

Crime in the Australian Fishing Industry: Key Issues

Katherine M Anderson and Rob McCusker

While opportunistic crime in Australia's fishing industry has existed for a long time, there is increasing and widespread concern about the extent and scope of illegal activity. High-value, low-volume fish products (such as abalone, shark fin and seahorse) are vulnerable to organised criminal exploitation. Without adequate controls, the viability of stocks (and the industry itself) may be placed in jeopardy. Curtailing criminal involvement in the fishing industry requires that there is a range of effective operational, legislative and educational strategies in place across jurisdictions. This paper is part of a larger project the AIC is conducting on crime in the fishing industry. It builds on earlier work on abalone as well as more theoretical work on transnational and organised crime that the AIC has reported upon in earlier Trends & issues papers.

Toni Makkai
Director

The Australian Government Department of Agriculture, Fisheries and Forestry (DAFF) has funded the Australian Institute of Criminology to examine the extent of crime in Australia's fishing industry. Stage one of the two-stage project (and the majority of this paper) is informed by a preliminary literature review, as well as Australia-wide consultations with fisheries enforcement officers, police and industry representatives. A review of all state, territory and Commonwealth fisheries-related legislation was also conducted. While publicly available sources indicate illegal fishing activity across all fishing sectors, this paper presents key findings of the stage one research and focuses chiefly on the commercial sector. The findings relate to factors that may encourage illegal activity, and suggest strategies that may help to reduce the opportunities for illegal activity.

Overview of Australia's fishing industry

As at 2000, Australia's 19.5 million population demanded 442,000 tonnes of seafood, with an average consumption of about 11 kilograms per person per annum. By 2050, it is projected that Australia's 25 million population will require 1,150,000 tonnes, with an average consumption of 23 kilograms per person per annum (Kearney et al. 2003). There is also an exponential demand for Australian seafood in overseas markets. For example, in 2002–03 the export value of Australian seafood product was \$1.84 billion (primarily rock lobster, pearls, prawns, tuna and abalone). This accounted for 80 per cent of total production (Department of Foreign Affairs and Trade 2004).

As an increasingly sought-after product, fish stocks are vulnerable to over-exploitation. Conservation and management measures seek to reduce and prevent over-exploitation in all areas of resource use. The four sectors involved in the contemporary harvesting of Australia's ocean resources are the commercial wild fishery, recreational, Indigenous and aquaculture sectors (see Box 1). This paper argues that all four sectors may be vulnerable to criminal activity.

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GPO Box 2944
Canberra ACT 2601
Australia
Tel: 02 6260 9221
Fax: 02 6260 9201

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Commercial

Recreational

Indigenous

Aquaculture

Crime in Australia's fishing industry

Illegal activity and crime in Australia's fishing industry can take a variety of forms. For example, commercial fishers may:

- take in excess of the allowable quota; or
- swap their catch between their commercial and recreational allowances (for example distributing catch between their various crab and lobster pots).

Vulnerable species

Abalone is a high-value, low-volume seafood product which is highly prized in Chinese society. The south-east coast of Australia is said to be home to the last robust wild abalone grounds in the world (Theodore 2004). In 2003–04, Australia's legal abalone export trade amounted to A\$238 million (Australian Bureau of Agricultural and Resource Economics 2005).

Tailby and Gant (2002) studied the illegal market in Australian abalone and its possible links to outlaw motorcycle gangs and international criminal networks. These networks may facilitate the exchange of abalone for guns or drugs, such as heroin and

The map illustrates the major fisheries and fishing grounds around Australia. Key features include:

