

Committee Secretary  
Senate Standing Committees on Rural and Regional Affairs and Transport  
PO Box 6100  
Parliament House  
Canberra ACT 2600

1 August 2014

**Re: Current requirements for labelling of seafood and seafood products**

**A joint submission by Southern Shark Industry Alliance (SSIA) and Traffic International**

On 23 June 2014, the Senate moved that the current requirements for labelling of seafood and seafood products be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 27 October 2014.

Members of the Southern Shark Industry Alliance (SSIA) harvest and process gummy shark caught from the southern shark fishery, a sector within Australia's Southern and Eastern Scalefish and Shark Fishery (SESSF). SSIA supports its members by ethical and professional representation to the community and all levels of fisheries management agencies.

TRAFFIC, the wildlife trade monitoring network, is the leading non-governmental organization working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development.

SSIA and TRAFFIC have a shared goal of only wanting to see the sale of shark products derived from sustainable and legal shark fisheries. We are presenting this joint submission because we both believe Australia's seafood labelling requirements do not reflect best practice and as a result, Australia's fish shops and supermarkets are selling shark products potentially derived from threatened shark species or from unsustainable and/or illegal shark fisheries. These sales are in direct competition to our SESSF gummy shark sourced from a fishery that has strict management arrangements in place under Commonwealth Legislation and meets the requirements of EPBC Act strategic assessment.

The term "Flake" refers to shark flesh sold in Australian fish and chip shops, particularly in southern Australia. Over the last half century, most of the flake sold in these shops has come from gummy shark (*Mustelus antarcticus*) sourced from Australia's southern shark fishery. More recently, the term "flake" has been used to cover any shark sold in southern Australia, including imports from unsustainable shark fisheries such as those from South Africa's Demersal Shark Fishery, and even shark species on the IUCN red list.

The inadequacy of Australia's current import codes and seafood labelling requirements allow this to happen.

The Department of Agriculture, Fisheries and Forestry developed the National Plan of Action for the Conservation and Management of Sharks (NPOA-shark) in line with the recommendations of the International Plan of Action for the Conservation and Management

of Sharks (FAO 1999). NPOA-sharks recognises Australia's commitment to shark conservation and the pursuit of ecologically sustainable development.

Australia has very strict measures for Australian harvested shark, but there are no regulations on imported shark. If these overseas fisheries are deemed unsustainable or illegal, then by not adequately regulating its shark imports, Australia is contributing to the unsustainable exploitation of these shark populations. We believe Australia needs to apply an equally burdensome test on the sustainability of shark product imported as those harvested within Australia. We ask the government to put this in place through improved import and seafood labelling regulations.

### **“Flake” from an Australian Fishery and sold domestically**

The SSIA operates as part of the SESSF, a large multi-gear, multi-species fishery spanning south eastern Australia. The Australian Fisheries Management Authority (AFMA) is the body that manages the SESSF. The SESSF's primary management tool is a quota management system using conservative output controls designed to allow stocks to rebuild to, or be maintained at optimal sustainable levels. In addition to these output controls, there are a range of input controls and area closures also in place, to manage and protect wider potential ecosystem impacts. These input controls also serve to ensure that the resource is harvested in a targeted and specific way, in line with Australia's obligations to the UN FAO.

The key commercial stocks taken in the Shark Gillnet and Shark Hook sectors (SGSHS) of the SESSF are managed under a harvest strategy consistent with Australia's Commonwealth Harvest Strategy Policy (HSP). Key elements of this harvest strategy include: 1) a process for monitoring and conducting assessments of the biological and economic conditions of the fishery; and 2) rules that control the intensity of fishing activity depending on how the fishery's biological and economic indicators are performing against quantifiable target and limit reference points.

Under this strict management framework, the Gummy Shark stocks are described as “Not overfished” and “Not subject to overfishing” with biomass levels “being close to or above the stock's target reference point” of 48% virgin pup production (Abares 2013). In addition to the controls on target species, there are numerous other management controls operating in the SGSHS to ensure the risks to byproduct, bycatch, threatened endangered and protected species (TEPS), habitats and communities are kept within acceptable levels.

