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Foreword | *Increasing demand for Australian seafood overseas and at home is driving both legal and illegal markets, heightening the need for sustainable harvesting and management. Though illegal activity in the Australian domestic fishing industry has long been thought to be small-scale and opportunistic, significant numbers are regularly flouting the regulations. Some organised criminal activity too is evident, in high-value, low-volume fish stocks, such as abalone and rock lobster. Although fisheries management arrangements currently in place may be effective in minimising the risk of low-level illegal activity, there is widespread concern among fisheries officers that the current regulatory environment is not adequate to deal with and prevent organised criminal activity.*

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Crime in the Australian fishing industry

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An expanding domestic market and increasing demand for Australian seafood in overseas markets place the fishing industry under ever greater pressure to harvest resources in a sustainable manner. Given worldwide concerns about depletions in the world's fisheries, authorities and legitimate fishers alike share an interest in maintaining the sustainability of Australian fish stocks and the viability of the fishing industry. To this end, they have agreed on catch numbers and size restrictions. Within the Australian domestic fishing industry, there has always been some illegal activity. Though this is commonly thought to be low-level non-compliance with fishing regulations that occurs within the recreational, commercial and subsistence sectors, there is a small but significant group of habitual offenders who flout the regulations for their own profit or benefit. Anecdotal evidence and some research (see Tailby & Gant 2002; Palmer 2004) suggest that during the past decade in the Australian fishing sector, there has been a growth in organised crime groups' participation in the systematic harvesting, processing, and distribution of abalone and rock lobster and use of the sector to launder money and manufacture drugs at aquaculture facilities.

The Australian Institute of Criminology was commissioned in 2004 by the Department of Agriculture, Fisheries and Forestry to report on criminal activity in the Australian fishing industry, and to examine ways of protecting the sector against more and more-organised criminal activity. An organised criminal group is defined as a structured group of three or more persons, existing for a period and acting in concert to commit one or more serious crimes or offences in order to obtain, directly or indirectly, a financial or other material benefit (United Nations Convention against Transnational Organised Crime, Article 2). The research involved a national survey of fisheries officers; a review of relevant literature and Australian legislation; consultations with key stakeholders; and analysis of prosecution and court-outcome data from four jurisdictions. The fisheries management agency of each state and of the Australian Government regulates its own coastal and offshore fisheries. The Australian Government's jurisdiction extends from the three- to the 200-nautical-mile limit of the Australian Fishing Zone, retaining overall management responsibility for all highly migratory fish stocks and any fish species subject to regional or international agreements. Although commercial fisheries are subject to various agreements involving the Australian and state governments, the states have primary responsibility for day-to-day management of recreational (including charter) fishing and traditional fishing. Because of the way in which information is held in each jurisdiction, the study was limited in its ability to quantify the

extent of criminal activity and relied on fisheries officers' perceptions. This paper is based on the full report and focuses on findings from consultations with key stakeholders and from the national survey of fisheries officers (Putt & Anderson 2007). The survey received 311 responses from a total population of 567 recipients.

The Australian fishing sector

Fish and other seafood, and their habitat, have considerable economic and environmental value. Australia's fishing zone measures 11 million square kilometres. Although not highly productive by world standards, it is an important primary industry that results in direct and indirect employment of a large number of Australians and in considerable export earnings for the country. Between 1991–92 and 2001–02, the value of Australia's aquaculture sector grew from \$202 million to \$733 million. In 2002–03, Australia's commercial fishing sector harvested approximately 249,000 tonnes of seafood, with a landed value of approximately \$2.3 billion (FRDC 2004a). A wide range of seafood products is now farmed, including 'pearls, prawns, redclaw, barramundi, crocodiles, Atlantic salmon, edible oysters; abalone, mussels, trout, silver perch, murray cod, yabbies and marron' (Love & Langenkamp 2003: 3). In 2006–07, the export value of Australian seafood products was \$1.49 billion (in the main, rock lobster, pearls, tuna, prawns, and abalone) (Australia. Department of Foreign Affairs and Trade 2008).

The fishing industry includes any industry or activity conducted in or from Australia concerned with taking, culturing, processing, preserving, storing, transporting, marketing or selling fish or fish products. There are three principal industry sectors:

- **the commercial sector:** enterprises and individuals associated with wild catch or aquaculture resources
- **the recreational sector:** enterprises and individuals using fisheries resources for recreation, sport, or sustenance in which products are derived that are not for sale

- **the traditional sector:** enterprises and individuals associated with fisheries resources from which Aboriginal and Torres Strait Islander people derive products in accordance with their traditions (FRDC 2004b).

