are also being used. To address IUU fishing Australia must strengthen flag State, port State and coastal State responsibilities, market-related measures and the control of Australian nationals. Relevant economic, social and environmental impacts of IUU fishing, and corrective measures, are taken into account.
  - Conservation: The NPOA-IUU is consistent with, and seeks to enhance, the long-term sustainable utilisation of fish stocks and the protection of the marine environment.
  - Transparency and non-discrimination: The implementation of the NPOA-IUU is transparent and non-discriminatory. Australia's foreign development and assistance programmes continue to give weight to the requirements of developing countries in the Asia-Pacific region for technical support to address IUU fishing.



## 1.2 Australia's regulatory and governance framework

11. The Australian Government's legislative and regulatory frameworks to manage and address the adverse impacts of IUU fishing on the sustainability and profitability of Australian fisheries, and to enhance the effective conservation and management of fisheries and marine ecosystems, remain in place. Similarly, the seven Australian state/territory fisheries jurisdictions all have legislative frameworks in place that focus on the effective conservation and management of fishery resources and marine ecosystems (see Annex 1 for details on Australian fisheries legislation).
12. Current legislation and regulations largely meet or exceed international obligations and standards.

## 1.3 The foundations for combating IUU fishing

13. International and regional fisheries instruments and agreements, both legally binding and non-legally binding, underpin all plans and actions to prevent, deter and eliminate IUU fishing.

### International fisheries instruments/agreements

14. Australia takes action against IUU fishing based on, and through, a range of international initiatives. Australia takes a positive and formative role in combating IUU fishing by contributing to the development of international fisheries management and conservation arrangements, urging other countries to cooperate in actions against IUU fishing, and working with other countries to speed up their implementation of key instruments consistent with international obligations and expectations.
15. Australia continues to be a party to virtually all international conventions, treaties and agreements relevant to combating IUU fishing.

#### *Legally binding instruments*

- *United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS)*
  - *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 1995 (UN Fish Stocks Agreement)*
  - *Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas 1993 (FAO Compliance Agreement)*
  - *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing 2009 (FAO Port State Measures Agreement)—yet to enter into force as it requires 25 ratifications.*
16. Australia signed the FAO Port State Measures Agreement in May 2010 and is currently finalising the domestic processes required to enable ratification of this treaty.

#### *Non-legally binding instruments*

- *Code of Conduct for Responsible Fisheries (1995) (FAO Code of Conduct)*
- *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2001) (FAO IPOA-IUU).*

17. The FAO Code of Conduct has arguably had the strongest influence on Australia's fisheries management. Key elements of the code have been assimilated into Australian fisheries legislation, including the precautionary approach to fisheries management being used within a framework of environmentally sustainable development.
18. The FAO IPOA-IUU has also strongly influenced Australia's fisheries management and governance arrangements. It remains the primary instrument through which to develop, review and assess the effectiveness of measures and actions implemented against IUU fishing.

## **Regional fisheries instruments/agreements**

19. Australia is party to many regional fisheries management agreements, some of which establish Regional Fisheries Management Organisations (RFMOs), as well as other multilateral and regional fisheries forums. RFMOs are the principal forums by which regional fisheries conservation and management measures are implemented, including those to combat IUU fishing. Among others, Australia is party to:
  - Convention for the Conservation of Southern Bluefin Tuna
  - Western and Central Pacific Fisheries Commission (WCPFC)
  - Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean
  - Convention on the Conservation of Antarctic Marine Living Resources (CAMLR convention)
  - Indian Ocean Tuna Commission (IOTC) Agreement
  - Southern Indian Ocean Fisheries Agreement (SIOFA)
  - South Pacific Forum Fisheries Agency (FFA)
  - FAO's Asia-Pacific Fishery Commission (APFIC)
  - APEC's Oceans and Fisheries Working Group (OFWG)
  - Indian Ocean Rim Association (IORA).
20. In May 2007 Australia, together with 10 other countries, signed the *Regional Plan of Action to Promote Responsible Fishing Practices including Combating Illegal, Unreported and Unregulated Fishing in South East Asia* (RPOA-IUU). The RPOA-IUU resulted from a joint Australia-Indonesia initiative and was agreed by fisheries ministers of the 11 countries (Australia, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Papua New Guinea, the Philippines, Singapore, Thailand, Timor-Leste and Vietnam). By coordinating regional action, the RPOA-IUU has successfully applied port State measures and sanctions against IUU vessels arriving from the Southern Ocean seeking to unload catch in South-East Asian ports.
21. Australia helps lead the fight against IUU fishing in the Pacific region through support for the South Pacific Forum Fisheries Agency's Forum Fisheries Committee and its secretariat in Honiara, the Pacific Patrol Boat Program and the Western and Central Pacific Fisheries Commission.
22. Australia is a signatory to the *Agreement on Strengthening Implementation of the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region* (the Niue Treaty Subsidiary Agreement). The Niue Treaty Subsidiary Agreement establishes a legal framework for