- Geographical Context:** The map shows Australia's position relative to the Indian Ocean, Pacific Ocean, Southern Ocean, and Tasman Sea. Neighboring countries and territories like Indonesia, Papua New Guinea, Solomon Islands, Vanuatu, New Caledonia, and New Zealand are also labeled.
- Fishing Grounds and Species:**
 - Northern Territory:** Northern prawn trawling.
 - Western Australia:** sea perch (12) & scamp (107) trawling, Pearl oyster, Shark gillnet (120) & squid jigging (12), Southern bluefin tuna (64) & mullet (10) longline, handline, purse seine, rough rock gemfish, redfish.
 - South Australia:** Shark gillnet (120) & squid jigging (12), Southern bluefin tuna (64) & mullet (10) longline, handline, purse seine, rough rock gemfish, redfish.
 - New South Wales:** Shark gillnet (120) & squid jigging (12), Southern bluefin tuna (64) & mullet (10) longline, handline, purse seine, rough rock gemfish, redfish.
 - Victoria:** Shark gillnet (120) & squid jigging (12), Southern bluefin tuna (64) & mullet (10) longline, handline, purse seine, rough rock gemfish, redfish.
 - Tasmania:** Shark gillnet (120) & squid jigging (12), Southern bluefin tuna (64) & mullet (10) longline, handline, purse seine, rough rock gemfish, redfish.
- Other Labels:** Coral Sea, Indian Ocean, Pacific Ocean, Southern Ocean, Tasman Sea, and various islands and territories.



marijuana. Other studies (for example Gastrow 2001) have demonstrated the interconnectedness of abalone and drug trafficking in countries such as South Africa and the involvement of organised crime groups (Warchol 2004).

Arguably, it is not just Australia's abalone industry which is vulnerable to illegal activity. Shark fin and seahorse are two other high-value, low-volume fisheries which may be particularly vulnerable to exploitation by criminals and crime groups. Both species can be secreted more easily than, for example, mud crabs or lobster (which are sold as live product). Other emerging targets may include eel, trepang (sea slug/sea cucumber) or sea urchin. This is due to the ease with which they can be stored/relocated, as well as their increasing popularity in Asian markets.

As at 2003, the World Conservation Union (IUCN) had 105 members of the wider shark family listed on its red list of threatened species index. The great white, basking shark and whale shark are listed under the convention on international trade in endangered species of wild fauna and flora (CITES).

The red list also contains 46 members of the wider seahorse family (see www.redlist.org). These include pipefish, seahorse, seadragon, sea pony and pipehorse. Australia is home to at least 10 of the 32 known species of seahorse and is the major supplier of pipehorse to the Hong Kong market (MLSSA 2001a, 2001b). New global trade rules for seahorse came into effect on 15 May 2004 under CITES (see TRAFFIC 2004).

The demand for shark fin and seahorse is being largely driven by the culinary tastes of China's growing middle class and traditional Chinese medicine, including aphrodisiacs (Clarke 2002). For example, 11 metric tonnes per annum of shark fin were imported into Hong Kong in the 10 years to 2004 (Lee 2004). Prices for shark fin during

Box 2: David Campbell 'Cam' Strachan case study

On 10 December 2004 in Melbourne's magistrates court, David Campbell Strachan pleaded guilty to 21 abalone poaching offences and was sentenced to an 18-month prison term. Since 1971, Strachan has received in excess of 100 abalone poaching convictions, fines totalling more than \$1 million and more than 10 years of prison sentences, including suspended terms. Three of his boats have been confiscated in Tasmania, and legislation was introduced in that state to ban Strachan from the state's waters in anything smaller than a Bass Strait ferry.

2001 retailed as high as US\$744 per kilogram, with fishermen receiving up to US\$180 per kilogram. These profit margins result in medium-sized operators turning over approximately US\$771,000 per month. One of the largest operators turns over US\$129 million annually, resulting in an annual profit of US\$12 million (Clarke 2002). Traditional Chinese medicine uses approximately 24 million dried seahorses each year. Other uses for seahorse include souvenirs, curios and the live aquarium trade (Lee 2004). In 2000, a price of US\$2,400 per kilogram was reached for dried seahorse in Hong Kong (60 individual seahorses) (TRAFFIC 2002).

The landing of shark fin without the trunk is banned in all Australian jurisdictions. Criminals have avoided this prohibition by discarding trunks overboard and hiding the fins in secret compartments on their fishing boats. In one recent case, approximately 60 kilograms of shark fin was 'found hidden in the bilge water of two illegal fishing boats' (Farmers info 2004).