Illegal activities

Illegal activities can take a variety of forms. Commercial fishers may:

- avoid reporting or under-report their catch
- mix illegal with legal catches
- operate a vertically integrated fishing business to facilitate money laundering
- sell commercial catch to clubs, restaurants, hotels or private individuals, on a cash or barter basis
- exceed the allowable quota
- swap their catch between their commercial and recreational allowances (for example distributing catch between crab and lobster pots)

(Anderson & McCusker 2005).

Some of these activities, such as selling catch to restaurants, may also be practised by recreational fishers. According to many stakeholders, although the large majority of recreational fishers are believed to be compliant, there appears to some low-level organised illegal activity, particularly among ethnically and culturally based family groups. This activity provides extra household cash through selling fish to domestic businesses, such as fish and chip shops, restaurants, cafés, hotels, and clubs, or through bartering the fish for services.

Organised criminal activity

In contrast to some recreational, commercial, and subsistence fishers who practise occasional, less serious non-compliance with fisheries regulations, there is a smaller but significant group of habitual or repeat offenders that a Victorian parliamentary committee has characterised as:

- criminals who systematically flout fisheries regulations to profit from the illegal sale of high-value 'fish' such as abalone

- fish thieves who regularly flout the regulations for a range of personal benefits, including illegal sale, bartering, or personal use
- fishers who regularly flout the regulations to provide themselves and their families with traditional seafood items that are not readily obtainable through normal retail seafood outlets (Victoria. Parliament. Environment and Natural Resources Committee 2002: 243).

Structurally the sector comprises many small business ventures, subject to financial pressures from seasonal fishing fluctuations and seafood imports. The sector is also characterised by seasonal work, which can attract individuals with involvement in criminal activity such as poaching and drug distribution. These structural factors can reduce the resistance of the sector to organised criminal activity.

As resources become scarcer and more valuable, it is to be expected that there will be commensurate growth in poaching and in illicit markets. Systematic criminal activity, which is more likely to target the vulnerable and most valuable species, escalates not only the seriousness of illegal activity but also its effect, through an increase in criminal activity generally, such as environmental offences, theft, fraud, quarantine violation, tax evasion, and serious crime against people, including murder. The increasing profitability of the sector (as resources become depleted) makes it more attractive to organised criminal groups.

Systematic criminal involvement in the international traffic in illegally obtained fish products is facilitated by networking between crime groups, as and when the need arises. A wide range of criminal activities may be associated with the illegal trade, including the concealment of financial transactions and profits (McCusker 2005; Willetts 1998).

Specific activities that relate to organised crime in the industry include:

- transfer pricing, which entails the under- or over-invoicing of trade transactions in order to avoid regulatory control (Walter 1985: 15)
- money laundering
- underground banking, which involves the transfer of the value of currency without its physical relocation (McCusker 2005).

Perceptions of vulnerable species and criminal activity

There are three priority species in Australia (abalone; sharks, for their fins; and seahorses) identified as attractive to international illegal markets, Hong Kong being the main market for illegally fished abalone and shark fin. Stakeholders reported an illicit Australian market in many species, including abalone, rock lobster, Murray cod, King George whiting, barramundi, mud crab, live coral reef fish, snapper and prawns.

During the 2004 consultations, stakeholders also referred to illegal restaurant/café trade in poached reef fish, eel, yabbies, squid, razor fish, snapper and dhufish, as well as the illegal taking of rare cowries, ornamental fish, and coral. It is impossible to estimate the size and value of these illegal domestic markets. At the top end of the scale, it was estimated in 1997 that one of Australia's better-known abalone poachers was earning in excess of \$1 million a year from the illegal harvest and sale of abalone (cited in Tailby & Gant 2002).

The results from the national survey of fisheries officers was consistent with the stakeholder interviews and the anecdotal evidence. Figure 1 shows the species nominated by officers as the most vulnerable to organised criminal activity in their local area, with abalone, rock lobster and shark perceived as the most vulnerable. There were, however, significant variations across jurisdictions, depending on the type of fish found in their rivers and coastal areas. Abalone, for example, was identified as the most vulnerable by nearly all fisheries officers in Tasmania, Victoria, South Australia and Western Australia. Mud crab

was selected by a number of officers from the Northern Territory, Queensland and New South Wales; barramundi was seen as most vulnerable by Northern Territory officers; bluefin tuna, by 29 percent of South Australian officers; and prawns, by 46 percent of New South Wales officers.

