

# Maritime Security and Illegal Fishing: A National Disgrace

Labor's Transport and Maritime Security Taskforce

TERMS OF REFERENCE .....	3
TASK FORCE HEARINGS TO DATE .....	4
FOREWORD.....	7
OVERVIEW.....	8
BACKGROUND .....	10
Structure of the illegal fishing industry .....	10
The role of the Navy .....	12
CHALLENGES .....	14
Impact of illegal fishing on the Commercial Fishing Industry.....	14
The impact of illegal fishing on local communities.....	17
One Arm Point .....	17
Maningrida .....	18
The Tiwi Islands.....	19
Threats to Australia’s quarantine status .....	21
Threats to our Ecosystems.....	23
THE NEED FOR NATIONAL LEADERSHIP .....	25
The Howard Government’s failure to deter illegal fishers.....	25
A problem out of control.....	25
The ‘tag and release’ policy .....	25
THE WAY FORWARD.....	27
Adopting a coordinated approach to maritime surveillance .....	27
DETERRENTS.....	28
An Australian Coastguard .....	28
Enlist the Merchant Navy into the surveillance task .....	30
State and Territory Fisheries .....	30
Indigenous Patrols.....	33
Further consultation with the Indonesian Government .....	34
MOU Box .....	34
The development of alternative fisheries projects in Indonesia .....	35
Sinking boats at sea .....	36
Quarantine Risk Management Procedures .....	38
CONCLUSION.....	40

## TERMS OF REFERENCE

The Caucus Taskforce on Transport and Maritime Security was established to:

- a) Identify weaknesses in Australia's transport security, focussing in particular on regional airports, land and rail transport.
- b) Identify weaknesses in Australia's maritime security, in particular:
  - i. illegal foreign fishing in Australian waters, and associated threats to border control, public health, quarantine protection and fisheries resources arising from this problem; and
  - ii. Carriage of dangerous cargo in Australian waters and through Australian ports, in particular by foreign-crewed vessels;
- c) Propose practical measures to address these weaknesses.

This report focuses on a range of practical strategies to address weaknesses in Australia's maritime security with regard to illegal foreign fishing in Australian waters, and associated threats to border control, public health, quarantine protection and fisheries resources arising from this activity.

A further report will be produced at a later date to address those terms of reference relating to regional airports, urban public transport, and the carriage of dangerous cargo in Australian waters and through Australian ports.

## MEMBERS OF THE TASKFORCE

Chair:	Anna Burke MP
Deputy Chair:	Steve Gibbons MP
Secretary:	Senator Glenn Sterle
Members:	Dick Adams MP
	Roger Price MP
	Senator Ruth Webber

## TASKFORCE HEARINGS TO DATE

### **Perth, Western Australia, 2 February 2006.**

Evidence was taken from the following people:

Hon. Jon Ford MLC **Western Australian Minister for Fisheries.**

Mr Guy Leyland and Ms Felicity Horn, **Western Australian Fishing Industry Council Inc.**

### **Broome, Western Australia, 17 February 2006.**

Evidence was taken from the following people:

Mr Brett McCallum, **Pearl Producers Association;**

Mr Adam Masters, Mr George Hamilton, Mr Paul Cordingley, and Mr Dennis Linnaker, **Northern Demersal Scalefish Fishery;**

Mr Graham Campbell (President) and Mr Ian Bodill (CEO), **Shire of Broome;**

Mr Reith MacLeod (Airport Manager), **Broome International Airport;**

Mr Larry House, **Clipper Pearls;**

Mr Grant Smart, **North West Tourism;**

Mr Chris Mitchell (Supervisor of Fisheries Officer International Operations Group) and Mr Tim Nicholas (Compliance Manager), **Western Australian Department of Fisheries;**

Mr Wayne Bergman (CEO), **Kimberly Land Council;**

Mr Chris Geraghty, **Broome Port Authority;** and

Mr Craig Brockway, **Australian Quarantine Inspection Service.**

### **One Arm Point, Western Australia, 18 February 2006.**

Evidence was taken from the following people:

Mr Graham Maisey (CEO) and Mr Andrew Carter (Chairman), **Bardi Indigenous Community;** and

An aerial tour of King Sound and Brue Reef was conducted, accompanied by Mr Barry Sharpe and Mr Paul Fitzpatrick of the **Western Australian Department of Fisheries.**

### **Murdoch University, Perth, Western Australia, 20 February 2006.**

Evidence was taken from the following people:

Professor Graham Wilcox (Virology); Associate Professor Stan Fenwick (Public Health); and Dr Mark O'Dea (Veterinary Virologist), **Murdoch University.**

## **Northern Territory, 21 - 22 March 2006.**

Evidence was taken from the following people:

Mr Garry Tucker and Mr Kevin Langham, **Australian Quarantine Inspection Service**;

Prof. Gordon Duff and Mr Joe Morrison, **National Aboriginal & Islander Land and Sea Management Association**;

Council Rangers **Tiwi Island Land Council**;

Mr Iain Smith, CEO, **Northern Territory Seafood Council**;

Mr John Christophersen, **Northern Land Council**;

Hon. Kon Vatskalis MLC **Northern Territory Minister for Primary Industry and Fisheries**;

Ms Adele Pedder, **Australian Marine Conservation Society**;

Mr Peter Robertson, **Environment Centre of the Northern Territory**;

Mr Tony Wurramarrba (Chairman) and Mr Ross Hebblewhite (Manager),

**Anindilyakwa Land Council**;

Mr Chris Makepeace, Executive Director, **Amateur Fishing Association of the NT**;

and  
Commodore Campbell Darby, **NORCOM**.