Recent prices for dried shark fin in Australia reached A\$275 per kilogram, compared to A\$325 per kilogram for a recent haul of illegal abalone in

Perth (Rose & SAG 2001). This is not a significant difference in price and harvesting/processing shark fin may be less difficult, and less costly, than abalone. Furthermore, the jaws of a great white can realise around US\$50,000, with individual teeth worth several hundred US dollars (see www.whitesharktrust.org/pages/citesnews). The flow-chart in Figure 2 represents the criminal commodity chain for sought-after commodities, such as shark fin. The commodity chain exhibits a number of important features:

- it is broken down into 'prized' components that are then distributed to high-demand countries;
- low-value components are discarded;
- the chain involves a number of countries in the region;
- the commodity is diverted at various points in the chain to countries with high demand and high prices;
- the final commodity comes from a range of countries, making it difficult to determine the original supply country; and
- Australia is both a source and destination country.

The implication from this one example is that Australia has a significant interest, both financially and environmentally,

Box 3: Operation Oakum case study

This police operation targeted the illegal processing of abalone in Tasmania for export to Asia between 2001 and 2002. The 'sophisticated and organised nature of the criminal activity' required the assistance of the former National Crime Authority (NCA) and led to the imprisonment of the perpetrators and the seizure of 240 kilograms of poached abalone (Australian Crime Commission 2003: 73). Reasons for criminal involvement are not difficult to identify, given that a meal of high-quality abalone, known as 'gon bao yu', can cost up to US\$5,000 in China (Marine pollution bulletin 2004: 2).

in understanding and responding to organised criminal activity in the fishing industry.

Legislation and enforcement

The question arises whether Australia is well equipped to respond to an ever-increasing threat of criminal exploitation of vulnerable species. The complex and differing nature of fisheries conservation and management regimes across Australian jurisdictions results in a lack of uniformity in enforcement powers, degrees of seriousness of offences and/or penalty regimes. Arguably, this lack of uniformity increases the likelihood that illegal activity will occur in jurisdictions with less onerous laws and penalties, and weaker enforcement powers.

Fisheries legislation is designed primarily to regulate the fishing industry rather than to combat systematic

criminal activity within it. Fisheries legislation in many states and territories is complex and covers a wide range of targets, making it difficult to know easily what is, and what is not, proscribed and what penalties apply to specific conduct.

