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17th August 2023

RE: Comments on “Measures to prevent the importation of illegal, unreported and unregulated seafood: discussion paper”

I am writing to provide some comments on the Discussion Paper released by the Australian Government earlier this year to elicit public comment on addressing the importation of seafood from fisheries that involve illegal, unreported and unregulated (IUU) fishing practices.

I welcome the consideration the Australian Government is giving to implementing measures to prevent IUU seafood entering Australian markets. It is an important policy area to ensure commitments to sustainable fisheries are implemented across the board, not only for domestic fisheries. If the Government decides to go this route, the challenge then will be to make a system that is effective in preventing seafood from IUU fisheries entering Australian markets, while not being unfeasibly onerous for stakeholders.

Most of what I know on this topic is in a recently published book on [EU Trade-Related Measures Against Illegal Fishing](#), which includes a chapter authored by me, building on the work of my former PhD student Dr Sonia Garcia Garcia, titled “Can Anti-IUU Trade Measures Diffuse to Other Market Countries? Case Study of Australia”. There is also more Australian case study material in the Conclusion chapter. I summarise here some of the key points made in the book about the Australian situation. Please see the book (it is available for free download at the link provided above) for further details and references.

- Australia has a strong history of participating in the development of anti-IUU measures internationally, including trade measures and catch documentation schemes (CDS), through United Nations Food and Agriculture Organisation (FAO) and Regional Fisheries Management Organisation (RFMO) processes. The promotion of anti-IUU measures internationally and for overseas markets has contrasted with the Australian Government’s choice not to implement such measures for imports to Australian markets.
- This disconnect between Australian Government positions on IUU externally and internally is reflected in other disconnects. For example, promoting CDS traceability for anti-IUU outside Australia, while in the domestic sphere asserting that traceability should only be used for food safety regulation. Another example, having strong regulation for sustainability for domestic fisheries, while leaving sustainability of imported seafood entirely to consumer preferences (private ecolabels etc).

- The Australian Government stance on anti-IUU measures has acted to support some parts of the seafood industry, while not supporting others. That is, international anti-IUU action has facilitated larger, more profitable, export-oriented fishing businesses. Smaller fishing businesses supplying domestic markets, who are heavily regulated and have higher production costs than many of the fisheries supplying imports, have probably been disadvantaged by the lack of anti-IUU regulation on imports. Whereas the hospitality industry, seafood importers and wholesalers dealing with imports have possibly been advantaged by the lack of anti-IUU regulation on imports.
- Thailand, Vietnam, Indonesia and China are important sources of seafood imports for Australia, and all have reportedly high risk of IUU, so any anti-IUU measures applied to Australian seafood imports may cause significant shifts in the market.

For the rest of this letter I offer comment on the Discussion Paper. The Discussion Paper poses questions for the public to help with considerations about introducing anti-IUU measures on seafood imports. My comments are in blue text following the questions.

Information request 1

We are seeking feedback and evidence of Australia's exposure and contribution to global IUU fishing.

- To what extent do Australia's seafood imports contribute to global IUU fishing and how are we affected by this activity? *I do not have good information on the extent of Australia's seafood imports' contributions to global IUU fishing. My expertise is on social and economic dimensions of fisheries, where I can see that we are affected by the entry of cheap IUU product into Australian markets, reducing the economic viability of domestic commercial fisheries. I provide evidence in the book and in reports commissioned by the Fisheries Research and Development Corporation (FRDC) that Australian seafood consumers believe we are too heavily reliant on imports and want Australian commercial fishing to continue to provide locally produced seafood.*¹
- What practices are already implemented by governments, non-profit organisations and industry (including importers, wholesalers and retailers) to reduce the risks of IUU fishing products from entering Australia? *I'm not aware of such measures.*
- Are you aware of any evidence that Australian imports of certain species or seafood product from specific countries, regions or fisheries pose a higher risk of being derived from IUU fishing practices? *Not beyond the sharks research published by TRAFFIC,² and research covered in recent reports by the Minderoo Foundation on strengthening seafood import regulations and on seafood mislabelling.*³
- What data and methodological approaches should we consider when assessing the key sources, and the value and volume of any IUU fishing product entering Australia? *I suggest mixed methods including qualitative interview studies with key informants in supply countries are important to help give context and explore issues around the figures that may be derived from trade data, and fisheries catch data.*

¹ For a condensed summary of our research on consumer preferences regarding seafood place of origin see the UTS submission to the 2020 Evaluation of Country of Origin Labelling for Food here: <https://consult.industry.gov.au/evaluation-of-country-of-origin-labelling-for-food/submissions/view/1334>. The original FRDC reports for this research are here: <https://www.frdc.com.au/project/2014-301> and here: <https://www.frdc.com.au/project/2017-092>.

² The TRAFFIC work on illegal shark fishing is available here: <https://www.traffic.org/publications/reports/illegal-unreported-and-unregulated-shark-catch/>.

³ The Minderoo Foundation reports are available here: <https://www.minderoo.org/publications>

Information request 2

We are seeking feedback on the efficacy and cost-effectiveness of market-based measures to combat IUU fishing.