## **Canberra, 29 March 2006.**

Evidence was taken from the following people:

Mr Dean Summers and Mr Rod Pickette, **Maritime Union of Australia**;

Mr John Allan and Ms Danni Whyte, **Transport Workers' Union of Australia**; and

Mr Bob Hayden, **Rail Tram & Bus Union**.

## **Tasmania, 3 April 2006.**

Evidence was taken from the following people:

Mr Arthur Dobson, **Post-Polio Tasmania**;

Mr Bernie Smith (CEO); Mr Charles Black (General Manager Port Services) and Mr Richard Barnard (General Manager Infrastructure and Property Services), **TasPorts Authority**;

Mr Mike Downie (Mayor) **Central Coast Council**;

Mr Alwyn Boyd, Mr Kevin Hyland and Ms Waratah-Wynard, **City of Burnie**; and

Mr Paul Arnold and Mr Alan Leeson (Manager) **Burnie Airport**.

## **Melbourne 7 April 2006.**

Evidence was taken from the following people:

John Allan Federal Secretary **Transport Workers' Union**

Danni Whyte **Transport Workers' Union (Victorian Branch)**

## **Karratha, Western Australia, 12 - 13 April 2006**

Evidence was taken from the following people:

Mr Warren Fish and Mr Luke Blackburn, **Woodside Energy**; and  
Workplace Delegates, **Maritime Union of Australia, Australian Maritime Officers' Union** and **Australian Institute of Marine & Power Engineers**.

## **Brisbane, Queensland 19 April 2006.**

Evidence was taken from the following people:

Mr Jim Mullin (Executive Director), **QLD Corrective Services**;  
Mr Hughie Williams (QLD Branch Secretary), **Transport Workers' Union**;  
Mr Bruce Mackay, **Rail Tram and Bus Union**;  
The Hon. Paul Lucas MP Queensland **Minister for Transport and Roads**  
Ms Margo Canavan, **Pinkenba Residents Association**;  
Mr Jason O'Brien MP **Queensland State Member for Cook**;  
Mr Mick Carr (Secretary) and Delegation, **Maritime Union of Australia**;  
Neil Green **Queensland Seafood Industry Association**

## **Cairns, Queensland, 20 April 2006**

Evidence was taken from the following people:

Mr Chris Bolland (General Manager Seaport) **Cairns Port Authority**;  
Mr Phil Warwick, **Cairns Airport**;  
Mr Wayne Bayne, **Boating Industry Association**; and  
Mr Jim Turnour, **Federal Labor Candidate for Leichardt**.

## FOREWORD

This Taskforce has been asked to identify weaknesses in Australia's transport security, focussing in particular on regional airports, land and rail transport. It was also asked to investigate Australia's maritime security, in particular, illegal foreign fishing in Australian waters, and associated threats to border control, public health, quarantine protection and fisheries resources arising from this problem.

Finally, the Taskforce was in addition asked to investigate the risks associated with the carriage of dangerous cargo in Australian waters and through Australian ports, in particular by foreign-crewed vessels.

The Taskforce has visited 10 locations and taken evidence from more than 50 witnesses.

This report is based on the evidence taken by the Taskforce from a large number of witnesses from the most affected regions and communities along Australia's northern coastline.

The report focuses on a range of practical strategies to address weaknesses in Australia's maritime security system, with particular reference to illegal foreign fishing in Australian waters.

A further report will be produced at a later date to address those terms of reference relating to regional airports, urban public transport, and the carriage of dangerous cargo in Australian waters and through Australian ports.

## OVERVIEW

The Howard Government's failure to properly police Australia's northern coastline has resulted in an invasion of foreign fishing vessels. After years of neglect, the number vessels entering Australian territory has reached crisis point.

In 2005 Coastwatch recorded 13,018 sightings of illegal vessels in Australian waters, a 35 per cent increase from the previous year. Only 280 illegal vessels were apprehended and a further 327 boats had their fishing gear and catch confiscated representing just 4.6 per cent of all sighted vessels. This problem is now out of control.

The Howard Government has put no meaningful deterrents in place to discourage illegal fishers: there is almost no chance they will be caught; even if they are it is unlikely that they will be fined or prosecuted. The funding package announced in the 2006/07 Federal Budget provides little more than additional funding to support a failed approach while some measures are simply cosmetic.

Not only is there a dramatic increase in illegal vessels entering our waters, there is also an alarming increase in the number of these vessels landing on the Australian mainland. Illegal fishers are landing on the Australian mainland and establishing supply camps. Many of these boats carry dogs that might have rabies and chickens that could carry avian flu. These boats present a significant quarantine and public health risk.

Illegal fishing is no longer confined to traditional subsistence fishers. Many illegal fishing vessels now come equipped with echo sounders, radar and global positioning systems. Sophisticated criminal syndicates can now view Australian waters as 'easy pickings'.

The lack of adequate surveillance of Australia's northern coastline and adjoining waters is also an open invitation to drug and people smugglers.

In addition to threatening the economic viability of Australia's domestic fishing industry, the illegal fishing crisis poses a real threat to our quarantine status, public health and national security.

## BACKGROUND

### ***Structure of the illegal fishing industry***

The Taskforce was provided with considerable detail about the changing nature of illegal fishing activity in the north. Much of this information had been gathered from Indonesian fishers and from various state and local groups' own fact-finding missions to Indonesia. The Taskforce was also briefed by Professor James Fox of the Research School of Pacific and Asian Studies at the Australian National University.

Most illegal fishers are from Indonesia with the trade becoming increasingly sophisticated in recent years. It is clear that traditional Indonesian fishers have been replaced by highly commercialised fleets operated by a small number of owners. The Taskforce heard there is an increasing presence of Chinese financiers involved in funding illegal fishing.