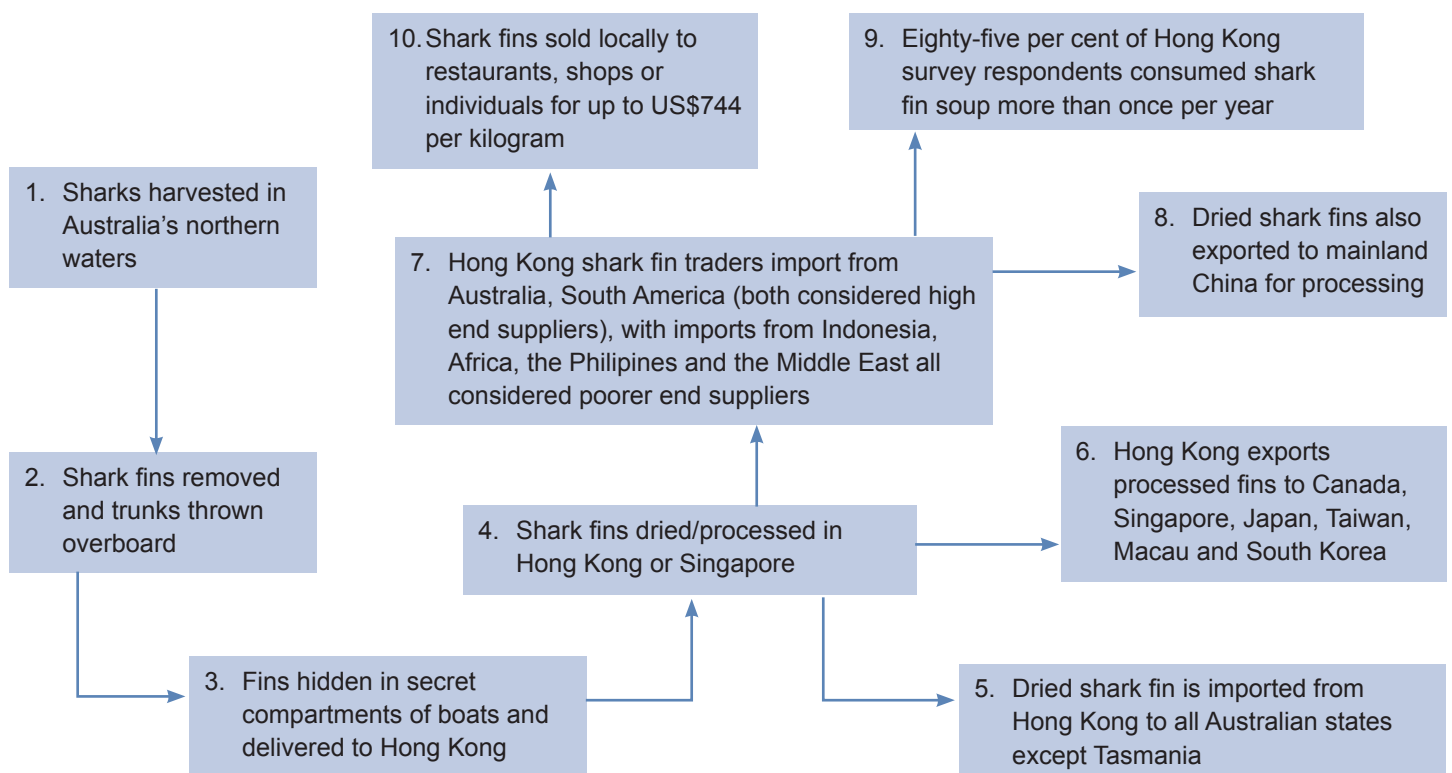
Lack of uniformity in legislation can have important consequences. Victoria, for example, has created an offence of trafficking in a commercial quantity of a priority species, which attracts a maximum term of 10 years imprisonment. The introduction of a similar offence in all jurisdictions might avoid displacement of organised criminal activity, especially if the ambit of the offence could be extended to areas such as processing plants, wholesalers and retailers, through which, or to whom, such fish are dispatched.

At present there is no uniform financial penalty regime applied throughout

the states and territories in Australia. South Australia, for example, has a system of 12 fine divisions, 12 expiation fee divisions and eight imprisonment divisions. Given the fact that the courts may impose fines comprising multiple penalty units (which range in value from \$75 to \$110), a fine received in one jurisdiction (Queensland) may be significantly lower than that received in another (Northern Territory) in respect of the same illegal conduct. This may potentially lead to the level of criminal activity being higher in one jurisdiction than another, with offenders choosing to base their operations in the place with the lowest applicable penalties.

Aside from the imposition of financial and custodial penalties, jurisdictions also provide for the suspension, revocation or adjustment of licences.

Figure 2: Stages in the illegal shark fin commodity chain



Source: Clarke 2002; Rose & McLoughlin 2001, in Rose & SAG 2001

For example, Victoria's *Fisheries Act 1995* provides for:

- the prohibition of a person from being on boats or in certain places;
- the suspension of a licence for a period of up to 12 months; and
- cancellation of a person's entitlement to be allocated an individual quota.

The legislation also provides for the cancellation of access licences. In addition, Tasmania's *Living Marine Resources Management Act 1995* provides for the revocation of permits and the suspension and cancellation of licences. The Commonwealth's *Fisheries Management Act 1991* provides for the suspension or cancellation of fishing concessions. South Australia's *Fisheries Act 1982* provides for the suspension or cancellation of authorities. Restrictions on, or prevention of, fishing, may prove to be more of a disincentive than the prospect of a fine and/or imprisonment. The ACT's *Fisheries Act 2000* provides for the cancellation of licences and of registration.