The majority (85%) of fisheries officers believed that the types of criminal activity encountered by fisheries officers had changed to some degree in the past five years, with a further 12 percent undecided. The consultations with stakeholders suggested that at least some of the change was due to heightened awareness of, or an increase in, organised criminal activity in the fishing sector. When asked about their perceptions of organised criminal activity in their state or territory, 26 percent of fisheries officers said there was a lot, 58 percent said there was some, and 14 percent said there was little, with no officers believing that there was none.

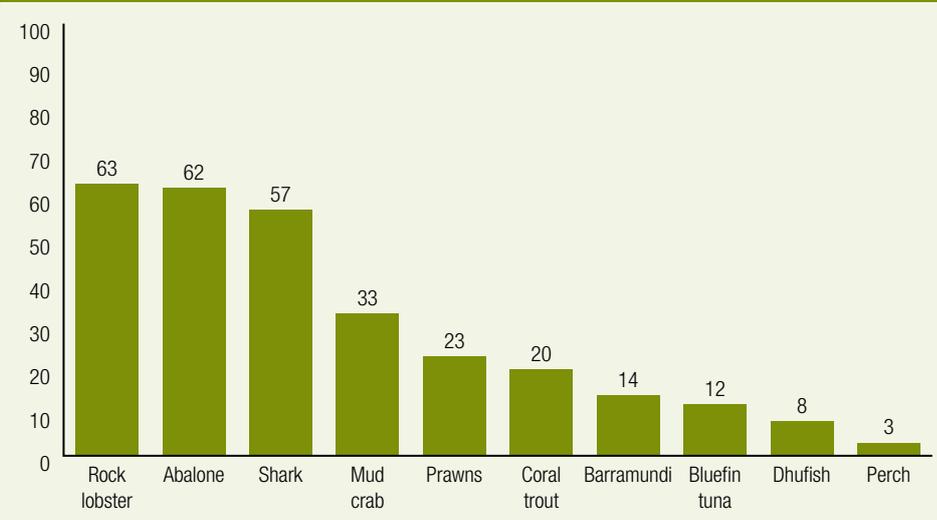
Strategies used by offenders

During consultations, stakeholders described instances of fisheries crime that highlighted how offender strategies varied on the basis of the species being targeted, the regulations that applied, and the level of organisational capacity of the offenders. For example, in relation to abalone, both

Queensland and Western Australian stakeholders referred to instances in which tourists or overseas students had been involved in hiding illegal abalone in carry-on luggage on overseas flights. In Tasmania, abalone were poached by out-of-state divers who dived at night and undertook surveillance of police. The range of strategies employed to avoid detection en route out of the country included manipulation of weights on dockets, involvement of an aircraft company, and concealment of abalone in crates in furniture vans that went to Queensland before being shipped to Hong Kong. Corrupt insiders appear to have been involved.

In the recreational sector, a number of stakeholders referred to groups of five to eight people masquerading as recreational fishers, each harvesting 10 abalone. In Victoria, one crew used a vessel and four different people a day, involving a total of 40 people and 10 vehicles that travelled to remote parts of the coastline. According to stakeholders, illegal divers are becoming more sophisticated in Tasmania and Victoria, with some using re-breathers to hide their bubbles, working at night with underwater lights, and using global positioning systems. In South Australia, stakeholders referred to family-run abalone reef pickers, who conceal the abalone in their clothes. In New South Wales,

Figure 1: Perceptions of species vulnerable to organised criminal activity (percent)



Survey question: In your view, what species are most vulnerable to organised criminal activity in your local area?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n = 567

stakeholders referred to the targeting of national parks by illegal divers, and to Aboriginal family groups in some locations, who were reputed to be well organised, with half a dozen groups working on specific regions of the coast.

Victorian stakeholders indicated that problems in the rock lobster industry were concentrated in the licensed sector. They observed that it was much more difficult to harvest rock lobsters, but that they were easier to sell, for example, to restaurants and clubs in the domestic market, and were not usually exported illegally. New South Wales stakeholders mentioned two methods by which commercial fishers could be involved in the black market – long-liners picking up other people’s pots, and sending illicit untagged product to legitimate processors in Sydney and Queensland. Western Australian stakeholders discussed supposedly recreational fishers going to inshore reefs and taking large quantities.