The Task Force was told that the *Bas* [Indonesian boss] funds the boats and meets the costs of each trip. Fishers are then in debt to the *Bas*. A successful trip nearly pays out the debt – but not quite. An unsuccessful trip locks in the fisher to the *Bas* for ever. *Bodi* – small, fast shark boats with two 24-28HP engines and GPS navigation fishing mainly off the north-west coast of Western Australia - are operating on the basis that only one in ten will ever be caught.

The trade has been concentrating on shark fin due to high international prices.

<b>Price of Shark Fin (Rote/Kupang:2005)</b>		
	<b>Rp per kg</b>	<b>\$AUD</b>
<b>Class I (Size &gt; 60 cm)</b>	<b>1,200,000</b>	<b>171.00</b>
<b>Class II (Size 40 – 60 cm)</b>	<b>800,000</b>	<b>114.00</b>
<b>Class III (Size 40 cm)</b>	<b>200,000</b>	<b>29.00</b>
<b>Base (of Shark Tail)</b>	<b>65,000</b>	<b>9.00</b>

Source: **REPORT ON ILLEGAL FISHERMEN IN AUSTRALIAN WATERS: Shark Fishermen from Merauke, Dobo, Saumlaki and Papela**, Professor James Fox, ANU

Indonesian fishers are prepared to risk their lives to journey into Australian waters because the profits from a successful trip are so great. According to Professor Fox, around 40 Indonesian fishers drowned in Australian waters last year.

The Taskforce was told that in recent times there has been a shift to reef fish which are sought by the Asian hotel trade. Trochus shell is also targeted.

The shift away from shark fin to reef fish is confirmed by the increase in the numbers of Chinese and Thai trawlers engaging in illegal fishing in Australian waters. The Taskforce was advised that recently there has been a shift to larger, more sophisticated boats.

'Ice boats' with a crew of 12 to 14 have been sighted in increasing numbers. These boats, ranging up to 60 tonnes, can operate in Australian waters for up to 10 days – the life of the salted ice on board. They are more likely to carry animals and food supplies on board, including fruit and vegetables, which present a significant quarantine risk.

These boats are steel hulled with a foam interior (much like a giant esky) and are difficult to destroy at sea. They are generally registered in Indonesia either at a regional or national level. They appear to be from areas north of Timor.

A number of 'mother' (commercial) ships have been sighted in Australian waters. These are sophisticated ships with crews of around 20.

## ***The role of the Navy***

Headquarters Northern Command - NORCOM - is accommodated in Larrakeyah Barracks and adjacent to HMAS Coonawarra in Darwin, NT. Commander NORCOM is the most senior ADF officer permanently overseeing Australia's northern theatre of operations, including Operation Cranberry, Operational Relex II and Operation Breakwater. In March 2004 NORCOM had its operational responsibilities integrated into the new Joint Operations Command structure. While the Joint Operations Command is commanded by the Vice Chief of the Defence Force from Canberra, NORCOM remains a decentralised element of this joint command. The decentralised structure recognises the unique strategic importance of northern Australia to the ADF.

The Taskforce was briefed on the new patrol boats that will operate off the northern Australian coast and the new crewing arrangements that will extend the operating time of the boats. These boats will add to the effectiveness of the Navy carrying out its traditional naval tasks in the region.

However, Navy boats are primarily designed and crewed for traditional naval duties and are not the most cost effective way confronting illegal fishing. Cost effectiveness is important because we need to maximise the number of hulls we can put in the water to interdict illegal vessels.

While our sailors perform an admirable job with the equipment provided, the reality is that the Navy's vessels are often too big and cumbersome to enter shallow waters and creeks where illegal fishers often hide out.

The role of the Navy in combating illegal fishing is not indefinite – it is subject to availability. As the rapid deterioration of the situation in East Timor showed recently, RAN assets can and do require swift and forward deployment. In such instances combating illegal fishing will take a back seat.

Questions have arisen as to the capacity of the Navy to interdict illegal fishing vessels due to operational constraints on Navy resulting from specific rules of engagement. The vessels of the Australian Customs Service – as a key civilian agency responding

to foreign illegal fishing activity in the north – are now appropriately armed with deck mounted guns. But it is illogical for Naval Officers and Customs Officers to operate under separate chains of command and differing rules of engagement in performing essentially the same task. This fragmentation needs to be addressed.

It is difficult for both the Navy and Customs to deal with these foreign boats at night and they are difficult to locate in the mangroves during the day. Radar cannot detect the small wooden boats in the mangroves.

While the Taskforce considers that the Navy applies its resources as best it can to locate and apprehend foreign boats illegally fishing in deeper waters, its effectiveness is limited by a number of factors including operational limitations on vessels and other demands on its resources.

The Taskforce was briefed by the Commander of NORCOM about the operation of the Offshore Protection Command. NORCOM's capacity is a step in the right direction but its capacity to deal effectively with what is a dramatically escalating problem of illegal incursions into Australian territory is limited.

## CHALLENGES

### ***Impact of illegal fishing on the Commercial Fishing Industry***

The Taskforce spoke at length to representatives of the commercial fishing industry and the consensus was that the Howard Government has failed their industry. Numerous fishers expressed serious concerns that the Howard Government is completely out of touch with their plight and that their livelihood, their industry and, in a majority of cases, their family businesses were being destroyed by illegal fishing.

Commercial fishing in northern Australia is a key economic driver with direct investment in wild catch fisheries in the Northern Territory alone in the order of \$1.4 billion. The Taskforce was told that in the Northern Territory there are over 650 businesses directly involved in the seafood industry, employing approximately 1500 people. There are 330 registered commercial fishing vessels.

The commercial fishing industry has long accepted the need for an ecologically sustainable catch. They have accepted limits on their catch and numerous other imposts, but they cannot comprehend why they are reducing their take to sustain stock while the Howard Government does nothing to stop illegal fishers plundering our waters.

