

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN CUSTOMS SERVICE

Question No. 205

Senator Ludwig asked the following question at the hearing on 24 May 2005:

Referring to the article 'Illegal Fishermen crowd NT coast' in the Northern Territory News, 30/3/2005:

- a) Can Customs confirm the factual content of the article?
- b) In the article, it states that fifty-two Indonesian boats have been apprehended by Customs this year.
- c) Of those incidents, have any charges been laid?
If so, how many, and what for (provide a breakdown)?
If not, why not?
How many people from those 52 boats (all up) have been detained?
How many boats have Customs attempted to apprehend, but have been unable to?

The answer to the honourable senator's question is as follows:

- a) The Australian Customs Service (Customs) and the Australian Fisheries Management Authority (AFMA) confirm the factual content of the article *Illegal Fishermen crowd NT coast*.
- b) Customs and the Royal Australian Navy apprehended 52 Indonesian boats from January 2005 to 30 March 2005.
- c) Of these incidents AFMA advises that 89 crew were charged with 137 offences under the following Acts/Code:
 - *Fisheries Management Act 1991*
 - *Torres Strait Fisheries Act 1984*
 - *Environment Protection and Biodiversity Act 1999*
 - *Nature Conservation Act 1992 (QLD)*
 - *Criminal Code*
 - *Justices Act (NT) as in force 2002*
 - *Sentencing Act (NT) as in force 2004*
 - *Juvenile Justice Act (NT)*

Details of the offences under these Acts/Code are at attachment "A".

AFMA advise that 381 crew were detained but not all were charged.

There were two reported incidents of Customs not being able to board and apprehend foreign fishing vessels, one due to weather and the other due to the aggressive actions of the Master of one of the vessels. Refer to QoN 82.

Attachment "A"

Fisheries Management Act 1991	Offence
100(2)	Used a foreign boat for commercial fishing in the Australian Fishing Zone
101(2)	In charge of a foreign boat equipped for fishing
108(a)	Failed to facilitate the boarding of a boat
108(c)	Refused to comply with a requirement made by an officer
108(d)	Gave false name or address
Torres Strait Fisheries Act 1984 (TSFA)	Offence
45(1)(a)	Commercial fishing in an area of Australian jurisdiction without a licence
49(1)	In charge of a foreign fishing boat other than in accordance with a licence brings a boat to a place in Australia that is within the protected zone
44(1)(b)	In possession of a fish that is prohibited under the TSFA 1984
51(1)	In control of an unlicensed boat equipped for taking fish
16	Breach of a Torres Strait fisheries regulation
Environment Protecting and Biodiversity Act 1999	Offence
229	Reckless killing or injuring a cetacean
Nature Conservation Act 1992 (QLD)	Offence
88 (1)	Took, used or kept a protected animal
Criminal Code	Offence
149.1	Obstruction of a Commonwealth official
11.1	Attempt to commit a crime
Justices Act (NT) as in force 2002	Offence
33B	The court may order commitment (to jail) in default of recognisance
Sentencing Act (NT) as in force 2004	Offence
26(2)	The court may order, if a fine is not paid in 28 days, the offender may be imprisoned until the liability to pay the fine is discharged
Juvenile Justice Act (NT)	Offence
53	Charges imposed on juveniles are the court's discretion

