



APPENDIX A INTERNATIONAL CONVENTIONS AND AGREEMENTS ON THE MARINE ENVIRONMENT

Australia's use and management of its oceans and their resources are subject to a range of international treaties to which Australia is a party. These can be broadly divided into two categories: those concerned with regulating activities to protect the marine environment and those relating specifically to the conservation of biodiversity. The following sections outline the main international agreements that influence Australia's approach to conserving marine biodiversity and protecting the marine environment.

- Australia also recently became a Contracting Party to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001. The convention will enter into force in Australia when it enters into force internationally.
- Australia has also signed, subject to ratification, two other international agreements which regulate activities to protect the marine environment and which are not yet in force:
 - the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004; and
 - the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.

International agreements regulating maritime activities to protect the marine environment

United Nations Convention on the Law of the Sea (UNCLOS) 1994

The Australian Government has rights and responsibilities under the United Nations Convention on the Law of the Sea 1994 (UNCLOS) to manage seas adjacent to its coastline. Under UNCLOS, coastal states are able to claim rights and responsibilities for seas out to 200 nautical miles from the coast, and to the edge of the continental shelf. Within this area coastal nations can exploit, develop, manage and conserve all resources (associated with the water column, seabed or subsoil). Under UNCLOS, all parties have an obligation to protect and preserve the marine environment.

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 1995 (Fish Stocks Agreement)

This implementing agreement to UNCLOS provides additional and enhanced rules on the conservation and management of highly migratory fish stocks and those that straddle the high seas and areas within national jurisdiction. The Fish Stocks Agreement promotes cooperation with other States Parties, particularly through the establishment of regional fisheries management bodies. The Fish Stocks Agreement also includes application of the precautionary approach and requires consideration of impacts on the broader ecosystem.

Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 and the 1973 Protocol to the Convention

This convention affirms the right of coastal states to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate danger to their coastline or related interests from pollution by oil or the threat thereof, following upon a maritime casualty. The 1973 Protocol extended the convention to cover substances other than oil.

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention) 1972 and the 1996 Protocol to the Convention

Under this convention, dumping is defined as deliberate disposal of wastes or other matter in the sea that do not constitute normal operations. In Australia, the convention has been updated by the 1996 Protocol to the convention (the London Protocol), which Australia ratified in 2000, and which entered into force internationally in 2006. The convention is implemented

in Australia under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the *Environment Protection (Sea Dumping) Act 1981*, which have been amended to reflect the London Protocol. These Acts require permits to be issued for the dumping of materials at sea.

Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention) 1972

This convention, which came into force in 1975, provides for the protection of the world's cultural and natural heritage places. The convention is administered by the World Heritage Committee whose functions are to:

- identify nominated cultural and natural properties of outstanding universal value, which are to be protected under the convention and to list them on the World Heritage List;
- decide if properties on the list should be inscribed on the List of World Heritage in Danger; and
- determine how and under what conditions the World Heritage Fund can be used to assist countries in the protection of their World Heritage property.

Under the EPBC Act, the Commonwealth has the power to submit properties for inclusion on the World Heritage List. This may be exercised if the Minister for the Environment, Heritage and the Arts is satisfied that the Commonwealth has endeavoured to reach agreement on the listing and management arrangements for the property with both the owner or occupier of the property as well as the State or Territory Government in which the property is located.

International Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL)

Under the terms of this convention regulatory controls were placed on pollution from ships. The convention has six annexes that specifically address different sources of pollution from shipping:

- Annex I addresses the discharge of oil from ships and regulates how and when a ship may discharge oil into the sea;
- Annex II addresses the discharge or escape of noxious liquid substances (i.e. chemicals);
- Annex III addresses harmful substances carried in packaged forms (i.e. freight containers);

- Annex IV addresses the discharge of sewage from ships;
- Annex V addresses discharge of garbage from ships into the sea; and
- Annex VI addresses air pollution from ships, including engine emissions.