The industry told the Taskforce it has tried for many years to play its part in the containment of illegal fishing by regularly reporting sightings of illegal boats, but the lack of feedback or action by the Howard Government has left the industry feeling the authorities no longer care.

The Taskforce was told of recent cases of Australian fishermen reportedly being threatened by Australian authorities with charges of piracy if they intercepted an illegal boat or destroyed the illegal boat's nets. This approach has left the industry despondent or worse – as one individual fisher said, they are “beyond despair”.

The industry repeatedly raised the impossibility of managing a fishery in a sustainable way when the size of the illegal catch is unknown and control over the illegal catch is non-existent.

The industry representatives said they were not aware of any research being done into the size of the illegal catch or the current state of fish stocks in our northern waters, so they could not understand why they were being asked again to take a reduction in catch when there was no evidence demonstrating the need to do so.

The commercial fishers in Cairns had serious concerns about the Howard Government's lack of action on illegal fishing. They have begrudgingly accepted the closure of large sections of the Great Barrier Reef to ensure the reef is protected. The Taskforce was told these closures had all but destroyed the charter fishing trade. What the industry could not accept was the lack of patrolling of the Great Barrier Reef to ensure illegal fishers do not destroy it. Commercial fishers told the Taskforce that foreign boats are not only taking precious fish stocks, they are also contaminating the Reef through the discharge of bilge water, oil and numerous other contaminants into this World Heritage listed area. They said the Howard Government seems unable or unwilling to act.

The Taskforce was told of a recent incident on Raine Island (a highly protected conservation area where turtles breed) where an illegal vessel had moored for three weeks to catch shark and was not apprehended, even after numerous calls to the authorities. The commercial fishers in Cairns and surrounding areas are fined heavily for going into the protected areas, but the illegal boats appear to be operating in the area unchecked.

The Northern Territory Seafood Council was just one body that highlighted to the Taskforce the need for a plan to combat illegal fishing, stating that there has been no formal contact with the commercial fishing sector by any of the Commonwealth agencies, and no feedback from Customs about reported sightings from fishers.

The commercial fishers have called on the Minister for Fisheries, Senator Eric Abetz, to organise a national forum of stakeholders.

## **COMMENT**

**The Taskforce is strongly of the view that government agencies should be utilising the fishing industry in the fight to gain control of our northern fisheries and protect our borders.**

**The Taskforce is of the view that a successful approach to halting illegal fishing requires a national strategy with a high level of co-operation between all levels of government, agencies and stakeholders.**

## ***The impact of illegal fishing on local communities***

### **One Arm Point**

The Taskforce had the opportunity to visit a number of remote communities to gain a first hand account of the impact of foreign illegal fishers in the north. The indigenous community at One Arm Point in the northwest of Western Australia told the Taskforce that it was very important for the community to preserve and protect its traditional lands and waters.

The One Arm Point community, which has a population of approximately 350 people, was furious about the activity of Indonesian trochus shell poaching, which has all but wiped out the community's commercial trochus enterprise. The community has built a profitable trochus farm and had been harvesting the valuable shell at a rate of around 10 tonnes per year. Community leaders told the Taskforce that their survival very much depends on this resource being protected and managed sustainably. Last year the community made \$85,000 exporting trochus shell to Italy.

Processing trochus shell is hard work "from sun up to sun down", but the work is only seasonal. The community told the Taskforce of plans to further develop the enterprise to help them move away from a dependence on government funding through the Community Development Employment Project. In their own words they are "desperate to be self-sufficient".

The community identified the need for full-time patrols to protect their resources as the Indonesian illegals poach trochus even during the cyclone season. These patrols should also reinforce border protection. The community also expressed great concern about the possibility of disease being transmitted to native flora and fauna.

The One Arm Point community overwhelmingly supported the State Government's sea ranger program but said it was not enough. They say there is a need for the Federal Government to permanently locate a border protection vessel in Broome.

The community said it was considering suing the Howard Government over its failure to protect their property from exploitation by Indonesian fishers.

## **Maningrida**

The Maningrida community told the Taskforce the intrusion onto Aboriginal land by foreign illegal fishers was an issue that caused widespread concern in Indigenous communities. They said this was the result of the failure of the Federal Government to assert national sovereignty.

Community leaders told the Taskforce they have long been alerting Customs and the Navy of the presence of boats but have found the response inadequate. Community leaders have also offered assistance regarding surveillance but with little response.

The community said since September 2005 there had been 26 suspected illegal fishing boats sighted around Maningrida.

The community said there was a need to consider the cost of dealing with these intrusions in the context of the cost of managing an outbreak of foot and mouth disease through the Northern Australian feral pig population.

The community suggested there was a need to look at the funding arrangements and conditions for Kakadu rangers as a possible model for the development of a network of indigenous sea rangers across the top of Northern Australia.

The cost of the sea rangers at Maningrida is \$250,000 a year. The community has three boats at the moment and would be prepared to dedicate one of these vessels to a surveillance role.

The Taskforce was told that there should be a rapid response capacity to back up the sea ranger network along the coast. Consideration should also be given to regionalising the holding of Indonesian boats rather than having them towed into Darwin.

Northern Territory Fisheries is currently providing the community with \$60,000 for surveillance work by the sea rangers. The Bawinanga Aboriginal Corporation is also supporting the program.

## **The Tiwi Islands**

The Taskforce was told by the Tiwi Land Council that to provide an effective sea ranger presence around the Tiwi Islands there was a need to expand the current sea ranger program which employs two sea rangers.

These sea rangers have been operating since the early 1990s and are paid a full-time wage by the Tiwi Land Council. The Council also receives funding through Northern Territory Fisheries.

One ranger covers the west coast of Bathurst Island while the other covers the Melville Island coastline. They operate two 4.5 metre vessels.