conducting a broad range of cooperative fisheries surveillance and law enforcement activities including sea patrols, aerial surveillance, port inspections and investigations.

23. Australia participates in a range of bilateral fishing agreements and arrangements with several neighbouring countries including Timor-Leste, Indonesia, Malaysia, New Zealand and Papua New Guinea.



## Part II: National actions

24. By world standards Australian fisheries are very well-managed. Australia's commitment to preventing, deterring and eliminating IUU fishing goes back several decades. New management, surveillance and enforcement measures introduced over the past 10 years continue to deter IUU fishing activity.

### 2.1 Australian fisheries management

25. Australia is a federation where powers are divided between the federal Australian Government (the Commonwealth), the six states and two mainland territories. This legal and administrative arrangement allows Australia to manage its fisheries consistently and comprehensively across all jurisdictions. Fisheries management and governance is set out in Acts of Parliament (either Commonwealth, state or territory), which provide the legal framework for fisheries management, regulation and compliance.
26. Where fisheries overlap geographically, special arrangements have been made to ensure a single jurisdiction has clear day-to-day fisheries management responsibility. The jurisdictional responsibilities have been decided based on practicable fisheries management such as fish abundance, species distribution and fishing practices.
27. There are eight fishing regulatory authorities throughout Australia—Australian Fisheries Management Authority (AFMA), which manages Commonwealth fisheries; Queensland Department of State Development, Infrastructure and Planning; New South Wales Department of Primary Industries; Primary Industries and Regions SA; Northern Territory Department of Primary Industry and Fisheries; Victorian Department of Environment and Primary Industries; Western Australian Department of Fisheries;

Tasmanian Department of Primary Industries, Parks, Water and Environment. All eight authorities have legislative and regulatory frameworks that provide for:

- licensing of fishers and fishing vessels
- catch and gear controls
- constraints on interactions with environmental factors
- enforceable legal provisions
- monitoring, control and surveillance measures
- catch recording
- enforceable penalties for non-compliance.

28. Australia's fisheries legislative and regulatory regime is comprehensive. All fisheries management legislation in Australia has ecological sustainability, environmental management and conservation objectives, including mandates and powers to deal with IUU fishing. Key elements of Australia's fisheries management arrangements that aim to prevent IUU fishing include:

- the requirement for all fishing operations to be authorised by the appropriate jurisdictional fishing authority
- the regulation of the sale of fish and fish products to the point of first purchase and the regulation of the first receiver or fish processor
- robust and strategically targeted monitoring, control and surveillance arrangements
- the implementation of international obligations on fisheries management through domestic legislation
- restrictions on foreign-flagged fishing vessels in Australian waters and for access to Australian ports
- land, air and on-the-water operational enforcement to prevent, deter and eliminate IUU fishing
- an independent auditing process to ensure domestic fisheries meet environmental and fisheries management objectives
- Australian authorities have enforcement powers capable of countering any form of IUU fishing in Australia.

## **2.2 Fisheries monitoring, control and surveillance**

29. All jurisdictions specify minimum requirements for reporting to an appropriate fisheries authority, including details of species caught and volumes. Fishers have to complete daily logbooks and/or records about fishing activities and must submit such records at prescribed intervals to the appropriate authorities. Some fisheries require a higher level of reporting than is specified under the primary legislation. These requirements are enforceable under specifications made in specific fishery management plans and harvest policy as well as other fishery-specific documents. These systems help

regulatory authorities monitor and prevent operators from participating in IUU activities and illegal product from entering the market.