International Convention on Oil Pollution Preparedness, Response and Cooperation 1990

This convention facilitates international cooperation to prepare for and respond to major oil pollution incidents and encourages countries to develop and maintain an adequate capability to deal with oil pollution emergencies. In Australia the provisions of the convention are given effect through administrative arrangements of the Australian Maritime Safety Authority and other Government agencies.

International Convention on Civil Liability for Oil Pollution Damage 1969

This convention requires oil tankers to have compulsory insurance against pollution damage liabilities. The convention applies to an oil spill occurring in the Australian Exclusive Economic Zone (EEZ), and sets the upper limits of liability, which depend on the size of the vessel.

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992

This convention applies if the cost for a clean-up of an oil spill exceeds the upper limit of liability set under the *International Convention on Civil Liability for Oil Pollution Damage 1969*. Under the convention, oil companies are required to be parties to pay damages and to cover the clean-up costs of oil spills.

Regional Fisheries Management Organisations

The Australian Government Department of Agriculture, Fisheries and Forestry develops policies and programmes to address Australia's international rights and obligations, and represents Australia's interests in a number of international fora. Chief amongst these are



Regional Fisheries Management Organisations, which are established to govern the management of fish stocks.

Commission for the Conservation of Southern Bluefin Tuna 1994

The convention for the Conservation of Southern Bluefin Tuna formalised the voluntary management arrangements between Australia, Japan and New Zealand that had been established on a voluntary basis. The convention created the Commission for the Conservation of Southern Bluefin Tuna (CCSBT). The Republic of Korea and the Fishing Entity of Taiwan have since joined the commission. Cooperating Non-Members participate fully in the business of the CCSBT but cannot vote. Since 2003 the Philippines, South Africa and the European Community have been formally accepted as Cooperating Non-Members. The commission establishes binding conservation and management measures for the Southern Bluefin Tuna Fishery, including a total allowable catch and national allocations. A range of monitoring, control and surveillance measures are being developed by the commission. The commission also considers issues related to the impact of the fishery on ecologically related species.

Indian Ocean Tuna Commission 1993

The Agreement for the Establishment of the Indian Ocean Tuna Commission (IOTC), in force since 1996, promotes cooperation in the conservation of tuna and tuna-like species in the Indian Ocean, including within areas of national jurisdiction for coastal states (including Australia). The commission promotes their optimum utilisation, and the sustainable development of the fisheries. The IOTC has deferred management of the Southern Bluefin Tuna Fishery to the CCSBT where they are located in its area of competence. The IOTC currently has 26 Members which are the coastal states of the region and distant water fishing nations.

Other fisheries arrangements

Australia also participates in a number of fora that aim to promote regional development through sustainable fisheries management. These include:

- the FAO, through its Committee on Fisheries;
- the Asia-Pacific Economic Cooperation (APEC) Fisheries Working Group; and

- Pacific Fisheries Fora, including Australia's involvement in the Pacific Island Countries-US Treaty.

To promote regional fisheries cooperation, Australia maintains a strong and productive dialogue with its close neighbours. Australia conducts bilateral meetings with its neighbours to tackle issues such as shared and highly migratory fish stock management, illegal, unreported and unregulated fishing, and aquaculture development. There are also a number of bilateral agreements or arrangements between Australia and neighbouring countries to ensure the sustainable use of shared resources. The neighbouring countries with which Australia shares cooperative ties include Indonesia, East Timor, Papua New Guinea (including Torres Strait issues), and New Zealand.