The Council told the Taskforce that in recent years there has been an explosion in both amateur and charter fishing leading to the exploitation of fish resources and the unauthorised access to Aboriginal land.

The Council said it had responded to this pressure by establishing special fishing camps on the islands with the Northern Territory Amateur fishers. These camps are monitored by the sea rangers.

The Council told the Taskforce it no longer receives any advice from Coastwatch about possible illegal boats in the area – advice used to be given if a boat was located from the air. The Council had no evidence of any Indonesian camps on the islands but nets and marine debris are regularly washed ashore.

The Council advised the Taskforce that to provide an effective sea ranger operation it needed two larger boats and two more sea rangers. The Islands are about 280 nautical miles from Indonesia.

## **COMMENT**

**The Taskforce believes that local communities along Australia's northern coastline should be considered important stakeholders in the development and implementation of a comprehensive and effective strategy to control illegal foreign fishing. While the 2006-07 Budget allocated \$6.9 million to the Indigenous Marine Ranger Program, the Taskforce is of the view that this is not sufficient.**

## ***Threats to Australia's quarantine status***

The Taskforce was repeatedly told that there are an increasing number of foreign vessels landing on the Australian mainland. There is also evidence that the crews on these boats are establishing depots or outposts for the storage of their catch, food supplies and fishing gear.

These landings are in remote areas with few, if any, controls to mitigate the risk of introduced pests and diseases. The Taskforce was told that a large number of human diseases including cholera, hepatitis, dengue fever, tuberculosis, polio and malaria are prevalent among Indonesian fishers.

The presence of mosquito larvae on many of the apprehended boats also poses a serious risk to human health, including malaria and dengue fever.

The risk of introducing these diseases is significantly heightened by the presence of rodents and insects on these boats. The Taskforce was also told it was common for these boats to carry parrots, chickens and dogs, further adding to the risk as potential carriers of animal diseases including foot and mouth disease, Newcastle disease and rabies. The Taskforce took evidence that invasive pests such as the black striped mussel could easily be transported to the Australian mainland on these boats, threatening Australia's biosecurity.

The Taskforce was advised that pest incursions in remote areas resulting from foreign boats making landfall could take up to five years before a pest population was big enough to be detectable. The longer it takes to dispose of these boats, the greater the quarantine risk from pests.

If established in Australia, these diseases would pose a significant risk to public health and would cost the Australian economy potentially billions of dollars.

## **COMMENT**

**Australia is largely free of the major diseases and pests that plague the rest of the world. The economic value of our unique quarantine status is significant. Australia's freedom from many of the diseases and pests present in other countries in the region has also preserved our unique flora and fauna.**

**Given the economic, social and environmental value of our quarantine status the Taskforce finds it alarming that the Howard Government has allowed a threat to this status to build through the illegal entry of fishing vessels into Australian waters.**

**Further, the Taskforce is concerned that given the time a disease or pest incursion takes to present, Australia's quarantine status may have already been compromised by the Howard Government's inaction.**

## ***Threats to our Ecosystems***

The Taskforce heard that illegal fishing is having a devastating impact on the marine environment. Illegal fishers are taking up to 25,000 tonnes of shark each year. These sharks are killed only for their fins, and their bodies dumped in the water. Indigenous communities in the Northern Territory told the Task Force that numbers of large sharks have significantly declined in recent years.

The Taskforce was also told that illegal fishers are slaughtering dolphins and dugongs to use as bait to attract sharks. Considering the huge number of illegal fishers entering our waters, this means that each year possibly thousands of dolphins and dugongs in northern waters are being slaughtered for shark bait. Sea turtles are hunted for their flesh and shell. Large numbers of dolphins, dugongs and turtles are also being killed each year in nets which Indonesian fishers drop in Australian waters.

The Taskforce was told of concerns about the impact of illegal fishing on marine biodiversity in Australian waters as illegal fishers ignore the boundaries of protected areas such as marine parks, and do not use fishing measures designed to protect non-target marine species such as turtles.

### **COMMENT**

**In some areas actions to protect the environment have had a significant impact on regional economies and, in particular, the commercial fishing industry. Restrictions have also been placed on recreational fishing.**

**While there have been concerns raised about how measures to protect marine environments have been imposed there has been general support for improved environmental protection.**

**While sectors of the Australian community have accepted significant adjustments to their way of life to protect marine environments in the national interest, inaction by the Howard Government has allowed foreign illegal fishers to plunder our waters at an unsustainable level.**

# THE NEED FOR NATIONAL LEADERSHIP

## ***The Howard Government's failure to deter illegal fishers***

### **A problem out of control**

The Taskforce was repeatedly told that the Howard Government's current approach is not resulting in sufficient apprehensions of illegal operators. Evidence given to the Taskforce suggested that nine out of 10 illegal trips are currently successful.

According to evidence given by Coastwatch to Senate Estimates, 13,018 illegal vessels were sighted in Australian waters last year:

**Rear Adm. Crane** - *I may be able to help you with respect to the sightings. I have some sightings data here for both calendar and financial years. This is in terms of foreign fishing vessels. In calendar year 2004, there were 9,639 sightings by both Coastwatch and ADF assets. In calendar year 2005, there were 13,018 sightings. That is an increase of about 35 per cent. There was a similar trend in financial years 2003-04 and 2004-05. I do not think there is any doubt that there has been an increase in the number of vessels that we have sighted inside the Australian EEZ. Our difficulty is in coming to an absolute figure. The trend is certainly that there is an increasing number of vessels, but coming to an absolute figure is the problem.*

*Source: Senate Legal and Constitutional Legislation Committee, Estimates, 31 May 2006*

And according to the former Fisheries Minister, Senator Ian McDonald, Australian authorities intercepted 607 boats fishing illegally in our northern waters in 2005.

