

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE  
CANBERRA

**Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands**

**(Canberra, 24 November 2003)**

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC, hereinafter referred to as "the Parties",

RECALLING their rights and responsibilities as coastal States under the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter referred to as "the Convention"), and as Parties to the Convention on the Conservation of Antarctic Living Marine Resources of 20 May 1980 (hereinafter referred to as "the CAMLR Convention"),

RECOGNISING that the Parties exercise jurisdiction, in accordance with international law, for the purpose of exploring, exploiting, conserving and managing the living resources within the maritime areas adjacent to the Australian territory of Heard Island and the McDonald Islands and the French Southern and Antarctic Territories (TAAF),

RECALLING the principles of the Code of Conduct for Responsible Fishing of 31 October 1995,

NOTING the Parties' concerns at the continued problem of illegal fishing, within the maritime areas adjacent to these maritime areas, in continued breach of the laws and regulations of the Parties,

MINDFUL that cooperation between the Parties is essential to the protection of their national interests in these maritime areas,

DETERMINED to enhance their ability to take cooperative action to preserve and protect fisheries,

CONSCIOUS that the cooperative action between the Parties should encompass cooperative surveillance and law enforcement operations, including through developing further agreements or arrangements,

RECOGNISING the need to promote the progressive development of international law in order to further their joint objectives;

DESIRING to ensure the implementation of the Agreement of 15 July 1985 between the Government of Australia and the Government of the Republic of France relating to the Exchange and Communication of Classified Information,

CONSCIOUS of the important role that the Agreement of 4 January 1982 on Maritime Delimitation between the Government of Australia and the Government of the French Republic (hereinafter referred to as "the Maritime Delimitation Agreement") will play in this Treaty,

DESIRING to also promote scientific research in those maritime areas, and to further develop friendly relations between the Parties,

AS A FIRST STEP, HAVE AGREED AS FOLLOWS:

#### Article 1

1. This Treaty applies to activities conducted in relation to:
  - (a) the territorial seas and exclusive economic zone of the Australian territory of Heard Island and the McDonald Islands as defined respectively in the Seas and Submerged Lands Act 1973, proclamations pursuant thereto; and
  - (b) the territorial seas and exclusive economic zone of the French territories of Kerguelen Islands, Crozet Islands, Saint-Paul Island and Amsterdam Island as

defined respectively in Law No. 71-1060 of 24 December 1971 and Law No. 76-655 of 16 July 1976; Decree No. 78-112 of 11 January 1978, and Decree No. 78-144 of 3 February 1978.

2. "Area of Cooperation" means the area of application of this Treaty as defined in paragraph (1) above. The boundary between the Australian maritime areas of Heard Island and McDonald Islands and the French maritime area of Kerguelen Islands is the same as that defined in paragraph 1 (points S1 to S7) of Article 2 of the Maritime Delimitation Agreement.
3. "Fishing" includes:
  - (a) locating, catching, taking or harvesting fish;
  - (b) attempting to locate, catch, take or harvest fish;
  - (c) engaging in any other activity which may result in the locating, catching, taking or harvesting of fish;
  - (d) placing, searching for or recovering fish aggregation devices or associated electronic equipment such as radio beacons;
  - (e) any operations at sea directly in support of, or in preparation for, any activity described in sub-paragraphs (a) to (d) above;
  - (f) use of any vehicle, air or sea borne, for any activity described in sub-paragraphs (a) to (e) above except for emergencies involving the health or safety of the crew or the safety of an air or sea borne vehicle; and
  - (g) the processing, carrying or transshipping of fish.
4. "Fishing vessel" means any boat, ship or other craft which is used for, or equipped to be used for fishing, including mother ships and any other vessels directly engaged in, or supporting such fishing operations.
5. "Cooperative surveillance" means fisheries surveillance activities, identification and recognition of vessels, in particular vessels that appear to be in breach of national or international fisheries law. These activities shall take the form of missions carried out:
  - (a) within the area defined in paragraph 1(a) above – by French surveillance vessels and/or aircraft;
  - (b) within the area defined in paragraph 1(b) above – by Australian surveillance vessels and/or aircraft; or
  - (c) within the Area of Cooperation, by the personnel authorised by the competent authorities of one of the Parties aboard surveillance vessels and/or aircraft of the other Party pursuant to a cooperative surveillance agreement or arrangement made under Annex III.

## **Article 2**

The object of this Treaty is to enhance:

- (a) cooperative surveillance;
- (b) cooperative scientific research on marine living resources.

