



No. 225

The Illegal Market in Australian Abalone

Rebecca Tailby and Frances Gant

For some time there has been growing concern about the illegal trafficking of Australian abalone (a highly prized shellfish delicacy). As global populations of the resource decline, increased pressure is placed on Australia's abalone fishery to meet ongoing international demand. This strong demand, which is not being fully met through the legitimate trade, creates incentives for people to supply the black market with stolen or "poached" abalone. Abalone has become an attractive criminal commodity, and reports suggest that a profitable illegal market exists alongside the legitimate market. While abalone poached from Australian waters may find its way into the domestic market, the majority is destined for overseas export.

The first question always asked is "what is the size and value of the illegal market?" On the basis of information currently available, the Australian Institute of Criminology has not been able to answer this question. The AIC has a strong research interest in illicit markets and this paper explores the nature of the illicit market in Australian abalone. It examines the various players involved in this illegal trade, vulnerabilities in the legitimate industry, and potential options for disrupting the illicit market.

Adam Graycar
Director

Abalone is a gastropod mollusc found on rocky reefs along the Australian coastline but mainly harvested off the colder waters of the southern states. The meat of these shellfish is regarded as a delicacy in certain cultures and is highly sought after, particularly in Asian markets. Australia currently produces around one-third of the global wild abalone harvest, with national export earnings from fresh, chilled and frozen abalone rising from \$86.7 million in 1998–99 to \$102.5 million during 1999–2000 (ABARE 2002). Australia's stake in global supply has increased following the decline and/or disappearance of abalone populations in other parts of the world—including Japan, Mexico, South Africa and the United States (California)—due to negative environmental conditions, limited stocks, illegal fishing and poor fisheries management.

The increasing scarcity of abalone-producing reefs overseas and the growing pressure on Australia's abalone fishery to meet global demand have placed Australian abalone at a premium. While total allowable catch (TAC) limits on abalone harvesting have been set by each abalone-producing state in Australia to protect this resource, ongoing demand from consumers, coupled with high profits to be made from abalone sales, are providing the incentive for further amounts to be harvested illegally. The purpose of this paper is to explore such illegal harvesting and, more specifically, the illicit market in Australian abalone.

Methodology

This paper is based on research undertaken by the Australian Institute of Criminology on behalf of the Marine and Freshwater Resources Institute of Fisheries Victoria. The project involved analysis of fisheries-related intelligence and compliance data in order to derive an estimate of the scale of illegal abalone catches in Australia. Although a quantitative exercise, much qualitative information came to light during the course of the project and forms the basis of the following discussion.

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Information was obtained through three principal means:

- discussions with a range of stakeholders, including fisheries officers from all Australian jurisdictions, personnel from other law enforcement agencies responsible for fisheries compliance (such as Tasmania Police and the Australian Customs Service) and a range of abalone industry representatives;
- a comprehensive review of abalone-related intelligence and compliance data holdings in all jurisdictions; and
- a review of media and other literature.

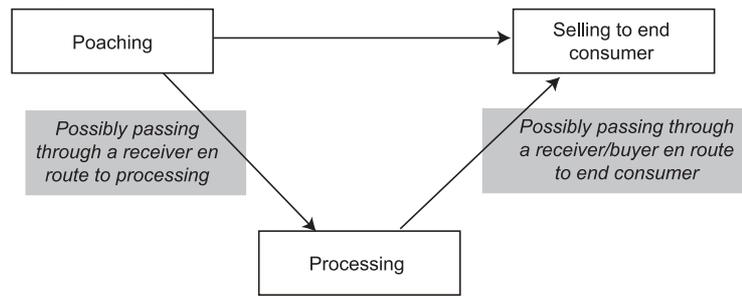
Regulation in the Abalone Industry

To ensure protection of Australia’s abalone fishery and avoid over-exploitation, there is strong regulation of the abalone industry in Australia. In addition to TAC limits, there is an abalone licensing system which restricts the number of people who can legally harvest abalone. Abalone dive licenses are a valuable commercial asset, realising up to \$2 million when traded.

Respective state fisheries agencies undertake continuous assessment, monitoring and management of the abalone fishery. Each state has legislation and associated regulations outlining permitted and prohibited activity in the abalone fishery. Although certain regulatory controls pertain across all abalone fishing in Australia (such as minimum size limits and closed fishing seasons, which apply to commercial and recreational fishers alike), regulation is heavily focused on the commercial sector.