According to Senator McDonald only 280 of those boats were apprehended. The remaining 327 had their fishing gear and catch confiscated. That is, less than half of all actions taken by Customs and Navy vessels against foreign fishing vessels in 2005 resulted in apprehension.

### **The 'tag and release' policy**

The practice of legislative forfeiture was commonly referred to by commercial fishermen who gave evidence to the Taskforce as 'tag and release.' It is clear the Howard Government policy of 'tag and release' does not provide a disincentive to those people engaged in illegal fishing.

The folly of administrative forfeiture has only exacerbated the problem, with crews hiding gear on shore if they are apprehended and their nets seized. Numerous witnesses before the Taskforce were adamant that early destruction of the vessels is the only way to solve the problem.

According to the head of the Australian Fisheries Management Authority, additional funding will enable an average of two boats a day to be apprehended. This is totally inadequate given the sighting on average of 35 illegal fishing boats a day in 2005.

The Taskforce believes the detection and detention rate must increase significantly if the illegal trade is to get the message that the potential rewards are not worth the risk of being caught.

## **COMMENT**

**The Taskforce was told by nearly all witnesses that the current polices for dealing with illegal fishing by foreigners in Australia waters are not working.**

**The Australian fishing industry and the Australian community is now paying the price for the failure of the Howard Government to properly respond to this problem when its dimensions were more manageable.**

**The Taskforce believes Australia should be aiming for a 100 per cent apprehension rate.**

**The Howard Government's 'tag and release' policy is not working.**

**It was the overwhelming recommendation of the commercial fishermen who gave evidence to the Taskforce that a zero tolerance approach be taken with foreign fishing vessels and that, where possible, all foreign fishing vessels be apprehended and destroyed at sea.**

## The way forward

### ***Adopting a coordinated approach to maritime patrolling***

The Taskforce believes the level of foreign fishing incursions will not be reduced unless there is a major increase in the physical presence of authorised patrols off the northern coastline and adjoining waters out to the 200 nautical mile line.

Evidence to the Taskforce suggests that the current level of patrolling is proving to be ineffectual as a deterrent to illegal operators. It is the view of the Taskforce that there needs to be a significant increase in sea level surveillance and apprehension capabilities.

Professor Fox wrote in his December 04/January 05 *REPORT ON ILLEGAL FISHERMEN IN AUSTRALIAN WATERS: Shark Fishermen from Merauke, Dobo, Saumlaki and Papela*:

*“The apprehension rate of the fast bodi boats from Papela is low – so low, in fact, that the threat of apprehension now offers little deterrence. Given the number of bodi that are now known to sail from Papela, it is likely the present apprehension rate is less than 1% or 2% of boats. Unless this apprehension rate is increased significantly, it will have no appreciable effect on the numbers of Indonesian fishermen entering Australian waters.”*

### **Comment**

**The Taskforce believes that a coordinated approach to the patrolling of Australia’s northern waters should be led by an Australian Coastguard and include support from the Navy, the Merchant Navy, State fisheries and Indigenous patrols**

## DETERRENTS

### ***An Australian Coastguard***

The Taskforce believes Australia can no longer rely on the tyranny of distance and geographic remoteness as natural protectors of Australia's border security, biosecurity and economic interests in northern Australia.

Recent international events demonstrate that Australia needs to work increasingly harder to dissuade illegal entry into Australia's northern fishery and coastline.

To do this effectively, Australia requires a Coastguard that has the staff, equipment, training and authority to provide protection and security of Australia's maritime natural resources, to prevent illegal activity in Australian waters and to detect breaches of Australia's coastal borders.

Australia's northern defence is too fragmented and too poorly organised to undertake this complex task. As the CLP Senator from the Northern Territory, Senator Nigel Scullion said during Senate Estimates on 22 May, 2006:

*"In 1999 I spent much of my time in a dinghy roaring around the Torres Strait. On most of those islands – I am assuming it is for employment purposes, and it is a very credible process if that is the case – you can look out the front and there is an Immigration dinghy, a Customs dinghy, a Federal Policy dinghy, a Quarantine dinghy and, invariably, a state or Commonwealth fisheries, AFMA, dinghy."*

An Australian Coastguard, as part of a single integrated border protection agency, is the only way to bring together the required trained personnel, equipment and technology for the tasks which can respond effectively and rapidly to defend Australia's national interests.

The Taskforce received evidence that an effective plan to deal with foreign illegal fishing could include the use of different types of vessels with different capabilities. These are:

1. Intercept and Tow Vessels

High speed, purpose built vessels could have the capability to intercept, seize and tow foreign illegal fishing vessels to holding and processing vessels;

2. Holding and Processing Vessels

Vessels that can hold crews from foreign illegal fishing vessels while health checks are conducted and to hold them until they are transported to detention facilities; and

3. Disposal Vessels

Disposal vessels could collect intercepted foreign illegal fishing vessels from the holding and processing vessels; remove batteries, fuel and other environmental hazards and then destroy them.

**COMMENT**

**There is now an urgent need to develop and establish a dedicated and specialised coastal and maritime security agency – an Australian Coastguard - to protect Australia’s northern coast line and Australia’s adjoining waters from illegal activities and intrusions, and to protect Australia’s natural environment.**

## ***Enlist the Merchant Navy into the surveillance task***

The Taskforce believes the seafarers in the Australian Merchant Navy are uniquely placed to provide information about foreign flagged vessels plying Australian waters. Evidence was received by the Taskforce that it would be relatively simple to train Australian seafarers to report suspicious activity to a Coastguard for further investigation.

## ***State and Territory Fisheries***

It is clear from evidence presented to the Taskforce that there is room for considerable improvement in the coordination of effort across the States, the Northern Territory and the Commonwealth.