### **Electronic monitoring (e-monitoring)**

30. E-monitoring has been in place in selected Commonwealth fisheries since 2005. E-monitoring enables data to be recorded that show the location and identity of boats and information about the timing of fishing activities. This information can then be used to identify what target and non-target species are being caught and in what quantities.
31. The system provides independent, reliable, verified and accurate data on the fishing catch, effort and practices of commercial fishing vessels. This monitoring ensures fishers accurately report their catch and do not exceed allowable catch limits.
32. E-monitoring is being progressively introduced into fisheries. Seven major fisheries already use the system and it is being further developed to expand its use.

### **Australia's observer programme**

33. Observer programmes are used in many commercial fisheries throughout Australia. The purpose of these programmes is to gather independent, accurate and verified information on the fishing catch and on the effort and practice of a wide range of vessels operating inside and, periodically, outside the Australian Fishing Zone (AFZ). Programmes also monitor the impact of fishing on the broader marine environment including threatened, endangered and protected species caught as bycatch. Statistics from observer programmes help with accurate reporting of target and/or protected species interactions.
34. AFMA's Observer Programme places observers on domestic and, if required, foreign vessels fishing within the AFZ and adjacent areas that are covered under international arrangements. The coverage is determined according to the policies applying to each fishery and a demonstrated need for information. For example, in the Heard Island and McDonald Islands Fishery and the Macquarie Island Toothfish Fishery there is at least one observer on every vessel. Similarly, observer coverage is mandatory on any Australian trawl vessel operating on the high seas. This ensures Australia's compliance with its obligations under internationally agreed fisheries and environmental instruments.

### **Vessel monitoring system**

35. All operators that hold a Commonwealth fishing concession are required to have a vessel monitoring system (VMS) unit fitted to their vessel that must be switched on at all times. A VMS is a valuable compliance and verification tool. VMS units provide AFMA with information about the location and activity of all vessels in real time.

## **2.3 Actions relating to market-related measures**

36. Application of the fisheries management arrangements outlined in section 2.1 are the principal tools used to ensure that IUU fishing products from Australia's domestic fisheries do not enter the Australian market.
37. The *Australia New Zealand Food Standards Code* (the code) requires that seafood product can be traced through the supply and processing chain via a one-up one-down recording system. This provides a mechanism for the government to investigate the movement of seafood product from source to market. Including imported fisheries products, the code also mandates country of origin labelling at the point of retail sale for packaged food and unpackaged fresh and processed seafood, meaning that

seafood offered for sale in the supermarket must identify the country of origin. The code is implemented for imported seafood at Australia's international border by the Australian Government Department of Agriculture.

38. Traceability systems are in place for imported fish products. Any imported fish products must be accompanied by an official government certification, issued by the competent authority in the country of export, attesting to the conditions on the import permit. These conditions require details about how the fish was sourced (for example, wild caught or aquaculture) and confirmation that it is fit for human consumption. Imported fish must also comply with requirements under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) implemented in Australia under the *Environment Protection and Biodiversity Conservation Act 1999*.
39. As a CCAMLR member, Australia participates in the Catch Documentation Scheme (CDS) for toothfish species (*Dissostichus* spp.). The CDS was implemented in 2000 and is a web-based system that records toothfish at the point of landing and tracks it throughout the marketing chain. The Commission for the Conservation of Southern Bluefin Tuna (CCSBT), to which Australia is party, also has a CDS.

