

Australia extends territorial sea

Statement on November 13 by the Minister for Foreign Affairs and Trade, Senator Gareth Evans, and the Attorney-General, Mr Michael Duffy

The Minister for Foreign Affairs and Trade, Senator Gareth Evans, and the Attorney-General, Mr Michael Duffy, announced today that the Government had agreed to extend Australia's territorial sea from three nautical miles to 12 nautical miles.

The Ministers said that the right to a 12 nautical mile territorial sea was well established internationally and significant advantages would flow to Australia from extending Australia's sovereignty over its water, seabed and airspace out to 12 nautical miles.

"It will allow us more effectively to control Australia's marine environment and its living and non-living resources.

The ability to enforce oil and other marine pollution measures, as well as regulate navigation, in our extended 12 nautical miles territorial sea, will be another safeguard in protecting such valuable areas as the Great Barrier Reef," the Ministers said.

It will also provide Australia with considerable defence, customs and quarantine advantages as we will now be able to exercise our sovereignty, consistent with international law, out to 12 nautical miles.

The Ministers also said that the 1979 Offshore Constitutional Settlement with the State Governments would not be affected by the decision.

It was agreed at that time that these arrangements were to apply only to the three nautical miles territorial sea, irrespective of whether Australia subsequently moved to a 12 nautical mile territorial sea.

"A proclamation extending Australia's territorial sea to 12 nautical miles will be issued under the Seas and Submerged Lands Act, with effect from 20 November 1990," the Ministers said.

Driftnet fishing

Following is an edited extract from a Statement made by Australia on 13 November at the Second Committee of the UN General Assembly on driftnet fishing which focused on the recently published Secretary-General's report on driftnet fishing.

Australia welcomes the opportunity to deliver a statement on the Secretary-General's Report on large-scale Pelagic Driftnet Fishing and its Impact on the Living Marine Resources of the World's Oceans and Seas.

We would like to commend the Office of Law of the Sea Affairs of the Secretariat for the obvious effort that it has made to produce a balanced and comprehensive report.

We would like to restate here the background to our concerns on this issue.

Driftnets are an indiscriminate and unselective form of fishing gear. Large-scale driftnets of the types set for tuna and squid in the Pacific capture a wide range of non-target species, both fish and wildlife.

Of particular concern to Australia was the sudden expansion in 1988-89 of large-scale pelagic driftnet fishing targeting juvenile albacore tuna in high seas areas of the South Pacific. Nets of up to 60 km in length extending from the ocean surface to a depth of about 15 metres are used in the fishery. In 1988-89, there were 60 Japanese vessels and between 60 and 120 Taiwanese driftnet fishing vessels active in the region.

Sufficient information emerged about the effect of the practice in the region to warrant serious concern and immediate action. This was particularly so since the prospects of a number of regional economies are linked to and in some cases are dependent on the effective management and conservation of the fisheries resources within their exclusive economic zones.

The main cause for the concern of Pacific Island countries was the likelihood that the stock could not support the rapid increase in surface fishery catches caused by driftnet fishing activity. In the view of the region, the absence of full and conclusive scientific evidence on the effect of driftnet fishing on fish stocks was not adequate justification for persisting with the fishing technique.

In response to this concern at the new threat to the marine environment, South Pacific nations meeting at the 20th South Pacific Forum in Tarawa issued the Tarawa Declaration, calling for a ban on driftnet fishing in the region. Subsequently, the countries of the region meeting in Wellington in November 1989, adopted the Convention for the Prohibition of Long Driftnets in the South Pacific. 12 South Pacific countries have now signed this Convention.

Australia welcomed the adoption of UN General Assembly 44/225 resolution last year but in company with its colleagues in the SOPAC group, (Fiji, New Zealand, Papua New Guinea, Vanuatu and Western Samoa) made it clear in an Explanation of Vote at the adoption of the UNGA resolution that we regarded it

as a compromise between our position calling for a complete and immediate ban on driftnet fishing in the South Pacific and a resolution tabled by Japan which called for conclusive scientific evidence on the effects of driftnet fishing.

Australia's position remains that there should be an immediate ban on large-scale pelagic driftnet fishing in the South Pacific. Australia calls on driftnet fishers to accept the obligations contained in the Protocols to the Wellington Convention for the Prohibition of Driftnet Fishing and ban their flag vessels and nationals from driftnet fishing in the South Pacific.

Australia nonetheless welcomed the announcement by Japan of the suspension of its driftnet fishing activity in the South Pacific. We also welcomed the announcement by the Taiwanese authorities that they would conform to the requirements of the resolution with respect to the South Pacific.

In reviewing the Secretary-Generals report on driftnet fishing, we need to examine carefully the direction which future examination of this issue needs to pursue. While some steps have been taken to control driftnet fishing, there remains a great deal to be done. We must continue to move swiftly and be wary of suggestions that actions taken so far will solve the problem.