There are also several overarching multilateral agreements and arrangements to which Australia is a signatory or a party. These include:

- *United Nations Convention on the Law of the Sea 1994 (UNCLOS);*
- *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement);*
- *United Nations Food and Agriculture Organisation's (FAO) Code of Conduct for Responsible Fisheries; and*
- *Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement).*

International Agreements for the conservation of biodiversity

International Convention for the Regulation of Whaling 1946

The International Convention for the Regulation of Whaling was signed on 2 December 1946. The purpose of the convention was "to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry". Over the decades, most member countries have abandoned whaling, but have continued to view the International Whaling Commission (IWC) as the best forum to focus on the conservation of whales. For over 26 years the Australian Government has pursued, through the IWC, a

permanent international ban on commercial whaling and worldwide protection for all cetaceans.

Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CITES)

This convention aims to ensure that international trade in specimens of wild animal and plant species does not threaten their survival. CITES works by providing a legally binding framework whereby parties adopt their own legislation to implement CITES measures at the national level. The convention also allows parties to adopt national legislation that is stricter than CITES measures.

All international trade – imports, exports, re-exports and introduction – of species listed under the convention is controlled through a licensing system. The species covered by CITES are listed in three Appendices, according to the degree of protection they require. Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled to avoid exploitation that could threaten their survival. Appendix III lists species that are protected in at least one country, which has asked other CITES parties for assistance in controlling the trade.

Bilateral Migratory Bird Agreements

For nearly 30 years, Australia has played an important role in international cooperation to conserve migratory birds in the East Asian-Australasian Flyway, which stretches from Alaska and the east of Russia, through the countries of East and South-East Asia, to Australia and New Zealand. Australia has negotiated and entered into bilateral agreements with Japan, China and Korea to protect migratory birds. These are:

- *The Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds in Danger of Extinction and their Environment, 1974 (JAMBA);*
- *The Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment, 1986 (CAMBA);* and
- *The Republic of Korea-Australia Migratory Bird Agreement 2006 (ROKAMBA).*

The Partnership for the Conservation of Migratory Waterbirds and the Sustainable Use of their Habitats in the East Asian – Australasian Flyway, launched in Bogor, Indonesia on 6 November 2006, represents an important new step in international efforts to conserve migratory waterbirds and their habitats in the flyway. Established as a Type II Partnership initiative of the 2002 World Summit on Sustainable Development, the partnership is the major international framework for the conservation of migratory waterbirds in the East Asian – Australasian Flyway, promoting dialogue, cooperation and collaboration between stakeholders. To date, the partnership has been endorsed by 17 governments and organisations.

Convention on the Conservation of Migratory Species of Wild Animals 1979

The convention on the Conservation of Migratory Species of Wild Animals (also known as the CMS or Bonn Convention) aims to conserve terrestrial, marine and avian migratory species throughout their range. The CMS has two Appendices. Appendix I lists migratory species that have been categorised as being in danger of extinction throughout all or a significant portion of their range. Appendix II is for migratory species that have an unfavourable conservation status and would benefit significantly from international cooperation. For species listed under Appendix I, signatory nations strive to take action to protect these animals, conserve or restore the places where they live, mitigate obstacles to migration and control other factors that might endanger them. For species listed under Appendix II, the convention encourages the development of regional conservation instruments.

Since becoming a party to the CMS in 1991, Australia has been an active participant in implementing the convention through the development of regional conservation instruments under the CMS. Australia played a key role in the development of the Agreement for the Conservation of Albatross and Petrels (ACAP) and the Indian Ocean and South-East Asian Memorandum of Understanding for Sea Turtles (IOSEA-Turtles), and has significantly supported their implementation since they have been finalised. For instance, Australia has hosted the interim Secretariat of ACAP since its inception and the headquarters will be established in Australia in due course. Australia has also taken the lead in progressing the development of new regional conservation arrangements for marine mammals in the South Pacific. All species listed under the CMS that naturally occur

in Australia are listed under the EPBC Act and thereby protected.

Convention on Biological Diversity 1992

Australia is a signatory to the Convention on Biological Diversity, which was made at the 1992 Earth Summit in Rio de Janeiro. The convention establishes three main goals: the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits from the use of genetic resources. A significant provision of the Convention on Biological Diversity is the requirement that environmental impact assessments be performed for proposed activities likely to have significant adverse impacts on the environment. The EPBC Act is the mechanism by which the Australian Government undertakes this provision of the Convention on Biological Diversity.