All commercial abalone divers must complete catch records upon landing their daily take of abalone. From this point on (that is, from catch through to sale) abalone must at all times be accompanied by conforming documentation (docketing) as proof of its legitimacy (see National Fisheries Compliance Committee 1999). This docketing system allows abalone to be tracked through the market. It also permits comparison of declared amounts along the chain (that is, from landing to delivery to processor to subsequent consignment) to enable detection of any discrepancies. Detailed quota-management systems exist in each state fisheries agency which enable reconciliation of diver, processor and export

Figure 1: Stages in the illegal abalone market



records, and the tracking of catch against quota limits.

Compliance monitoring by fisheries agencies encompasses the above aspects in relation to the licensed sector, and also includes policing of unlicensed poachers. Customs and the Australian Quarantine Inspection Service (AQIS) also have a role in compliance monitoring at the border.

The Illegal Market

Despite the extensive regulatory framework governing Australia’s abalone fishery, illegal abalone harvesting and trading does occur. The capacity of individuals to enter the legal market is restricted by the limited availability of abalone dive licenses and the high costs of purchasing a license and associated set-up fees. When considered alongside the potential profits to be made through illegally harvesting and trading abalone, this combination of factors may motivate the entry of individuals to the illegal market. Figure 1 shows the stages in the illegal abalone market while Figure 2 shows the different ways in which abalone may be illegally caught, processed and either used by or sold to the end consumer. It should be noted that the methods used by those operating outside legal channels do not differ greatly to those used by legitimate divers and processors.

Abalone poachers can be loosely categorised into five types of offenders, varying in their levels of sophistication and method. Of course, these are neither exclusive nor exhaustive categories but rather provide a general overview of the different ways abalone is taken from the water.

Organised Poachers

Organised poachers share some characteristics with commercial licensed divers in that many work from boats and/or the shore, mostly

using surface-supplied air (“hookah equipment”) or scuba (self-contained underwater breathing apparatus), and are generally proficient divers who are able to harvest large quantities of abalone efficiently. Many organised poachers operate in “crews” incorporating divers, deckhands, lookouts and couriers. Unlike licensed divers, poachers generally shuck their abalone (that is, remove the meat from the shell) under the water, returning only with the meat. This reduces the weight of the catch and makes the abalone easier to manage.

In order to avoid detection and maximise the size of catches, organised poachers are willing to:

- dive under the cover of darkness;
- dive in areas which are remote and/or difficult to access;
- use sophisticated technology to assist poaching (for example, infra-red night vision equipment) and to track or report the presence of compliance officers in the area through radios and scanners;
- cross state borders to harvest abalone; and
- fish for days at a time.

Many organised poachers have developed elaborate methods for concealing and moving illegally caught abalone. These include:

- hiding their catch either close to the beach or at sea, often submerged in a known location and/or with some form of beacon or buoy to mark the site for later pickup;
- building secret compartments in boats to conceal poached abalone;
- creating makeshift abalone storage receptacles in cars (for example, converting additional petrol tanks) to avoid detection during transit from the beach;
- hiring small planes to drop off divers in remote areas, returning later to collect and transport large catches of illegally caught abalone; and
- using hire vehicles to transport stolen catches to avoid asset forfeiture provisions if the authorities intercept the vehicle.

The majority of organised poachers make the greater part of their income through illicit means. It is estimated that one of the more well-known abalone poachers in Australia made in excess of \$1 million per year from the harvest and sale of illegal abalone (Neales 1997). The lucrative nature of the abalone trade is reportedly beginning to attract the interest of some organised crime figures. There are suggestions that outlaw motorcycle gangs and Asian crime figures have entered the market, acting as buyers and distributors and establishing illicit networks extending overseas to the consumer markets in Asia (Morgan & Papps 1996; Neales 1997; Nicholl 1999).

These trends are perhaps not surprising, given reports that organised criminal groups grew to dominate the illicit abalone market in some other abalone-producing countries such as South Africa (Gastrow 2001). It has been suggested that illegal Australian abalone is being traded for heroin and marijuana overseas (Coffey & Hart 1999). Within Australia, anecdotal evidence from several jurisdictions suggests links between the trade in illegal abalone and local illicit drug markets. The growing evidence of serious criminality, both in terms of the calibre of criminals taking up key

roles in the distribution of illegal abalone, and the links between the illegal abalone trade and other established transnational and local criminal markets, provides reason for concern.

