

1 July 2014

Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

By email: fadt.sen@aph.gov.au

Dear Madam / Sir,

Australia's future activities and responsibilities in the Southern Ocean and Antarctic waters

I am writing as a student of the University of Tasmania currently studying an undergraduate degree in Antarctic Science. Through my undergraduate education I held a high regard for the values that we place on the Antarctic and Southern Ocean environments. I am honoured for the opportunity to comment on the future activities of the Australian government in the Southern and Antarctic Oceans.

As I study in Hobart I am exposed to the wide range of invaluable scientific research which is undertaken in the fields of fisheries, ocean management, and climate change.

Illegal, Unregulated and Unreported (IUU) fishing is a global issue which involves national authorities struggling against well organised transnational criminal organisations which form part of a complex dynamic network, capable of adapting to hide beneficiary owners (Österblom, Constable and Fukumi, 2011). Australia as a member of Conservation of Antarctic Marine Living Resources (CCAMLR), has an international obligation to prevent IUU fishing in the Southern Ocean and has previously been quite successful with the allocated large amounts of assets and manpower in the fight against illegal fishers. Australia claims sovereignty over the fishing grounds within the 200 nautical mile (nm) Exclusive Economic Zone (EEZ) of Australia's territory of the Heard Island and McDonald Islands. This area also lies within the CCAMLR fishing regions, and with this area currently legally fished by 4 vessels through the CCAMLR vessel licensing program (CCAMLR 2013) it is of importance that Australia maintains a strong physical presence for the future prevention and deterrent of IUU fishing.

It is of great importance that the Australian government enforces fisheries laws within the 200nm EEZs of Heard Island and McDonald Islands as these islands were declared a marine reserve in 2002 under the *Environment Protection and Biodiversity Conservation Act 1999*. Also, it is of great importance to support the 4 legally operating vessels which target *Dissostichus eleginoides* (Patagonian Toothfish) and *Champscephalus gunnari* (Mackerel Icefish), therefore supporting sustainable fishing within the Southern Ocean as per the aims and objectives of CCAMLR. Both species are vulnerable to overfishing because of their slow growth rates and minimal transient behaviour.

Australia is one of the few CCAMLR members which have territorial waters within the convention area and therefore they are able to conduct patrols and arrest suspects for violations of Commonwealth law within these waters.

Österblom and Bodin (2012) compared 117 organisations and their importance in the roles they play in preventing IUU fishing in the Southern Ocean. The CCAMLR secretariat was identified as the most important actor with the Coalition of Legal Toothfish Operators and two Australian agencies, Australian Fisheries Management Authority (AFMA) and Australian Antarctic Division (AAD) were among the top 4 most important organisations. In order to continue this great reputation for the prevention in IUU fishing a physical presence needs to be held in the Southern Ocean by the Australian government.

Despite this praise for Australia's stance against IUU fishing in the Southern Ocean, the reviews of the Australian Customs Boarder Protection Service's (ACBPS) most recent annual report (ACBPS 2013), highlights the need for more of a presence of Australian assets in Southern Ocean waters. Of the 229 days of patrols for Southern Ocean vessels for surveillance conducted in the financial year ending 30 June 2013 all of these days were conducted in Northern Australian waters (ACBPS 2013).

Therefore in the financial year ending 2013, Australia had no sizeable assets in the Southern Ocean or the vicinity of Heard and McDonald Islands working on the prevention or apprehension of vessels conducting IUU fishing (ACBPS 2013). Consequently, it is evident that currently Australia is not effective in ensuring a presence in the Southern Oceans with no assets and dubious reporting of annual targets in manner that they appear to being met for administrative purposes.

Australia is therefore effectively opening the Southern Ocean back up for exploitation by IUU fishing vessels. The ACBPS reporting that no vessels were spotted during the previous year (ACBPS, 2013) does not mean there are no vessels operating, what it does show is that Australia is not finding them. With interests being shown in bio-prospecting with in the krill fisheries there is a possibility that this industry could suffer the effects of IUU fishing in the future.

Even though the CCAMLR report on fisheries in subsection 58.5.2 (Heard and McDonald Islands) (CCAMLR, 2011) indicates that no IUU fishing vessels are operating, what would be required to substantiate that is the need for a report from vessels that are actively looking in the Southern Ocean, in which there are none.