## **Article 3**

1. The Parties may agree by common consent on procedures and forms of assistance, to facilitate the realisation of the aims of this Treaty.
2. Cooperative surveillance missions may be undertaken, with the consent of the competent authorities of each of the Parties, in conformity with the law applicable in the Area of Cooperation and with the common procedures established under this Treaty, and in particular under Annex I thereof. The competent authorities may attach conditions to their consent.
3. Each Party may request the assistance of the other Party when engaged in a hot pursuit, within the meaning of Article 111 of the Convention. Without prejudice to the agreements that may be reached pursuant to Article 2 of Annex III of this Treaty, such assistance shall include logistical support required to carry out the pursuit properly, including but not limited to the provision of food supplies, fuel and means of transport.
4. The Parties shall agree on a system for the surveillance of fishing in the Area of Cooperation. This may include:
  - (a) a vessel monitoring system;
  - (b) the adoption of agreed minimum standards for the vessel marking of fishing vessels licensed to fish in the Area of Cooperation.
5. Cooperative scientific research on marine living resources may be undertaken throughout the Area of Cooperation, in conformity with the law applicable in this area and with the modalities, if any, established in accordance with Annex II of this Treaty.

## **Article 4**

In cases of hot pursuit commenced in accordance with Article 111 of the Convention, in relation to the Area of Cooperation, including hot pursuit commenced during activities pursuant to Article 1(5) and Annex III, such hot pursuit by a vessel or other craft authorised by one of the Parties may continue through the territorial sea of the other Party, provided that the other Party is informed, and without taking physical law enforcement or other coercive action against the vessel pursued during this phase of the hot pursuit.

## **Article 5**

1. The competent authorities of the Parties shall, to the extent permitted by their national law and policies, exchange, inter alia, information about:

- (a) the location, movements and other details of fishing vessels within the Area of Cooperation, including those suspected of fishing illegally;
  - (b) licensing of fishing vessels to conduct fishing within the waters mentioned in Article 1 paragraph 1 (a) and (b) above, belonging to the Area of Cooperation;
  - (c) cooperative surveillance activities;
  - (d) prosecutions instituted by each Party relating to illegal fishing in its territorial waters or exclusive economic zone included within the Area of Cooperation; and
  - (e) scientific research on marine living resources relating to the Area of Cooperation.
2. The competent authorities of the Parties shall develop standard forms and procedures for regular reporting and communication of the information provided under this Article. The information referred to in paragraph 1 (d) above shall be exchanged among the competent judicial, prosecutory or investigatory authorities of the two Parties.
  3. The competent authorities of the Parties shall establish a shared vessel register of fishing vessels licensed to fish in their respective waters belonging to the Area of Cooperation.
  4. To the extent that information passing between the Parties in accordance with this Treaty is information to which the Parties are privy, such information shall not be provided to third Parties by the Party that received the information without the written consent of the provider. Nothing in this clause shall prevent a Party from meeting its reporting obligations under the Convention or the CAMLR Convention.
  5. Each Party shall provide written notice to the other Party identifying its competent authorities and contact details for those authorities. The first notice shall be provided within one month of the commencement of the Treaty. If at any time a Party's competent authorities change, that Party shall give notice in writing of the change within one month after the change has commenced.

#### **Article 6**

The competent authorities of the Parties shall hold consultations every two years to examine the implementation and effect of this Treaty.

#### **Article 7**

Nothing in this Treaty shall be deemed to derogate from the Parties' rights and obligations arising out of other international agreements to which either of them is a party, at the time of entry into force of this Treaty.

#### **Article 8**

The Annexes to this Treaty form an integral part of it and a reference to this Treaty includes a reference to the Annexes.

### Article 9

This Treaty shall enter into force on the date on which the Parties have notified each other in writing, through diplomatic channels, that their internal procedures necessary for its entry into force have been met.

### Article 10

This Treaty may be terminated by formal notification by one Party, by a note verbale, to the other Party. Termination shall take effect 12 months after the note verbale is received by the other Party.

This Treaty may be amended at any time by common consent of the Parties. Any amendment shall take effect conditional upon completion of the procedures laid down in Article 9 of this Treaty.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Treaty.

DONE in duplicate at Canberra this 24<sup>th</sup> of November 2003  
in the English and French languages, both being equally authentic.

Alexander Downer  
Minister for Foreign Affairs

For the Government of  
the Commonwealth of Australia

Renaud Muselir  
Secretary of State for Foreign Affairs

For the Government of  
the French Republic