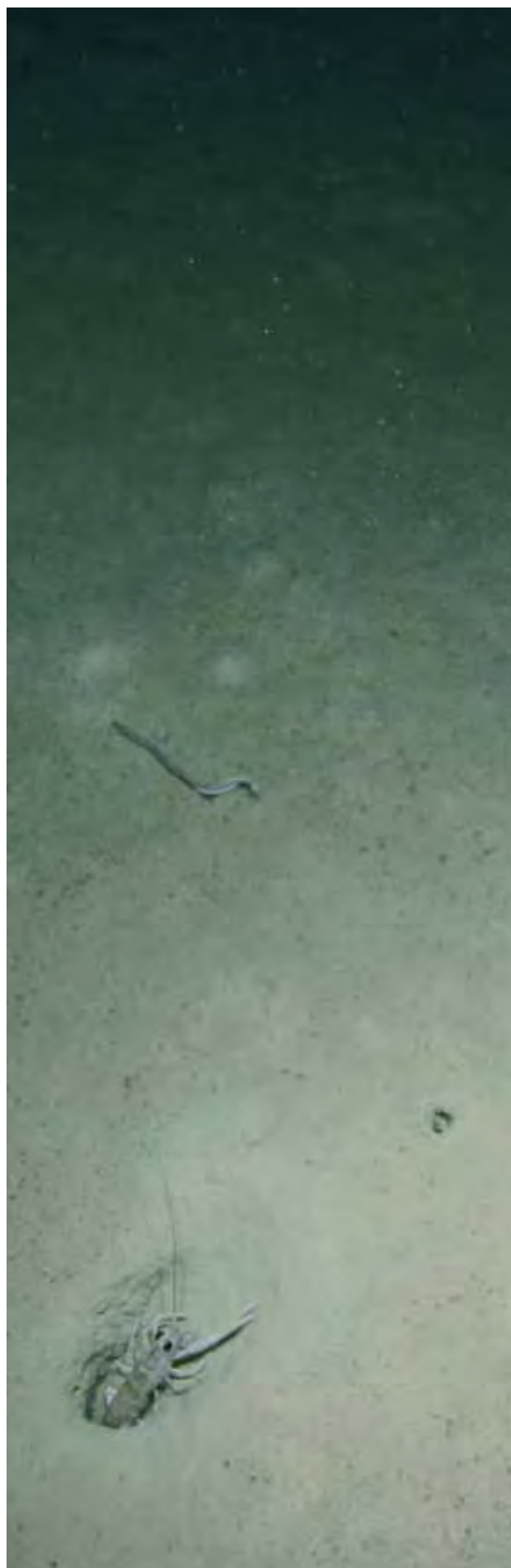
Convention on the Conservation of Antarctic Marine Living Resources 1980

This convention was established in response to concerns that an increase in krill catches in the Southern Ocean could have a serious negative impact on populations of krill and other marine life; particularly on birds, seals and fish, which mainly depend on krill for food. The aim of the convention is:

- to conserve marine life of the Southern Ocean by ensuring that all harvesting and research activities are conducted in accordance with the convention;
- to formulate, adopt and revise conservation measures;
- to compile, analyse and disseminate information on the status of resources; and
- to facilitate research activities.

Convention for the Conservation of Antarctic Seals 1972

The convention was set up to protect all six species of seal found in the Antarctic, following concerns about a possible resumption of commercial sealing in the region in the mid-1960s. Commercial sealing has not resumed in the Antarctic.



A scampi at the mouth of its burrow in fine sediments. Central Western Province, 408 m deep. Photo: CSIRO.



Key references and further readings

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Sponge crab. Photo: Marine Life Society of South Australia.