Stakeholders provided a range of cases that illustrated different methodologies and levels of organisation in other commercial fisheries. For example, Northern Territory stakeholders considered that large-scale, well-organised sharkfinning had developed in northern Australia, with family groups and companies involved. They also discussed the crab industry, in which crabs are harvested in remote areas, mainly on mud flats, and in which excess potting is believed to be anything up to double or triple the number of licensed pots. Asian crabbers working around the coastline, staying in often rudimentary camps in remote and hard-to-access locations, often do not keep records, which makes it very difficult to monitor compliance or to know to whom licences have been subcontracted.

Along with the well-organised illegal take of abalone and rock lobster in the recreational or unlicensed sectors, some Australian Government stakeholders believed that recreational activity could be masking commercial-scale activity in many other species. This is indicated by practices such as the lack of documentation in

Table 1: Strategy usage by offenders to avoid detection of fishing-related criminal activity (row percent)

Strategy	Use a lot	Use sometimes	Use a little	Don't use
Concealed spaces in boats, vehicles	52	41	6	1
Counter surveillance, e.g. lookouts, or guards	51	35	13	1
Knowledge of fisheries' officers movements and equipment	38	41	18	3
Pose as legitimate recreational fishers				
– operating in concert with others	36	39	20	5
– operating alone	30	41	23	5
Mixing legal with illegal catch during:				
– processing	32	49	16	3
– transportation	28	46	23	3
Fisheries documentation fraud	31	47	18	4
Dummy runs	30	36	27	7
Pose as legitimate commercial fishers				
– operating in concert with others	13	36	33	18
– operating alone	11	30	40	19
False identification and registrations	13	35	41	11
Tampering with vessel monitoring systems	4	25	39	32

Survey question: In your view, how often do offenders in your local area use each of the following strategies to avoid detection of their fishing-related criminal activity?

Note: total percentages deviate from 100 due to rounding error

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n = 567

restaurants for live fish products and the use of freezer trailers to transport fish home. Fishing competitions were also identified as a potential avenue of participation in the cash economy. Specific examples given by stakeholders during consultations included well-organised operations in South Australia involving the illegal recreational taking of King George whiting. Stakeholders indicated that this was more common in rural areas, with fish being sold to restaurants, clubs, and hotels in towns and cities. In New South Wales, the theft of oysters can be well organised, using lifting equipment on vehicles to steal whole racks of oysters from farming enterprises.

According to fisheries officers, the most common strategy used by offenders to avoid detection of their fishing-related criminal activity was concealed spaces in boats and vehicles (52%) (see Table 1). The strategies listed require premeditation and funding, either for modification of vehicles or boats or for payment of associates.

The fisheries officers also believed that offenders are more likely to pose as

recreational fishers than as commercial fishers (30% and 11% respectively). Relatively few officers reported that illegal fishers used false identification and registration, posed as legitimate commercial fishers, or tampered with vessel-monitoring systems.

Preventing the more organised criminal activity

As the more serious and organised criminal activity is likely to involve increasingly sophisticated strategies, a schema for identifying the different types of offenders and activities is essential. Victoria has identified a typology of criminal activity that underpins their regulatory activity:

- opportunistic
- organised, less serious
- organised, more serious.

The last might involve a range of fishers and organised processing and marketing (including export).

Another, complementary approach is to categorise offenders by method and degree

of sophistication. For example, abalone poachers have been grouped into:

- organised poachers who work in crews and facilitate distribution
- licensed divers who use fraudulent documentation
- shore-based divers who poach abalone
- extended family groups who harvest recreational bag limits and sell to restaurants and other businesses
- individuals who opportunistically exceed the recreational bag limit (Tailby & Gant 2002).

In terms of organised serious offending, the stakeholder consultations revealed concerns in a number of jurisdictions about existing involvement of outlaw motorcycle gangs (OMCGs) or Chinese organised crime groups. For example, in Western Australia, an OMCG was said to have been involved in the theft of pearls; in the Northern Territory, OMCGs had purchased fishing licences; and in South Australia, enforcement stakeholders believed that an OMCG had been involved in the illegal abalone trade. These gangs were also reported to have purchased fishing vessels to distribute illicit drugs.