Licensed Divers

While the majority of licensed divers operate legitimately within their industry, there may be a few who exploit their position by engaging in quota fraud. This is done either by harvesting catches which are not declared (that is, fishing “over their quota”), or by “fudging” catch weight records to misrepresent the true amount of abalone caught. Excess abalone may be supplied directly to consumers or to processors for illegal preparation and sale. Unlike organised poachers, licensed divers supplement their legitimate income with illicit activity.

Shore-based Divers

As the name suggests, shore-based divers generally poach abalone close to the beach. Rather than using a boat and hookah, shore-based divers prefer to use scuba equipment and enter the water via the beach or cliff faces. If not intending to harvest a large catch, shore-based divers may free-dive for abalone using mask, fins and snorkel. As with organised poachers, abalone is generally shucked under the

water and bagged. Bags are either carried to shore or left under the water to be picked up at a later time. While shore-based divers tend not to be as active as organised boat-based poachers in terms of the length of time spent poaching, they may still harvest significant catches. Shore-based divers have been known to cut their own walking tracks and trails to access abalone-rich coastal reefs, to negotiate with private land owners for access to certain cliffs/beaches, and to set up ropes and climbing aids to access poaching spots.

Extended Family Groups

Although not considered to be classic poachers, extended family groups also pose a threat to scarce abalone resources, particularly those within the intertidal zone. These groups—which can consist of up to 20 people—often operate on weekends. Groups typically harvest abalone to the cumulative recreational bag limit (usually with only a few members of the group actually doing the harvesting) and stockpile the goods. The methods used to poach abalone are generally basic, and most often involve wading in shallow water or using a snorkel and fins.

Having collected the combined bag limit, family groups will either:

- continue to harvest over the bag limit, hiding excess catch in and around poaching areas for later pick-up to avoid detection; or
- take the catch home, then return to harvest a second and sometimes a third time—this is known as “double-bagging” or “double-dipping”.

Much of the abalone taken by extended family groups is for personal use, although it has been suggested that excess amounts of abalone are used to supply local restaurants and other illicit buyers.

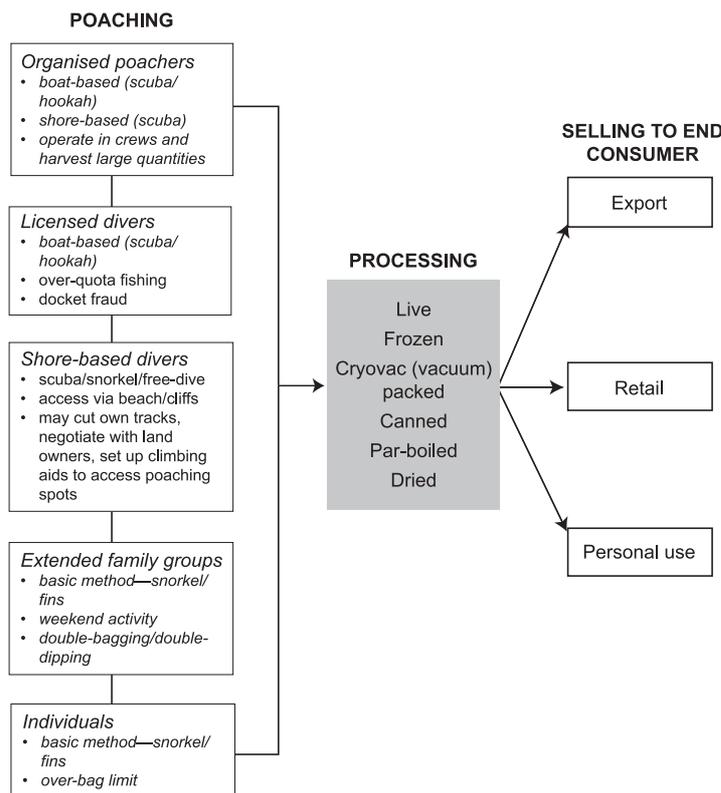
Individuals

Individuals may also take over-the-bag-limit abalone and stockpile, as well as hide, the fish. These people tend to be opportunistic offenders who poach as the need arises, whether for personal use or to earn some easy money. Again, the methods used are relatively basic.

Illegal Processing

Processing of abalone may be quite minimal, requiring the abalone to be shucked, frozen or parboiled; some abalone are even shipped “live”.

Figure 2: Methods used in each stage of the illegal abalone market



Alternatively, processing may be more sophisticated and involve canning, drying or cryovac (vacuum) packaging.