The Taskforce was impressed by the level of work being undertaken by the various state and territory governments and individual ministers. The state and territory governments have called for a national summit to address the issue of illegal fishing. There is a disconnect between the Commonwealth and other stakeholders in response to this national crisis, and the lack of co-ordination amongst the various agencies was of extreme frustration to the Governments of Western Australia, Queensland, and the Northern Territory.

The Western Australian, Northern Territory and Queensland Governments have applied to the Commonwealth Government for additional funding to meet the cost of additional patrol boats. The State and Territory governments have also advised the Commonwealth they would consider committing resources to assist the national effort in enforcing foreign fishing compliance if:

- the Commonwealth would provide support in the prosecution and repatriation of any foreign fishing vessel crews apprehended by State or Territory officers;
- the Commonwealth would continue to provide legislative authority under the *Fisheries Management Act 1991* to State or Territory officers so they can

- expeditiously deal with breaches committed by foreign fishing vessels in Commonwealth waters which are detected by State or Territory officers;
- the Commonwealth would continue to support the provision of security clearances to State or Territory officers;
  - the Commonwealth would continue to provide high grade foreign fishing vessel intelligence information on an ongoing and confidential basis; and
  - the Commonwealth pays its fair share of the costs with the States and Territory to improve coastal surveillance and intelligence networks by Indigenous communities along the northern Australian coast and improve coverage on breaches associated with quarantine, migration, disease and customs.

The Western Australia Government has tried to fill the void left by the Federal Government by funding its own patrols, but they firmly believe this is not the state's responsibly and is not sustainable in the long term.

The poor quality of information sharing is causing enormous problems and often it seems that no one knows who is ultimately responsible for responding to an illegal fishing sighting.

The Taskforce was told there are inconsistencies between various state laws and Commonwealth laws relating to illegal fishing. There are differing approaches to apprehension across jurisdictions. Federally, most illegal fishers who are caught are simply detained and then deported.

Concern was raised by various State Governments about the cost of housing illegal fishers in state prisons. There was also confusion about who is ultimately responsible for their incarceration and the associated cost. In some states there appeared to be no formalised arrangement (such as a memorandum of understanding with the Commonwealth) about detention of illegal fishers.

## **COMMENT**

**The Taskforce believes there is a need to commit to the development of a 'Team Australia' approach to the problem of illegal fishing and to end the blame game and buck passing.**

**While the State Fisheries Ministers from Western Australia, Queensland, and the Northern Territory have joined forces to tackle the problem of illegal fishing, more can be done by the Commonwealth to develop a uniform approach.**

**There is a need for the Commonwealth to take the lead to ensure greater cooperation and information sharing across all jurisdictions. Part of this coordinated approach must include greater consistency of regulations and laws across state and territory boundaries.**

**The Taskforce believes that further discussion and consultation is required to determine the nature of the punishment applied to illegal fishers. Furthermore, who houses them and who pays for their detention are questions that must be addressed.**

**The Taskforce believes the Federal Government must engage with the state and territory governments via a national summit on illegal fishing.**

## ***Indigenous Patrols***

There are currently 12 established indigenous marine ranger groups located along the Northern Territory coastline with potential for a further two. The Northern Territory marine rangers undertake a variety of activities including local monitoring and surveillance of remote Northern Territory coastal waters, mainland coastal islands and reefs.

Coastal Indigenous communities have cultural obligations to their country and intimate knowledge of the waters around their country. The Taskforce believes the Northern Territory Indigenous Marine Ranger Program should be expanded to coastal Indigenous communities across the north of Australia.

### **COMMENT**

**The Taskforce believes that Indigenous sea rangers have a key role in any effective program to address the growing problem of illegal fishing. Given that almost 85 per cent of the Northern Territory coastline is Aboriginal land the Taskforce is of the view that Aboriginal sea rangers have a key surveillance role to play.**

**The Taskforce supports investment in an expanded sea ranger program including funding for training and proper equipment. If the sea ranger program is to be effective it should include salaried and permanent positions not only positions funded through the CDEP program as is currently the case.**

## ***Further consultation with the Indonesian Government***

The cessation of illegal fishing also requires greater co-operation and consultation with the Indonesian Government. The importance of sharing intelligence and a cooperative approach to controlling the level of foreign fishing in Australian waters is paramount in stopping illegal fishers from plying their trade.

Another reason for the lack of effective action by Indonesian authorities is a claimed lack of the necessary physical assets to undertake the necessary surveillance and policing to prevent illegal fishing by its nationals in Australian waters. While several Howard Government Ministers over the years have announced the concept of joint naval patrols, the Taskforce has been told that these are a long way off.

The Taskforce has heard evidence that there needs to be more full and frank discussions with the Indonesian Government about the serious consequences for both nations if illegal fishing is not curbed. Professor James Fox of the Australian National University told the Taskforce that, although there are conflicting views, some experts believe Indonesian waters are close to being completely depleted of their fish resources as a result of illegal fishing in Indonesian waters. While it would result in a surge in illegal fishing in Australian waters, it would also have a devastating impact on the Indonesian population.

### **The “MOU Box”**

In addition to exercising its rightful jurisdiction over its Exclusive Economic Zone (EEZ), Australia recognised that subsistence fishing by Indonesian fishers in Australia’s northern waters had been a traditional activity for many years prior to Australia invoking its legal rights over the ownership of marine resources in the 200 nautical mile maritime zone from Australian land territory.

In 1974, Australia and Indonesia concluded a Memorandum of Understanding (MoU) that permitted Indonesian traditional fishermen access to a box-shaped area in the vicinity of the Ashmore Islands, Scott Reef and Browse Reef within Australia’s Exclusive Economic Zone.