CCAMLR maintains an IUU vessel list with reports of vessels sightings from members as recent as 21 March 2014, with vessels that have been sighted having histories of fishing within the Heard and McDonald Islands. Therefore Australia is failing to be effective as the vessels are still operating in a wide range or areas in the Southern Ocean and without regular patrols it is uncertain whether they still have a continual operational presence within the Australian EEZ.

In previous years Australia has been quite active in its deterring stance against IUU fishing in the Southern Ocean. Australia had been vigorous in pursuing the issue of IUU fishing since the late 1990s in drawing attention to the problems caused by inadequate control over high

seas fishing in a number of international forums (Haward et al., 2006). With hot pursuits of vessels such as *Viarsa I*, *Taruman* and *South Tomi* Australia held a strong stance against IUU fishing practices in Australian waters. This was evident when on 28 August 2003 the Australian flagged *Southern Supporter* apprehended *Viarsa I* after a 3,900nm chase which lasted for 21 days (Molenaar, 2004).

There are a number of challenges Australia faces in effectively discharging their obligations to counter and deter IUU fishing in this region. In review of Australia's apprehension of IUU vessels, two apprehensions required a bilateral response with assistance from other nations. Therefore a strong international cooperation with France is paramount also for the reduction IUU fishing. Furthermore, the IUU vessels held the advantage of using various legal loop holes and utilising various internal laws and treaties, such as the Convention on the High Seas to their advantage. With the owners' ability to change flag states and names to constantly elude yearly tracking of the vessels from not only nations but also of CCAMLR, their ability to continue to conduct operations increases. Therefore it is paramount that Australia tightens this legal loop hole and puts a priority to the strengthening and furthering of international relations for the further protection of the Southern Ocean.

According to the ACBPS annual report of 2013 (ACBPS, 2013) Australia's plan is to maintain the shared use of the Ocean Shield between ACBPS and the Australian Defence Force with the goal of a complete transfer in 2016. Despite the claims of no currently operating IUU vessels in the Heard and McDonald (ACBPS, 2013), it is hard for Australia to confirm this with no Australian vessels undertaking patrols in these waters. As a contracting party of CCAMLR Australia has an obligation to prevent IUU fishing in Australia's EEZ. Also not only is there benefits from observations of various environmental conditions in the Southern Ocean surrounding the Heard and McDonald Islands during patrols but the entire CCAMLR fishing fleets and contracting parties also share their knowledge of currently operating IUU vessels, so the best steps can be taken to deter them.

In order for Australia to continue to be a leader in protection of the Southern Ocean and its ecosystems it should return to its previous routine of patrols, which it has to date, assigned away from the area. The Australian government must increase funding for this purpose.

I appreciate this opportunity to comment on the future of the management of the Southern Ocean. If the Committee would like any further information regarding these comments, please contact me on

Regards,

Eldene O'Shea

References

Australian Customs and Border Protection (ACBP), (2007). *Annual Report 2004-5*. [online] Available at:

http://www.customs.gov.au/webdata/resources/files/AnnualReport06_07_Full.pdf
[Accessed 17 Apr. 2014].

Australian Customs and Border Protection Service (ACBPS), (2013). *Annual Report 2012-3*. [online] Available at:

<http://www.customs.gov.au/webdata/resources/files/ACBPSAnnualReport2012-13.pdf> pdf
[Accessed 17 Apr. 2014].

Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), (2013). *Licensed vessels / CCAMLR*. [online] Available at:

<https://www.ccamlr.org/en/compliance/licensed-vessels> [Accessed 29 Apr. 2014]

CCAMLR, (2011). *FISHERY REPORT: Dissostichus eleginoides Heard Island (divison 58.5.2)*. [online] Available at: <https://www.ccamlr.org/en/system/files/appl.pdf> [Accessed 29 Apr. 2014]

Haward, M., Rothwell, D., Jabour, J., Hall, R., Kellow, A., Kriwoken, L., Lugten, G. and Hemmings, A. (2006). Australia's Antarctic agenda. *Australian Journal of International Affairs*, 60(3), pp.439--456.

Molenaar, E. (2004). Multilateral hot pursuit and illegal fishing in the Southern Ocean: the pursuits of the *Viarsa 1* and the *South Tomi*. *International journal of marine and coastal law*, 19(1), pp.19--42.

Österblom, H. and Bodin, (2012). Global cooperation among diverse organizations to reduce illegal fishing in the Southern Ocean. *Conservation Biology*, 26(4), pp.638--648.

Österblom, H., Constable, A. and Fukumi, S. (2011). Illegal fishing and the organized crime analogy. *Trends in Ecology and Evolution*, 26(8), pp.261-262.