## 2.4 Implementing national measures

40. Since release of Australia's first NPOA-IUU in 2005, national fisheries measures implemented by Australia include:
  - application of the Commonwealth Harvest Strategy Policy aimed at maximum economic yield (a more conservative reference point than maximum sustainable yield)
  - reviews of the Commonwealth Policy on Fisheries Bycatch and the Commonwealth Fisheries Harvest Strategy Policy and Guidelines, and finalisation of a Fisheries Management Review. The findings of the reviews are being used to inform future refinements and legislative amendments to Australia's fisheries management arrangements
  - augmentation of fisheries management in Commonwealth fisheries by legislating to:
    - implement e-monitoring
    - require mandatory use of VMS in Commonwealth-managed fisheries
    - make corporations more responsible for conduct by their employees, agents or directors
    - require compulsory catch monitoring and management practices
    - apply mandatory harvest strategies and bycatch policies, including the requirement for structured stock assessments
    - implement mandatory catch landing and fish receiver arrangements
    - introduce stronger measures to sanction Australian nationals conducting IUU fishing on the high seas
  - significantly increased surveillance and enforcement against illegal foreign fishing vessels. In Australia's Southern Ocean waters no illegal foreign vessel incursions have been detected since 2005 and in northern waters apprehensions of illegal foreign fishing vessels declined from 365 in 2005-06 to 26 in 2013-14

- release of the second National Plan of Action for the Conservation and Management of Sharks (Shark-plan 2) in 2012, which is now used to coordinate action Australia-wide, including against IUU activities, on shark conservation and management through existing fisheries management and conservation processes
- development of the Guide to Australian Maritime Security Arrangements (GAMSA) in 2009 and updated it in 2013. The GAMSA sets out the maritime security arrangements in place for each of the identified maritime threats to Australia, including illegal fishing
- passage of the *Maritime Powers Act 2013*, which consolidated and harmonised the Commonwealth's existing maritime enforcement regime. Comprehensive powers under the Act are available to enforce a diverse range of Australia's maritime laws, including in relation to illegal foreign fishing, as well as international agreements and arrangements
- passage of the *Regulatory Powers (Standard Provisions) Act 2013*, which prescribes a framework for more consistently applying Commonwealth regulatory schemes in monitoring and investigation powers, civil penalty provisions, infringement notices, enforceable undertakings and injunctions
- release of the *Australian Fisheries National Compliance Strategy 2010-2015*, which outlines the objectives that Australian fisheries agencies are to pursue to achieve an optimal level of compliance and effectively deter illegal fishing activity. It also outlines the principles that agencies will use when planning cost-effective and efficient fisheries compliance programmes
- development of the *AFMA National Compliance and Enforcement Policy 2013*, which prioritises risks, including IUU risks, such as the failure to report interactions with protected or prohibited species, quota evasion, operating in closed areas against regulations and failure to have a vessel monitoring system operating at all times
- introduction by AFMA in 2009 of the Centralised Compliance Model, which formalised an arrangement for AFMA fisheries officers to conduct patrols and inspections across all Commonwealth fisheries. Supporting implementation of the centralised model is the National Compliance and Enforcement Policy and the National Compliance and Enforcement Program.

41. The implementation of these new measures, coupled with existing regulatory requirements and management arrangements in Australia's eight fisheries jurisdictions, effectively regulates all fishing activities undertaken in Australia's domestic fisheries.



## Part III: Regional and international actions

42. Australia is not only concerned with combating IUU fishing on a national level, but also regionally and internationally. Historically, Australia has played a collaborative and leading role in international forums and other bodies, such as regional fisheries management organisations, developing and implementing effective fisheries management arrangements, including measures directly aimed at preventing, deterring and eliminating IUU fishing.
43. Many measures and agreements arrived at in international and regional forums require specific implementation by the parties to those agreements and by other affected countries. The purpose of this section is to outline Australia's key international initiatives to combat IUU fishing and identify further steps and programmes.

### 3.1 Measures to prevent products of foreign IUU fishing vessels from entering into Australian ports

44. Government legislation makes it an offence to land or tranship catch from foreign fishing vessels in Australian ports unless an exemption has been granted. Termed a 'closed port policy', when a foreign fishing vessel wishes to enter an Australian port it must first submit an application to AFMA. The application must conform to the *Guidelines for Operators Seeking to Access Australian Ports under section 94 of the Fisheries Management Act 1991* (July 2013). Only when given written permission to enter an Australian port by the responsible Australian Government minister, and with fisheries inspectors present as stipulated in section 103 of the *Fisheries Management Act 1991*, can the vessel then unload or tranship fish.
45. Consistent with the requirements of sections 94 and 103 of the *Fisheries Management Act 1991*, and as noted above, Australia is currently undertaking the domestic processes required to ratify the *FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*. Once it enters into force, this agreement will establish minimum standards for port State measures aimed at combating illegal fishing by improving regional and international cooperation and by blocking access to ports by suspected illegal fishing vessels. Denial of access to ports (and hence access to markets) targets a vessel's profitability and is a significant disincentive to IUU fishing.