While well intentioned at the time the “MoU Box” initiative has proved to be highly flawed in its application.

Evidence to the Taskforce suggested that the “MoU Box” is being extensively fished not by traditional fishers but foreign commercial fishers. The “MoU Box” also provides a convenient cover for foreign based illegal and unsustainable fishing in adjacent Australian waters.

## **COMMENT**

**The Taskforce believes there is a need for a greater emphasis on more meaningful dialogue, followed through with action, and intelligence sharing on illegal fishing activities in our region. The Taskforce is of the view that the current “MoU” arrangements no longer work and must be reviewed immediately.**

### ***The development of alternative fisheries projects in Indonesia***

The Australian Government has worked with AUSAID and the World Development Bank to develop alternative fisheries projects in Indonesia including projects based on aquaculture and tourism. While evidence was presented to the Taskforce that some of these projects were ill-conceived and failed to provide sustainable alternative sources of income, it was suggested that continuing and improving such programs would be both a gesture of good will, and if successful, reduce the economic need for some illegal fishing activity.

## **COMMENT**

**The Taskforce believes that effective, targeted assistance to Indonesian communities currently dependant on illegal fishing in Australian waters must be included in any plan to control illegal fishing. However Indonesian fishers are**

**unlikely to adopt alternative livelihoods in substantial numbers until the Australian Government establishes effective deterrents.**

### ***Sinking boats at sea***

The Taskforce had numerous discussions about the need to sink apprehended illegal fishing boats at sea. There was certainly no unanimous acceptance of the need or desire to sink the boats at sea, but from a quarantine perspective the Taskforce was told this was desirable.

The Taskforce was advised there are international legal impediments to simply sinking vessels. The London Treaty set out rules relating to the disposal of vessels at sea and Australia is a signatory to that treaty. There is also a legal process that must be followed in relation to the confiscation of boats and the process of bond payments for their release.

The general position under international law (specifically under the Article 73 of United Nations Convention of the Law of the Sea, or UNCLOS) is that foreign vessels and their crews detained for suspected illegal fishing in Australia waters must be released upon the posting of 'reasonable' bond or other security. The vast majority of foreign operators fishing illegally in northern Australia cannot afford to post such security and thus may be detained.

Section 106D of the *Fisheries Management Act 1991* does however provide that on behalf of the Commonwealth, the Australian Fisheries Management Authority (AFMA) may destroy a boat if satisfied that a boat is unseaworthy or poses a serious risk to safety, public health or quarantine; or the expenses of custody and maintenance of the boat between its seizure and condemnation are likely to be greater than its value.

It was suggested to the Taskforce that the powers under section 106D of the *Fisheries Management Act 1991* be utilised to seize and destroy, where practicable, all vessels which are intercepted and are engaging in illegal foreign fishing. By seizing and destroying all illegal foreign fishing vessels it is hoped that a genuine disincentive to illegal foreign fishing activity will be created and recidivist activity reduced.

## **COMMENT**

**While there are differing views on how best to dispose of foreign fishing vessels the Taskforce believes the current approach is not effective in acting as a deterrent to illegal operators or minimising the quarantine risk presented by their boats.**

**The Taskforce is of the view that the option of sinking boats found fishing illegally in Australian waters should be further explored.**

## ***Quarantine Risk Management Procedures***

While effective quarantine risk mitigation processes are carried out in a professional manner by Australian Quarantine and Inspection Service officers the number of foreign boats breaching the Australian border and the increasing number of landings by these boats means the quarantine risk from illegal foreign fishers remains significant.

There are increasing numbers of pets being found on these boats and that is linked to the increasing number of larger boats involved in this activity. The crews are now going to great lengths to conceal their catch and equipment.

There is also an increasing volume of fresh provisions being found on board further increasing the quarantine risk. The Taskforce was also told that navigation and communication equipment found on these boats is becoming increasingly sophisticated - improving the ability of foreign fishers to avoid being located and taken into custody.

### **COMMENT**

**It is the view of the Taskforce that there is a need to improve quarantine management arrangements by upgrading the level of quarantine response to landings and the location of vessels in remote areas.**

**The Taskforce was advised that large areas of the northern coast are uncharted or poorly charted which presents a significant challenge for Customs and the Navy.**

**It is the view of the Taskforce there must be a further enhancement of the current arrangements to protect the northern coastline from the introduction of exotic pests and diseases through foreign illegal fishing boats.**

## Conclusion

**The Howard Government has proven to be incapable of managing Australia's maritime security.**

**Beyond the spin lies the reality that over the last decade illegal fishing in Australian waters has reached crisis-point.**

**While the Coalition uses the full-force of the law against the occasional refugee boat, it has done nothing to curb the thousands of illegal vessels entering our waters and plundering our reefs each year.**

**Last year alone, 13,018 illegal vessels entered our waters. Of these, only 280 were apprehended. Many illegal fishers are now setting up camps on Australian soil.**

**If the Howard Government continues to ignore the illegal fishing crisis, the consequences are dire. The Australia we know will change forever.**

**Our northern waters will be depleted of fish resources. Thousands of Australian commercial fishers will lose their livelihoods.**

**Many indigenous communities will struggle to survive.**

**Australia will lose its quarantine status. Our citizens will be at risk of contracting rabies, malaria, dengue fever, and possibly even avian flu.**

**Our billion dollar livestock and agriculture industry will be at risk.**

**Protected species will become endangered species. Endangered species will become extinct.**

**The sophisticated criminal syndicates behind many of these illegal fishing rings will take advantages of the holes in our border security and increase other illegal activities, including drug smuggling and arms trafficking.**

**Australia's maritime security is a national disgrace.**

**The Howard Government must take responsibility for allowing a crisis of this magnitude to occur under its watch. And it must, as a matter of urgency, take action before it is too late.**