The prosecution data from four jurisdictions indicated considerable seasonal variations in when illegal fishing activity is detected; the location of hot spots, where much of the illegal activity is detected; and that a proportion of offenders are repeat offenders (as, for example, with 21 percent of defendants in the Northern Territory) (see Putt & Anderson 2007 for more detail). The court outcome data reveal that few defendants plead not guilty and that the majority of matters result in a fine. These data suggest that many detected matters are minor in nature. But the volume of charges prosecuted and their outcomes is only one measure of illegal activity; until there is more routine and consistent recording of incidents or episodes, coupled with systematic intelligence gathering, it will be difficult to monitor whether there is an increase in detection of activity that is organised or more serious.

Fisheries officers who responded to the national survey viewed as important a range of measures that would be instrumental in detecting and dealing with organised criminal activity. These included:

- legislative changes in the definition of offences, extent and availability of powers granted to fisheries officers, and penalty regimes
- information and intelligence recording, sharing, collation, and analysis
- operational collaboration, including taskforces and the use of specialist services
- specialist skills and training for fisheries officers.

In relation to deterring organised criminal activity, 71 percent of fisheries officers in the national survey rated the organisational factors of personal safety and the number of officers as the most important. Nearly two-thirds of officers rated legislation, interagency cooperation, and surveillance capacity as very important. Some stakeholders doubted that the courts would impose penalties that were more severe for particular offences even if they were available, as the incidents' seriousness may be underestimated in courts where fisheries-offence prosecutions are infrequent events.

Conclusion

Australia-wide consultations with industry stakeholders and law-enforcement and fisheries agencies highlighted that illegal activity occurs within all fishing sectors (commercial, recreational, traditional) in all Australian jurisdictions, and that the recreational sector can provide good cover for organised criminal activity. They also showed that organised crime focused on high-value, low-volume fishery products such as abalone.

The consultations with stakeholders and the national survey of fisheries officers show that much of this activity is low level, and that much of the work undertaken by fisheries officers is not directly concerned with criminal activity. Officers were clearly

concerned about changes to their working environment and about the adequacy of a range of measures to deal with criminal activity, particularly activity involving established criminal networks. Consultations revealed that stakeholders were concerned about the potential vulnerability of key species to organised criminal activity: abalone, mud crab, coral, reef and fin fish, sharks (for their fins) and rock lobsters. They also stressed what can be characterised as the endemic nature, Australia wide, of pseudo-recreational fishing that uses commercial equipment and/or harvests commercial quantities. The two major areas of concern are organised crime activity, with sophisticated trading networks, including underground banking; and criminal activity that is seemingly less organised but may have a detrimental effect on fish stock levels, for example, barramundi, King George whiting, abalone, prawns or rock lobsters.

The study revealed differences and some similarities among jurisdictions' responses to illegal activity, in terms of (amongst others):

- summary versus indictable offences
- the use of financial penalties
- the ability to confiscate assets or the proceeds of crime
- the imposition and/or severity of imprisonment
- fisheries officers' use of items such as capsicum spray or protective vests
- the ability to search and to make an arrest
- the degree of cooperation and information exchange between relevant government agencies.

A fundamental question is whether it is appropriate and realistic to expect fisheries officers to perform both monitoring and enforcement. Fisheries officers are more likely than seconded police officers to have expertise in fish, their habitat, the industry,

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and the complex regulatory regime. Police are more likely to have the experience and expertise to deal with criminals and criminal activity. As well, their access to intelligence databases puts them in a better position to be informed by, and to contribute to, intelligence and operational efforts concerning known criminal groups.

There is also the question of officers' relative expertise in identification and knowledge of organised crime activity. Given the survey evidence of officers' widespread perception of expansion of their role in law enforcement and compliance activity and their concerns about its implications for human resources, regular reviews need to address:

- training in and access to specialised skills
- occupational health and safety
- procedures for referral to police and other relevant agencies.

At a national level, several strategic objectives of the *Australian Fisheries National Compliance Strategy 2005–2010* (Australian Fisheries Management Authority 2004) already represent a policy commitment to monitor and respond quickly to opportunistic and organised criminal involvement in fisheries, through cooperation between stakeholders and among jurisdictions. It is too soon to tell whether implementation of the policy will occur on a national scale. Increasing the capacity of fisheries regulatory agencies to

investigate serious fisheries crime through greater sharing of intelligence with police and introducing uniform sanctions nationally might reduce and prevent serious crime in all Australian fishing sectors.

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All URLs were correct at 20 October 2008

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