- Have market-based measures to combat IUU fishing applied in the European Union, United States or Japan, or by multilateral fishery bodies, been effective in curbing IUU fishing? Some seem to have been, while others seem not to have been. It is difficult to answer this question because IUU fishing is by definition not recorded. We present evidence in our book that certainly EU measures have caused the Thai Government to change their regulatory and policy framework, which has caused fishing companies to have to change their practices, but while compliance will improve, it is not necessarily clear that IUU will be reduced. The CCAMLR and CCSBT market-based measures do seem to have been effective as measured by stock recovery. However, the ICCAT CDS used for Bluefin imports to Japan (multilateral measure) seem not to have been so effective, certainly as measured by stock recovery, and also shown by a large illegal fishing element uncovered in Mediterranean catches around 2009.⁴
- To what extent do evaluations of existing import controls schemes translate to an Australian context? Do Australia's market characteristics pose additional challenges/risks? I'm not well versed in the technical aspects of the import controls so do not have a lot to contribute here. It seems sensible to follow an existing scheme to avoid companies having to do different things for each market, if feasible.
- What is the relationship between non-market and market-based policy options to combat IUU fishing? In an Australian context, should market-based measures be prioritised over other approaches, such as providing support to developing states to implement international agreements or to enhance their monitoring, control and surveillance capabilities? Combatting IUU requires a tool kit with many different tools – no one tool will be effective alone – and requires interventions all the way along the supply chain. The support to developing states is useful diplomatically as well as practically, and targeting efforts at the fishing node of supply chains should continue, even if market-based policies are also introduced.
- Is there a compelling case for Australia to implement unilateral market measures or are multilateral approaches preferred? What are the trade-offs between these approaches? Both are useful. As noted in the Discussion Paper multilateral approaches through RFMOs can be slow or unable to progress, but they have good legitimacy. Since multilateral measures are not solving all of the IUU problems at present there is also a case for Australia to pursue unilateral measures. One reason is to be more consistent in taking action on unsustainable fishing – the efforts to make domestic commercial fishing sustainable are quite hollow when we import more than half of the seafood we consume and no sustainability measures are applied by the Australian Government to imports. We cannot assume that flag states will regulate for sustainability. A related reason is to provide a level playing field for the heavily regulated Australian fishing industry.

⁴ This was according to a large investigative journalism study, see: <https://www.icij.org/investigations/looting-the-seas/part-iii-bluefin-inc/>

Information request 3

- We are seeking feedback on potential policy options aimed at preventing the importation of IUU seafood into Australia, as well approaches to assessing costs and benefits to stakeholders. What policy reforms are necessary to prevent the importation of seafood derived from IUU fishing practices?
 - The only policies I know of internationally that already exist to prevent IUU product entering markets use traceability and controls implemented at the point of importation. One way to reduce paperwork for industry is to use the same or similar requirements as for an existing approach.
 - As noted in the Discussion Paper, a paper led by Andrew Song,⁵ and our book, these policies may have unintended consequences, especially for small-scale fishers in developing countries who may not be fishing illegally or unsustainably but find it difficult to meet reporting requirements, and so are categorised as IUU through being unreported or being deemed to be unregulated. One suggestion for an alternative policy approach that may avoid these problems is to take a risk based approach to specific fisheries or jurisdictional areas. That is, fisheries that are unreported and/or regulated informally rather than 'black letter' but which are not environmentally destructive such that they should be categorised IUU, could be considered 'legal, reported and regulated' (LRR), and not be subject to anti-IUU measures. I'm not aware that this idea has been implemented, but has been discussed in conferences by scholars from the Environmental Policy Unit in the University of Wageningen, specifically about some small-scale fisheries in Indonesia.
 - Implementing a national seafood prices dataset will be an important step in being able to assess some of the costs and benefits. Unlike many other OECD countries Australia does not have publicly available seafood prices data.
 - Other kinds of social and economic data on fisheries, fishing communities both overseas and in Australia, and on Australian seafood consumers are also needed to be able to assess costs and benefits. Regular monitoring of some of these kinds of data is starting to occur, it has been instituted in South Australia for some time, and is gradually being implemented in other states.⁶
- How can policy minimise compliance costs, trade risks and address transitional and distributional impacts? Through effective engagement with industry to co-design the approach. Much fishing industry engagement in Australia is not very effective, in part because Government bodies tend not to really collaborate in these bodies, but strongly retain decision-making authority.
- Are there any legal implications to the proposed policy options of which you are aware? This is not my field of expertise.
- What additional costs and benefits should be considered when evaluating policy options? The Discussion Paper raises the issues of labour rights and human rights as well as biological sustainability of fisheries within the umbrella of IUU. Apart from the case of the EU with Thailand as discussed in our book, anti-IUU measures have largely not addressed human or labour rights. Persistent problems with rights abuses in seafood supply chains, however, mean we should explore all policy options. The Western and Central Pacific Fisheries Commission (WCPFC) has been debating bringing in a binding measure to protect crew and observers, reflecting a growing

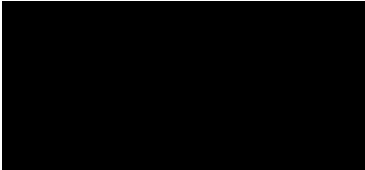
⁵ The paper led by Andrew Song on collateral damage done to small-scale fisheries in developing countries by anti-IUU measures is available here: <https://onlinelibrary.wiley.com/doi/full/10.1111/faf.12462>.

⁶ The FRDC also commissioned a national overview of social and economic dimensions of fisheries and aquaculture available here: https://www.frdc.com.au/project-search?search_api_fulltext=ogier+national+economic+social.

realisation that fisheries management also needs to play a role in upholding human and labour rights. One way to do this in Australia would be to strengthen compliance with the *Modern Slavery Act 2018*.⁷

I hope this submission is useful and I look forward to seeing the outcome of the policy deliberation on anti-IUU fishing trade measures for Australia.

Yours sincerely,



Kate Barclay

⁷ This report suggests many companies are still not compliant with the *Modern Slavery Act 2018*: <https://www.hrlc.org.au/reports-news-commentary/broken-promises>.