



Australian Government

Department of the Environment, Water, Heritage and the Arts

The Hon Tony Rundle
Chairman
Australian Fisheries Management Authority
PO Box 7051
CANBERRA BUSINESS CENTRE ACT 2610

Dear Mr Rundle

I am writing to you as Delegate of the Minister for the Environment, Heritage and the Arts in relation to the assessment of the Small Pelagic Fishery (SPF) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The SPF was first assessed by the then Australian Government Department of the Environment and Heritage, in November 2004 under Parts 13 and 13A of the EPBC Act in accordance with the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries* (the Guidelines). A short-term Wildlife Trade Operation (WTO) declaration was granted due to serious concerns about the impacts of mid-water trawling operations on dolphins. This 2004 assessment process also resulted in the SPF gaining accreditation under Part 13 in relation to protected species provisions under the EPBC Act.

On 30 May 2005, in recognition of the Australian Fisheries Management Authority (AFMA) satisfactorily addressing the six month SPF WTO conditions made in 2004, including the development of research programs to develop appropriate protected species mitigation measures, an additional eight month WTO declaration was approved for the fishery. On 23 February 2006, a further extension to the WTO declaration was granted taking the fishery to its full three year WTO time allowance, until 6 December 2007.

In October 2007, AFMA submitted the *Annual Status Report, Small Pelagic Fishery Wildlife Trade, October 2007* and the *Purse Seine Code of Practice* (the AFMA 2007 submission) for consideration of further export approval of product from the SPF. The AFMA 2007 submission has been assessed under the protected species provisions of Part 13 and the wildlife trade provisions of Part 13A of the EPBC Act. The assessment also took account of measures that have been developed by AFMA in response to conditions and recommendations made in the initial assessment of the SPF.

I am pleased to advise that assessment of the SPF is now complete. The assessment report will be available on the Department of the Environment, Water, Heritage and the Arts' website at:

<http://www.environment.gov.au/coasts/fisheries/commonwealth/pelagics/index.html>

I am satisfied that the operation of the SPF is consistent with the objects of the wildlife trade provisions in Part 13A of the EPBC Act. I am also satisfied that it is unlikely to be detrimental to the survival or conservation status of any taxon to which the fishery operation relates, or threaten any relevant ecosystem in the short term.

Given the need to take immediate action to address the more prominent risks in the SPF including finalisation of the management plan, ecological risk assessment and harvest strategy, I have decided to make this WTO declaration valid for a short term period expiring on 27 February 2009 to ensure AFMA gives priority to the completion of this critical work. The WTO will therefore be subject to the conditions at **Attachment A.**

Although the fishery continues to operate in accordance with the *Management Policy for the Commonwealth Small Pelagic Fishery 2002*, I understand this policy has since lapsed, and that AFMA are in the process of extending it until the management plan comes into force. Effectively the management arrangements for the fishery remain unchanged, however I have also decided to reaccredit the SPF under Part 13 of the EPBC Act, to reflect the current management regime in place.

While there are some environmental risks associated with the SPF, I believe that AFMA is committed to addressing these issues and is already taking proactive steps in some areas. Officers from our two organisations have discussed key areas requiring ongoing and increased attention and I trust this constructive dialogue will continue. I understand that they also agreed to three additional recommended actions, focusing on finalising the management plan, protected species issues and the need to continue to cooperate with relevant jurisdictions, to be implemented before the next Australian Government review of the SPF. These recommendations can be found at **Attachment B.**

In light of the management plan being developed and implemented for the SPF, I would like AFMA to note, that under provisions in the EPBC Act, any new management plan that is brought into force for a Commonwealth-managed fishery must be strategically assessed under Part 10 of the EPBC Act prior to the fishery exporting under that management plan.

I would like to thank you for the cooperation of your officials on this assessment and look forward to receiving your formal endorsement of the recommendations.

I have written to the Hon Tony Burke MP, Minister for Agriculture, Fisheries and Forestry in similar terms.

Yours sincerely

[signed]

Andrew McNee

Delegate of the Minister for the Environment, Heritage and the Arts

5 December 2007

**Conditions on the Wildlife Trade Operation declaration for the
Small Pelagic Fishery**

- 1.** Operation of the Small Pelagic Fishery (SPF) will be carried out in accordance with the SPF management regime made under the *Fisheries Management Act 1991*.
- 2.** The Australian Fisheries Management Authority (AFMA) to inform the Department of the Environment, Water, Heritage and the Arts (DEWHA) of any intended amendments to the management arrangements that may affect the criteria on which EPBC Act decisions are based.
- 3.** AFMA to produce and present reports to DEWHA annually as per Appendix B to the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.
- 4.** By 31 July 2008, AFMA to develop and finalise the Harvest Strategy for the SPF.
- 5.** By 1 December 2008, AFMA to finalise the Ecological Risk Assessment (ERA) for the SPF. AFMA to then identify and implement appropriate management responses to address and mitigate risks and impacts identified in the ERA.

**Recommendation to the Australian Fisheries Management Authority (AFMA) on
the ecologically sustainable management of the harvest of product from the
Small Pelagic Fishery (SPF)**

1. The statutory management plan for the SPF to be determined by 28 February 2009.
2. AFMA to continue to implement the SPF Bycatch Action Plan. In particular, AFMA to:
 - monitor the frequency of any interactions with protected species (particularly seals) and the adequacy of mitigation measures;
 - investigate and trial other potential bycatch mitigation measures for the fishery, where appropriate; and
 - further trial and develop the effectiveness of seal exclusion devices in the midwater trawl component of the fishery.
3. AFMA to continue to cooperate with relevant jurisdictions to pursue complementary management and research of shared small pelagic stocks and ensure that management arrangements for the fishery continues to take account of the results of research conducted.