### 3.2 Measures to prevent IUU fishing by foreign-flagged vessels in Australian waters

46. Under the *Fisheries Management Act 1991*, there are two ways a foreign-flagged boat may be used in the Australian exclusive economic zone (EEZ). First, an application can be made under the *Fisheries Management Act 1991* to declare a foreign boat, lawfully imported into Australia, to be an Australian boat for the purpose of fishing in the Australian Fishing Zone. Second, a foreign fishing license could be granted to use a foreign vessel in Australian waters. The *Fisheries Management Act 1991* prohibits foreign-registered vessels from fishing in the Australian EEZ or territorial sea without a foreign fishing licence. The Australian Government policy is that foreign-flagged fishing vessels are not generally permitted to fish in Australian waters. This policy severely restricts any suspected IUU vessel from accessing Australian fisheries or Australian ports.
47. When foreign-flagged vessels enter Australian waters without permission to fish they are apprehended in surveillance and enforcement operations led by the Border Protection Command, with assistance from AFMA fisheries officers. Coordinating these operations is the Australian Maritime Security Operations Centre, also assisted by AFMA officers.



48. Australia has entered into a number of treaties and arrangements to allow foreign fishing in specified areas of Australia's jurisdiction, including for traditional fishing and traditional inhabitant fishing by foreign nationals.
- Under the *Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America* (1988), US flagged purse seine vessels have been granted pre-approved access to designated areas of the EEZs of Pacific Island parties to the treaty (including Australia) for the purposes of fishing for tuna.
  - Under the *Memorandum of Understanding between the Government of Australia and the Government of the Republic of Indonesia regarding the Operations of Indonesian Traditional Fishermen in areas of the Australian Exclusive Fishing Zone and Continental Shelf* (MOU 1974), traditional Indonesian fishers are permitted to fish with non-motorised vessels using traditional fishing methods in an area of approximately 55 000 km<sup>2</sup> off the north-west coast of Western Australia, known as the 'MOU Box'. These fishers typically target sedentary species and shark.
  - Under the *Torres Strait Fisheries Act 1984*, which gives effect to the fisheries elements of the *Torres Strait Treaty* between Australia and Papua New Guinea, nationals of Papua New Guinea who are traditional inhabitants of the Torres Strait Protected Zone are permitted to access Australian waters for traditional fishing.

### **3.3 Measures to build regional capacity to help combat IUU fishing**

49. Australia's actions against IUU fishing have a strong regional focus. Millions in our region, in the Pacific, the Indian Ocean rim and in South-East Asia, rely on fisheries for food and livelihoods, making the contribution of fisheries to food security a key regional issue. Australian Government agencies, including those responsible for fisheries management, foreign affairs, aid and maritime law enforcement, work together to implement programmes and measures to improve fisheries governance and enforcement capacity which, in turn, supports food security and regional stability.
50. Australia was instrumental in establishing the *Regional Plan of Action to Promote Responsible Fishing Practices including Combating Illegal, Unreported and Unregulated Fishing in South East Asia* (RPOA-IUU) in May 2007 to help combat IUU fishing in South-East Asia. The RPOA-IUU aims to enhance and strengthen the overall level of fisheries governance and management in the region and promote the adoption of responsible fishing practices.
51. The RPOA-IUU has a multilateral ministerial mandate to develop and implement new and revised capture fisheries management arrangements. A high-level coordination committee meets annually to review progress and agree on a forward work programme. The coordination committee is advised by representatives from the FAO/Asia-Pacific Fishery Commission, the Southeast Asian Fisheries Development Center, InfoFish and the WorldFish Center.
52. The RPOA-IUU network enables participating countries to use relevant and timely surveillance information provided by Australia to deny port entry to IUU listed vessels that arrive from outside the region seeking to unload or tranship.
53. Australia is also a member of several regional fisheries management organisations (RFMOs) and regional fisheries forums (see section 1.3). Under these instruments Australia is helping to combat IUU fishing in surrounding ocean regions by working with governments on bilateral and multilateral agreements that enable the exchange of information and experience on efforts to deter IUU fishing. Australia actively pursues the adoption of conservation and management measures by RFMOs it is a member of.