To assess the effectiveness of AFMA's management controls on the fishery, a Level 2 ecological risk assessment (ERA) of 329 species that could potentially be captured in the fishery was conducted (Walker et al. 2007). Further Level 3 assessment (Zhou et al. 2007) of chondrichthyan and teleost species and Residual Risk Assessment process (AFMA 2010) resulted in only nine species considered to be at high risk from the fishery, comprising six shark species and three marine mammals. A suite of strict management measures has been introduced to limit the impact of this fishery on depleted School Shark stocks which occur as a byproduct of fishing for Gummy Shark. These include, upper and lower controls on mesh size, targeting restrictions and closed areas to protect breeding and pupping grounds. In addition, a number of gear and area closures have been introduced in the SGSHS to manage interactions with marine mammals (mainly sea lions and dolphins), primarily in South Australian waters. The mandatory closures occur if just one sea lion is caught, and extensive closures of fishing grounds remain for eighteen months at a time. Some operators have been

able to adapt to the closures by moving their effort to other areas of the fishery or by using other gears such as longlines. Further, there is now 100% independent observer/video coverage in regions with a history of high sea lion captures and 10% coverage in other areas. Observer/video coverage provides an independent estimate of the level of mammal interactions in the fishery.

**The shark caught from this fishery are sold as “Flake”  
in fish and chip shops in southern Australia.**

**“Flake” imported from non-Australian shark fisheries.**

This is just one example of where “flake” in fish and chip shops can be sourced. The demersal shark trade in southern Africa is primarily concentrated on five species. In order of commercial importance they are: Smooth-hound *Mustelus mustelus*, Tope Shark *Galeorhinus galeus*, Copper Shark *Carcharhinus brachyurus*, Dusky Shark *Carcharhinus obscurus* and Whitespotted Smooth-hound *Mustelus palumbes*. As there is limited consumption of shark meat in South Africa, the vast majority of processed demersal shark meat is exported to Australia principally for consumption in the fish-and-chips trade. Da Silva and Burgener 2007 state “There are no commercial catch restrictions in place with regards to any demersal shark species caught in South African waters.....there is little knowledge of their stock status, and there is no recent research on the impact of current harvest levels. The lack of knowledge of biology, population structures and movement patterns severely restricts the implementation of a successful shark management strategy”. In addition there was concern that Australia was inadequately and inconsistently monitoring imports of shark meat and TRAFFIC raised concern with the Australian Government that not only could there be products from unsustainable sources entering the Australian domestic market, but there could be illegal product. In May 2014 the main exporter of shark meat from South Africa to Australia was accused of illegal export<sup>1</sup>.

**The shark caught from this fishery are sold as “Flake”  
in fish and chip shops in southern Australia**

**Australian consumers have no way of knowing:  
Does this “Flake” product come from Australia or is it imported?  
Is this “Flake” product legal or from well managed fisheries?**

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<sup>1</sup> **General: Court bid to seize businesses**

The National Director of Public Prosecutions (NDPP) has applied for a provisional restraint order in order to seize the assets of a Port Elizabeth mother whose company allegedly illegally exported thousands of kilograms of processed shark fillets and octopus to Australia without an export permit. A report in *The Herald* notes that the **NDPP’s application for a provisional restraint order against Sharmilla van Heerden (36), of Summerstrand, was last week postponed by the Port Elizabeth High Court.** If successful in its application – filed in terms of Section 26 of the Prevention of Organised Crime Act – the NDPP will apply for a final restraint order compelling the surrender of property held by Van Heerden, her husband, as well as their companies. Van Heerden’s husband, Marius, and businesses which they own and hold directorships in, namely, Fisherman Fresh CC, Fisherman Fresh (Pty) Ltd, Algoospace (Pty) Ltd and 4Q Fishing (Pty) Ltd, all appear as respondents in the court papers filed. The state alleges while the businesswoman has a permit and licence to catch, process and sell shark and octopus, she does not have a permit to export them, the report states.  
<http://www.heraldlive.co.za/court-bid-to-seize-port-elizabeth-businesses/>

In addition given the higher costs to the Australian Industry in meeting Australia’s work place regulations, sustainability, safety and hygiene, the imported product is generally cheaper and therefore creating an inequitable situation.

To begin to address this inequity, the Southern Shark Industry Alliance petitioned the national Fish Names Committee to restrict the use of “flake” to just two species of gummy shark derived from demonstrably sustainable fisheries. Australian Fish Names Standard now categorises flake as one of two species, *Mustelus antarcticus* (gummy shark) and *Mustelus lenticulatus* (gummy shark or “rig” in New Zealand).

But, if this is to be effective, there needs to be a mandatory requirement introduced for seafood businesses to use the names from the Australian Fish Names Standard (9AS SSA 530) — it is currently voluntary. Further, Country of Origin labelling, although binding on retailers of fresh seafood, does not apply to fish and chip shops, nor any other venue selling fish for immediate consumption including restaurants, clubs or bars. Again this needs to be mandatory.

Sincerely

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Anthony Ciconte  
Executive Director, SSIA



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Glenn Sant  
Fisheries Trade Programme  
Leader, TRAFFIC