In several jurisdictions it is also possible to use proceeds of crime legislation to undermine the efforts of criminal groups involved in fisheries crime:

- Queensland (under its *Criminal Proceeds Confiscation Act 2002*) in relation to the *Fisheries Act 1994*;
- South Australia (under its *Criminal Assets Confiscation Act 1996*) in relation to the *Fisheries Act 1982*; and
- Victoria (under its *Confiscation Act 1997*) in relation to the *Fisheries Act 1995*.

Another related issue is the power of fisheries officers to enforce legislation in all its aspects. Currently, the range of powers available to fisheries officers is not universal. For example, jurisdictions vary as to whether they permit their fisheries officers to carry capsicum spray, wear bullet- or stab-proof vests, and have the powers of arrest or search.

Possible solutions

The growing threat of organised illegal activity in Australia's fishing industry poses particular challenges for the sector's regulatory environment (Theodore 2004). On the one hand, fisheries officers work in a community compliance capacity, checking possession/bag limits, nets and other day-to-day compliance issues. On the other hand, fisheries officers may be pitted against organised crime networks, whose modus operandi may involve drugs, guns or other weapons.

One option is for all jurisdictions' police services to undertake the enforcement of fisheries legislation, following the example set by the Northern Territory and Tasmania. This may, however, conflict with the traditional methods of fisheries enforcement and indeed may pose prohibitive costs and/or logistical difficulties in terms of additional training.

Another possibility is the use of a 'flying squad', such as that discussed in the recent report on the extent of illegal fishing in New South Wales (Palmer 2004). Palmer believed that:

a flexible, multi-disciplinary team approach to investigations [would enable] strategic intelligence analysis, high level surveillance skills, forensic accounting, crime scene preservation occasionally even undercover operatives or in certain circumstances the creation of a 'specific purpose' joint agency taskforce. (Palmer 2004: 38)

This option entails fisheries officers undergoing more specific training in the running of covert investigations, either in-house or seconded to specialist agencies. A further option would necessitate police officers being seconded to fisheries agencies for a specified period of time, perhaps three years. Seconded police officers could also provide investigative training techniques to those fisheries officers

who may be interested in participating in specialist fisheries enforcement activities.

A more uniform legislative environment may reduce the opportunities for, and displacement across jurisdictions of, illegal activity. For example, if all jurisdictions introduced 'trafficking' in fish as an indictable offence, then uniform measures of deterrence would apply across the jurisdictions. This could result, however, in a smaller (but hardened) core of criminal involvement in the fishing industry. Such an eventuality would strengthen the need for seconded police involvement, flying squad-type operatives, or a combination of the two.

Cooperative inter-agency and inter-jurisdictional arrangements, including international cooperation (between police/fisheries/customs officials) is also essential. This includes arrangements between the *source* (various Australian jurisdictions) and the *market* (for example, Hong Kong and China). Disrupting the network by targeting implicated customs officers, police officers and end consumers may be a more effective use of resources than targeting the crime groups themselves.

For such a strategy to work, however, additional resources will be required. In addition, as Mackenzie (2002) noted, limiting the possibilities for organised crime groups to launder the money required for their operations may be one way of suppressing these illegal markets. This has particular relevance to those products which require, or are enhanced by, authenticity documentation (for example, abalone).

At present there are hotline numbers the Australian public can call when they observe illegal fishing activity. More publicity of this service may be required. Further options could be developed to publicise laws, regulations or enforcement powers.

Conclusion

This research suggests that opportunities exist for a wide range of criminal activity in Australia's commercial fishing sector. Organised crime is attracted to the fishing industry because it is perceived as being a low-risk, high-gain endeavour involving high-value, low-volume product with a lucrative overseas market. Jurisdictions are trying to implement strategies to inhibit these activities in valuable, but diminishing sectors, such as abalone. These efforts have to extend across all attractive seafood products, for example, seahorse and shark fin. To do so successfully will require a range of operational, legislative and educational strategies, implemented uniformly and (where possible) simultaneously across jurisdictions and bolstered by international support and cooperation. This will inhibit the likelihood of displacement and will result in a greater ability by fisheries enforcement agencies to focus their resources.

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