54. Australia has also provided outreach and studentship education opportunities for fisheries officers from neighbouring countries. For example, representatives from Papua New Guinea, Timor Leste and Mozambique have undertaken training in Australia based on Australian fisheries operations, compliance and monitoring methods, including 'train-the-trainer' activities so the skills acquired can be extended to others in students' home countries. Australia has also provided on-the-job training to the RPOA-IUU Secretariat in Jakarta, Indonesia, to support more effective regional co-ordination and information sharing to combat IUU fishing.
55. In developing the Niue Treaty Subsidiary Agreement, Australia directly supported and assisted the drafting process and provided capacity building assistance to Pacific Island countries to help them prepare to use the agreement. Australia signed the agreement in 2014 and is working on the domestic processes to ratify it.
56. Australia and France have established bilateral agreements to facilitate cooperative surveillance and enforcement in their respective EEZs in the Southern Ocean (*Agreement on Cooperative Enforcement of Fisheries Laws between the Government of Australia and the Government of the French Republic in the Maritime Areas Adjacent to the French Southern and Antarctic Territories, Heard Island and the McDonald Islands (2007)*). A similar arrangement is being established with South Africa for cooperation between the two countries on international fisheries surveillance and enforcement. The decline in the number of IUU fishing vessels in the Southern Ocean in recent years is an indication of the outcome of this collaborative action.

### **3.4 Measures to prevent Australian nationals and vessels from participating in IUU fishing in international waters**

57. Only a small number of Australian vessels currently operate on the high seas. The Australian Government requires Australian-flagged fishing vessels to be authorised to fish in waters beyond the outer limit of the EEZ and it is an offence for an Australian-flagged fishing vessel to operate on the high seas without appropriate authorisation. If a vessel operator is suspected of conducting unauthorised activity, legal action can be taken against the captain and vessel owner.
58. Australian-flagged vessels on the high seas are required to carry markings in accordance with the FAO standard specifications, facilitate the carriage of observers, complete catch and effort logs, and operate a vessel monitoring system that reports to AFMA. Australian-flagged vessels are also required to operate in a manner that does not contravene Australia's obligations under international agreements and other arrangements to which Australia is party.
59. In 2008, consistent with Australia's international obligations, the *Fisheries Management Act 1991* was amended to strengthen Australia's ability to combat IUU fishing by enabling Australian nationals to be prosecuted for breaching conservation and management measures of RFMOs.

### **3.5 Implementing regional and international measures**

60. Since the release of Australia's first NPOA-IUU in 2005, Australia has:
  - ratified the *Southern Indian Ocean Fisheries Agreement* on 23 March 2012
  - ratified the *Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean* on 23 March 2012