We should not lose sight of the vast scale of existing driftnet fisheries and their massive effects on the marine environment. While international forums have tended to adopt a regional approach to the driftnet problem, we must not forget the potential global impact of driftnet operations in any one region.

Australia is concerned that there is still a tendency to understate the nature and extent of by-catch problems, in particular to downplay the scale of cetacean and other wildlife by-catches in the Pacific and other oceans.

Some species taken as by-catch in driftnet fisheries may in fact be significantly more vulnerable to over-exploitation than the target species. Hence the impact of driftnetting may well be even more severe on non-target species (e.g. marine mammals) than on target fish species. Conventional management measures will do little to address this problem - the reductions necessary to protect the most vulnerable species may well be so severe as to make the method uneconomic.

Driftnet fishers often acknowledge that driftnet fishing has a significant incidental catch of marine mammals. Some driftnet fishers believe that an incidental catch of marine mammals, if sustainable, is not in itself a problem. However, driftnet fishing differs clearly from other fishing methods in the scale of its incidental catch of marine mammals. Furthermore, Australia does not accept the proposition that sustainable catches of marine mammals are themselves no cause for concern. Australia actively pursues a policy of worldwide protection for all cetaceans (whales, dolphins and porpoises).

In focussing on the environmental impacts of driftnetting, we are not denying that other fishing methods present environmental problems but we are especially concerned about the nature and scale of such problems caused by large-scale high seas driftnetting and the fact that species of particular conservation significance such as cetaceans and marine turtles are involved.

Wastage is also an important issue in the driftnet debate. Dropout of both target and non-target species occurs at various stages during driftnetting operations. Significant quantities of damaged or spoiled fish may be discarded. The wastage of target and non-target commercial fish intrinsic to driftnetting is completely at odds with the objectives of optimum utilisation and responsible sustainable development of the world's fisheries resources.

On the question of modification of driftnets, considerable research has already been undertaken on possible methods for modifying nets with passive and active acoustic devices so as to reduce cetacean by-catch rates but none has proved notably successful. Sub-surface setting of driftnets has been proposed as

an answer to the by-catch problem. It may reduce cetacean by-catch for some species but certainly does not eliminate it. If the modification has any effect on either operational manageability or target fish catch (sub-surface setting does in both cases) there will be strong disincentives for distant water fleets to operate with modified gear on a commercial basis.

Even with the best intentions, gear loss from driftnet fisheries is inevitable, with the consequent problems of ghost fishing and hazards to navigation.

High seas driftnet fisheries present unique problems in terms of management and data collection. By comparison, it is much more likely that EEZ-based driftnet fisheries will be regulated or at least monitored than those on the high seas.

Assessment of the impacts of large-scale driftnets on marine mammals is particularly difficult and expensive. Apart from the difficulties of gaining an accurate assessment of the level of by-catch, information is required on the distribution, abundance and recruitment of by-catch species before the level of impact can be assessed. In some cases, the costs of such research may exceed the value of the driftnet fishery.

Information on target species catch and effort, let alone by-catch, is very poor for most driftnet fisheries, even for long running fisheries such as the North Pacific Squid Fishery. Apart from the onus of proof in the UNGA resolution, there remains little incentive for DWFN's to invest in and encourage data collection or impact assessment for the driftnet fisheries.

However, before pressing for the collection of new data, DWFNs should first provide information from operations already conducted, including their substantial commercial catch records and fleet information. So far, there has been quite inadequate provision of high seas catch data.

Australia is concerned that action in one region should not lead to expanded driftnet pressures in other oceans. We are particularly concerned about the possibility of fleet displacement to the Indian Ocean, where increased driftnet fishing would add to the already severe pressures on the southern bluefin tuna stock. We are also concerned about reports of reflagging of vessels in an effort to circumvent the spirit of the UN resolution.

We have welcomed the fact that Japan and ROK have banned their fishing vessels from commencing driftnet fishing in the Indian Ocean and urge the only driftnet fisher in the Indian Ocean, Taiwan, to cease its operations there immediately.

In conclusion, much of the debate on large-scale driftnet fishing has been couched in terms of the scientific evidence being incomplete, but there are sufficient concerns, as embodied in resolution 44/225, to place the onus of proof on those practising driftnet fishing to rebut these concerns regarding the impact of the method on fish stocks and on the marine environment generally.

Australia believes that we have reached the point where we do know enough about the effects of high seas pelagic driftnet fishing to proceed with the prohibitions contained in the UN General Assembly resolution 44/225.

The high seas fisheries represent a critical source of protein for future generations. It is the responsibility of the international community to ensure that fishing techniques practised on the high seas in no way endanger the future productivity of those waters. All members of the international community must continue to cooperate to ensure the sustainable development of high seas fisheries. Australia is in no doubt that driftnet fishing on the high seas is incompatible with optimum utilisation of these resources because of its indiscriminate and wasteful nature.