Illegal processing encompasses the processing of illegally caught abalone either by registered processors or by non-registered “backyard” processors. Legitimate processors may collude with licensed divers to disguise quota fraud activity and/or may accept illegally caught abalone from unlicensed divers for illegal processing.

Registered processors may disguise the movement of illicit abalone by:

- manipulating the amounts of abalone recorded on official fish transfer dockets in order to disguise the processing of off-quota abalone;
- over-packing export consignments, enabling some illicit abalone to be moved with legitimate consignments; or
- overstating “recovery rates”.

In South Australia and Western Australia, where abalone are permitted to be shucked prior to landing, recovery rates refer to the actual weight of abalone meat that remains after the loss of fluid (water) which occurs during transit from the beach to the processing factory. In the south-eastern Australian states, where abalone must be landed and transported whole to processing facilities, recovery rates refer to the proportion of the meat that remains after removal of the shell and viscera. Unscrupulous processors may claim an artificially high recovery rate in order to supplement the legal catch with illicit abalone, laundering it in the process. It is difficult to assess the level of illegal abalone being moved through registered processing premises, or the proportion of registered processors engaging in illegitimate activity.

As for processing by non-registered operators, fisheries officers report that abalone offenders have sometimes been caught processing abalone in makeshift rooms in private residences, using rather unsophisticated methods. Certainly in the case of live, frozen or cryovac abalone, preparing the product for sale is not necessarily a complicated process. However, a recent operation in Victoria highlights the level of organisation and sophistication that some illegal abalone processors are willing to adopt (see case study).

Case study: Tat Sang Loo

In *Tat Sang Loo* (unreported judgment of the Dandenong Magistrates Court, 17 March 1999), Loo represented the highest link of a Victorian network that facilitated the collection, payment, processing and distribution of illegally caught abalone into New South Wales and Queensland. Illegal abalone received by Loo was processed at his residence, half of which had been converted to an illegal processing factory. The “factory” comprised ceilings equipped with exhaust fans, three washing machines and bathtubs to wash abalone, and seven gas stoves and large cooking pots to cook the abalone. Three cryovac machines were also used to vacuum-seal the product and an entire room had been purpose-built as an abalone-drying kiln. Raids at this and additional premises resulted in the seizure of 31,004 abalone which had an estimated street value of \$750,000. Extensive records seized during the raids revealed that between October 1997 and September 1998, Loo had processed and consigned 9.8 tonnes of abalone to New South Wales and Queensland (wholesale value of \$1.35 million). The abalone were destined for wholesalers, Asian food markets and duty-free shops in Sydney and Surfers Paradise. Loo pleaded guilty to 14 charges of possessing, receiving and consigning excess abalone without a licence, and was sentenced to 18 months’ imprisonment. He has also been subject to various financial penalty orders totalling more than \$1 million.

Consumers

There is no one identifiable pathway for the movement of illegal abalone from ocean to end consumer, and indeed abalone may move through a number of hands before reaching the end consumer. For example, illegal abalone may move straight from a diver to a processor to a consumer. Alternatively, illegal processors may sell to receivers or direct to a network of buyers, many believed to be based in Melbourne, Sydney and the Gold Coast. Poached abalone may then be sold to restaurants and retail outlets over the counter or through consignment. Of course some illegal abalone never enters the market but is directly consumed by the poacher.

Legal and illegal abalone is predominantly intended for export, yet is usually first sold domestically to buyers. Within Australia, illegal abalone is generally transported via private means, such as air or road couriers. Occasionally, interstate transport may be as unsophisticated as a number of large eskies of abalone packed in ice and put in the back of a car or light plane. The majority of illegal Australian abalone gets marketed for sale and export, either direct to consumer markets in Asia, or indirectly via sale to Asian tourists and tour groups visiting Australia.

In the case of export, abalone may be concealed:

- through false labelling of export consignments, such as labelling canned abalone as some other product (for example, vegetables), or exporting small amounts of

dried abalone through the post and misdeclaring the contents;

- by mixing abalone with other product in export packaging so it passes undetected on cursory inspection—for example, placing a layer of lobster on top of a bin of abalone, and declaring the entire consignment as “lobster”; or
- in hand and/or cargo luggage of out-bound passengers, many of whom are tourists—there is evidence of organised tour scams where members of tour groups each carry out of Australia the legal limit of abalone (10kg) but on arrival at the destined country stockpile the goods for sale.