- signed the *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* on 27 April 2010
- with 10 South-East Asian countries, agreed the *Regional Plan of Action to Promote Responsible Fishing Practices including Combating Illegal, Unreported and Unregulated Fishing in South East Asia* (RPOA-IUU) on 4 May 2007
- funded and assisted production of three major RPOA-IUU reports (i) *Control and Surveillance (MCS) Curriculum and Training Programme* (2009) (ii) *Framework for Model Fisheries Legislation in South East Asia* (2010) and (iii) *Net Returns: A Human Capacity Development Framework for Marine Capture Fisheries Management in South East Asia* (2011); provided capacity building and training for the Secretariat in Jakarta during 2012 and drafted the MCS Network 'Information Exchange - Communication Procedures' adopted by the RPOA-IUU in 2013
- through the RPOA-IUU network, provided timely information on sightings and movements of suspected IUU listed vessels which enabled participating countries to deny port access and/or enabled in-port inspections and sanctions and, on request, provided assistance in conducting IUU vessel inspections
- participated in workshops of the *Coral Triangle Initiative (CTI) on Coral Reefs, Fisheries and Food Security* thus building greater synergies and stronger linkages between the RPOA-IUU and the CTI
- assisted relevant regional fisheries management organisations/arrangements to monitor the movements of IUU vessels and to establish IUU vessel lists
- signed the *Agreement on Strengthening Implementation of the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region* in 2014 (known as the Niue Treaty Subsidiary Agreement)
- directly assisted with the Niue Treaty Subsidiary Agreement drafting process and provided capacity building assistance to Pacific Island countries to help them prepare to use the agreement
- continued working with Indonesia through the Australia-Indonesia Working Group for Marine Affairs and Fisheries including jointly implementing vessel safety equipment and catch recording systems for traditional Indonesian fishers operating in Australian waters located in the Indian Ocean off north-west Western Australia
- conducted cooperative patrols with Timor-Leste, Indonesia and Papua New Guinea on fisheries surveillance and enforcement in the Arafura and Timor Seas
- jointly with Indonesia, conducted an outreach programme and public information campaign in eastern Indonesia about fisheries sustainability and the serious impacts and consequences of IUU fishing
- participated in annual bilateral fisheries (policy and programmes) meetings with Malaysia
- signed and implemented the joint Australia-France agreement on fisheries enforcement in the Southern Ocean

- participated in patrols on US Coast Guard vessels to deter IUU fishing in the Pacific region, pursuant to conservation and management measures adopted by the Western and Central Pacific Fisheries Commission (WCPFC)
- provided education and capacity building programmes to countries in the Asia-Pacific region to enhance efforts to combat IUU fishing, and provided training in port State controls, vessel inspection and compliance procedures to Mauritius in 2005 and 2009, to Tanzania in 2012 and to Mozambique in 2013
- co-sponsored the report *The Changing Nature of High Seas Fishing: How flags of convenience provide cover for IUU fishing (2005)* which exposed the magnitude of the 'flag of convenience' problem (illegal fishing and transshipments) in world fisheries.

## Part IV: Future actions

61. Australia will continue to take strong and effective action against IUU fishing. This second NPOA-IUU formulates Australia's ongoing commitment to combating IUU fishing and identifies areas where Australia will refine and improve already established measures and introduce new ones, as appropriate.
62. Australia will continue to fight IUU fishing in four key action areas:
  - effective governance of domestic fisheries
  - effective governance of foreign fishing vessels within Australian waters
  - effective governance over Australian fishing vessels and Australian nationals operating internationally
  - effective participation in regional and international forums and initiatives to combat IUU fishing.
63. Brought together in this NPOA-IUU, the above framework supports Australia's commitment to continue combating IUU fishing on a national, regional and global scale.

### 4.1 Effective governance of domestic fisheries

64. Australia has effective legislative arrangements in place to prevent IUU fishing in all domestic fishing operations and will continue these arrangements. Under these arrangements the respective jurisdictions' management bodies monitor and regulate fishing in Australian fisheries and the authority acts if a breach is found. This practice will continue.
65. To help prevent IUU fishing, Australian fisheries managers use tools such as vessel monitoring systems and observer programmes, combined with mandatory catch recording and declaration, and routine port inspections. If breaches are identified legal action is taken, with sanctions applied to deter repeat offenders and to send a strong signal to any other would-be offender.

### 4.2 Effective governance of foreign fishing vessels within the Australian Fishing Zone

66. Foreign fishing vessels are permitted passage through the Australian Fishing Zone under UNCLOS provisions. Any foreign vessel suspected of IUU fishing will be apprehended and, if found culpable, prosecuted to the full extent of Australian law.

### 4.3 Effective governance over Australian fishing vessels operating internationally

67. All Australian fishing vessels and Australian nationals operating internationally are, and will continue to be, governed under the *Fisheries Management Act 1991*. An authorisation for high seas fishing must be obtained from AFMA before any fishing activities are permitted on the high seas by an Australian-flagged vessel.

68. Australia will continue to maintain and update a high seas register with all required details notified to the FAO for entry into the FAO High Seas Vessels Authorization Record (a requirement of Article VI of the Compliance Agreement).
69. Australia will continue to monitor all relevant vessels to ensure legal compliance. Australia will also continue to cooperate with other countries to combat IUU fishing through the use of effective port State measures and by taking appropriate action against any Australian vessel deemed to be in breach of Australian law.

#### **4.4 Effective engagement in regional and international initiatives to combat IUU fishing beyond Australia's fishing zone**

70. Australia will continue as an active member of RFMOs and other regional bodies as relevant. Australia will also continue to monitor and manage its fishing fleets to the standards required by relevant RFMOs. In accordance with these requirements, Australia will continue to implement strict requirements on foreign vessels that propose to operate in Australian waters and/or land fish in Australian ports.
71. Australia will encourage all regional efforts for the effective implementation and enforcement of port State measures.
72. Australia will continue to work with the FAO and other relevant international forums to combat IUU fishing.

#### **4.5 National Plan of Action to Combat IUU Fishing**

73. Australia will revise this NPOA-IUU on a regular basis consistent with the provisions of the IPOA-IUU.

# Annex 1

## Australian Fisheries Legislation

### Commonwealth Fisheries Regulatory framework

Australian Commonwealth fisheries are principally managed under:

- *Fisheries Administration Act 1991*
- *Fisheries Management Act 1991*
- *Torres Strait Fisheries Act 1984*
- *Environment Protection and Biodiversity Conservation Act 1999*
- relevant provisions of the *Maritime Powers Act 2013*, *Customs Act 1901*, *Quarantine Act 1908*, *Crimes Act 1914* and the *Navigation Act 2012*.

#### ***Fisheries Administration Act 1991***

The *Fisheries Administration Act 1991* provides for the establishment of the Australian Fisheries Management Authority (AFMA) and outlines AFMA's functions and powers.

#### ***Fisheries Management Act 1991***

The *Fisheries Management Act 1991* provides AFMA with responsibility for the efficient management and sustainable use of Commonwealth fish resources on behalf of the Australian community. This includes regulation of fisheries, preparation of fisheries management plans, allocation of statutory fishing rights and other concessions, determination of allowable catch, fish receiving, compliance and enforcement, foreign fishing controls and cooperation with the Australian states and the Northern Territory.

#### ***Torres Strait Fisheries Act 1984***

The *Torres Strait Fisheries Act 1984* gives effect to the fisheries elements of the Torres Strait Treaty between Australia and Papua New Guinea, which allows Papua New Guinean nationals who are traditional inhabitants in the Torres Strait Protected Zone to access Australian waters to conduct traditional fishing.

#### ***Environment Protection and Biodiversity Conservation Act 1999***

The *Environment Protection and Biodiversity Conservation Act 1999* provides for a scheme of environment and heritage protection and biodiversity conservation, through environmental assessments, approvals and accreditations. The Act also regulates the international movement of wildlife specimens. For the catch of native fish from a commercial fishery to be lawfully exported, the species concerned must either be included by the Australian Government Minister for the Environment on the list of exempt native specimens or the minister must declare the commercial fishery operation to be an 'approved wildlife trade operation' and export permits must be obtained.

#### ***Relevant provisions of the Customs Act 1901, Quarantine Act 1908, Maritime Powers Act 2013, Crimes Act 1914 and the Navigation Act 2012***

The management of domestic fisheries also comprises relevant provisions of the *Customs Act 1901* (border controls), the *Quarantine Act 1908* (managing threats to biosecurity from foreign fishing vessels), the *Maritime Powers Act 2013* (detention of illegal foreign fishers) and the *Navigation Act 2012* (regulating ship and seafarer safety).

## **State fisheries: principal fisheries management Acts**

### **Queensland**

*Fisheries Act 1994*

### **New South Wales**

*Fisheries Management Act 1994*

### **South Australia**

*Fisheries Management Act 2007*

### **Northern Territory**

*Fisheries Act 1988*

### **Victoria**

*Fisheries Act 1995*

### **Western Australia**

*Fish Resource Management Act 1994*

### **Tasmania**

*Living Marine Resources Management Act 1995*



## References

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### The 'Biosphere' Graphic Element

The biosphere is a key part of the department's visual identity. Individual biospheres are used to visually describe the diverse nature of the work we do as a department, in Australia and internationally.



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