Intersection between Legal and Illegal Markets

As stated, the majority of illegal abalone activity is believed to occur outside the licensed sector, with those involved tending to poach, process and sell abalone to other like-minded people. It is possible, however, for poached abalone to enter the legitimate market, knowingly or otherwise. This can occur when:

- legitimate processors are willing to accept and process over-quota or “off-the-ticket” abalone from licensed divers—in other words, abalone not declared by the diver;
- registered processors accept poached abalone from unlicensed divers;
- retailers and end consumers are willing to buy it—retailers purchasing illegally caught and processed abalone may do so knowingly, attempting to disguise the purchase by “re-using” documentation from a legitimate abalone purchase; or

- consumers purchase poached abalone unknowingly—this occurs particularly as poached abalone can easily blend in with legitimate stock.

Essentially, those who are willing to purchase illegal abalone do so because it is cheaper than legitimately harvested abalone. In other cases, it may be an issue of scarcity.

Disrupting the Market for Illegal Abalone

The illicit trade in Australian abalone has a number of negative effects on the legitimate industry. Due to the clandestine nature of its harvest and subsequent handling, poached abalone may be of poor quality and a subsequent risk to human health. It can therefore adversely affect the image of Australian abalone on the international market. As is the case in other types of markets, illegal operators who have few overheads and accept lower prices for their abalone undercut legitimate operators in price. The presence of poachers supplying abalone to local buyers/restaurants at reduced prices can restrict the potential for sales in local legal markets. At a more fundamental level, large-scale sustained illegal fishing has the potential to threaten the very sustainability of Australia's abalone stocks.

Recognising the serious impact which abalone poaching may have on Australia's legitimate industry, numerous measures have been taken to deter criminal activity within Australia's abalone fishing industry. Each abalone-producing state has legislation carrying high pecuniary penalties and custodial sentences for abalone offending, and has dedicated abalone-crime investigators. In addition, some state courts are empowered to impose control orders on recidivist abalone offenders.

As with all markets, whether legal or illegal, the illicit market in abalone is characterised by a chain of distribution from the source of the product to the end consumer. As discussed, this chain is not an absolute progression from point A to B to C; goods may move through a number of market players. Having identified these players, as well as the law enforcement measures in place to deter offending within the industry as a whole, there are

additional measures which can be put in place to disrupt the market for illegal abalone at each stage. This is principally achieved by making it more difficult for people to illegally access, process and sell abalone.

Accessing Abalone

In the case of unlicensed abalone divers or those licensed divers who may fish in excess of their quota, it is difficult to monitor and police illicit catches. Unless unlicensed offenders are caught coming out of the water with over-the-bag-limit abalone, or licensed divers are caught in possession of undocumented or over-quota abalone, large quantities of abalone may be poached from Australian waters and moved from the beach undetected. It is here, however, that strategies aimed at disrupting the illicit market in abalone would be most beneficial, as they would reduce the offender's ability to access abalone stocks. Prevention of illicit harvesting is also the best outcome in terms of protecting the fishery and maintaining fish stocks.

To enable the detection and interception of unlicensed fishing activity, and to ensure licensed divers are complying with docketing and quota requirements and size restrictions, a law enforcement presence on the coast is critical. While a crucial point at which the flow of illegal abalone through the market can be prevented, the ability to enhance beach detection is problematic due to a number of factors, including:

- constraints on the level of resources committed to monitoring abalone-related activity;
- occupational health and safety regulations restricting the activities of fisheries officers in some jurisdictions; and
- difficulties associated with surveillance of the vast Australian coastline.

As well as policing by law enforcement, other avenues can be used to learn about and respond to potential illegal activity at the beach. Initiatives such as Fishwatch, a toll-free government service, encourage members of the community to report any suspicious activity relating to marine life—including abalone—to fisheries agencies. Such programs currently operate in several Australian states. Those within the licensed sector

are also in a good position to pass on any information about illegal operators and activity that they may come across. Industry should be encouraged to report this information through safe and effective reporting programs.

Processing Abalone

Fisheries agencies are responsible for auditing registered abalone processors. To assist the audit process, mandatory labelling of all legitimate processed abalone has recently been introduced. This initiative complements more traditional auditing procedures that include documentation checks using the quota management system and surprise inspections of processing facilities. These measures can be effective in monitoring the amounts of abalone moving through such factories, and detecting discrepancies in the paper trail suggestive of illicit product. However, inspections may be compromised by the fact that once incoming catches of abalone are combined with existing stock at the processing facility it becomes virtually impossible to determine whether abalone have been caught legally and by whom.

Another opportunity for auditing registered processors occurs when the product leaves the premises. Inspections of the amount of outgoing abalone, to ensure that consignments are declared and that the weight of the consignment is correct, are important to enable "in-out" reconciliation of stock.

Intervention at this stage of the chain is more straightforward in the case of backyard processors as the entire establishment is illegitimate, therefore any discovery of such facilities indicates illicit activity. The difficulty in such cases is that unsophisticated processing can be performed almost anywhere. Such establishments are typically discovered only after tip-offs from the public or informers, or through surveillance of divers engaged in illegal harvesting. This reinforces the importance of maintaining intelligence and effective policing strategies.

Agencies other than fisheries and police services can play a part in policing operations that involve the illegal processing of abalone—particularly from private/backyard premises. These might include

environment protection agencies, local councils and the Australian Taxation Office. Environmental protection agencies and local councils can monitor compliance with environmental regulations and by-laws such as waste disposal, noise pollution and zoning, while the Tax Office can be used to flag any discrepancies between employment, assets and income. These agencies also have the authority to inspect business premises, issue infringement notices, impose fines and investigate business records and financial accounts.

By applying this type of pressure on illegitimate traders to comply with regulations, these agencies increase the cost of illicit activity as well as the risk of detection and apprehension. In other words, they can assist fisheries and law enforcement services in disrupting the activity of those involved in the illicit abalone market.

Export and Sale

There are a number of measures that can be implemented at the final point in the Australian market (that is, where poached abalone is exported to overseas destinations). The majority, if not all, of the abalone intended for overseas export passes through an airport, whether in cargo, hand luggage, on a person, through the mail or by consignment. The Australian Customs Service therefore has an invaluable role through the inspection of luggage and passengers at airports, as well as in monitoring export consignments. AQIS has a similar role insofar as officers may conduct quality control inspections to ensure abalone product intended for export is fit for human consumption. Any detections and seizures of illegal abalone at this point pose significant obstacles to the supply of abalone to lucrative international markets.

While illegally obtained abalone bound for export can be detected through random searches and scans of luggage, passengers and consignments, Customs is also in an ideal position to play a proactive role should sufficient resources be available to follow leads provided by fisheries and other law enforcement agencies concerning the suspected movement of illegal abalone out of Australia. Given competing enforcement and policing priorities for Customs in terms of other illicit

goods, however, the interception of illegal or suspect abalone at the border may not be as high a priority. Furthermore, the above-mentioned strategies may do little to disrupt the domestic market in poached Australian abalone and that product which is not bound for overseas.

Timely intelligence sharing from state fisheries and police concerning illegal product headed for export serves to facilitate border interceptions. This information exchange between key stakeholders could be strengthened by the development of national information and reporting systems for fisheries intelligence. Recent progress has been made towards prohibiting the export of any abalone except for AQIS-approved product and domestic sales complying with the National Docketing System. Similarly, consideration of the inclusion of abalone as a scheduled export item under Customs legislation may provide additional legislative backing for the interception of illegal abalone exports.

To date there have been a number of multi-jurisdictional operations targeting the Australian black market in abalone which have succeeded due to strong cooperation between fisheries, state police and federal agencies such as Customs and AQIS. However, jurisdictional and cross-agency coordination issues can serve to hamper efforts to disrupt both the domestic and international black market trade in abalone. These factors, as well as differences in state legislation, are likely to pose ongoing difficulties for countering the illicit market across jurisdictions. In these cases, the Australian Fisheries Management Authority may have a role to play in coordinating responses to domestic abalone trafficking.

Conclusion

While some researchers have explored the involvement of criminal actors in illegal abalone markets overseas (Gastrow 2001; the National Crime Authority has also done some recent Australian research in this area), very little research has been conducted into the illicit abalone market in Australia. This paper sought to fill some of this gap by providing an overview of the illicit Australian abalone market based on fieldwork

and discussions with key stakeholders. The illegal market in poached abalone is a lucrative one which involves a variety of players ranging from suppliers, handlers, buyers and distributors. The difficulties inherent in policing illegal activity within the industry are numerous and stem from the fact that illegal harvesting takes place offshore and can occur at any number of sites along Australia's extensive southern coastline. Illegal processing can likewise occur almost anywhere, and there are possibilities of cross-border movement of stolen product. Continued assessment, monitoring, regulation and policing of the licensed and unlicensed abalone sectors are key strategies that must be used to address the threat of unsustainable harvesting from Australia's abalone fishery.

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