



Thank you for the opportunity to present to the Joint Standing Committee. This letter is to clarify issues raised at the recent hearing and correct typographical errors in the transcript.

Exhibit No.9.1
TT 12 March 2008

Unfortunately we were not aware of HSI's second submission at the time of preparing our original submission or when we gave evidence. This may be why some inconsistencies we have now picked up on were not particularly obvious at the time we gave evidence.

1. Question by Senator Cash re other purposes (apart from primarily conservation purposes) contemplated by the annotation

At the recent hearing Senator Cash stated "In terms of the current annotation for the exclusive purpose of allowing international trade in live animals to appropriate and acceptable aquaria for primarily conservation purposes, what other purposes are also contemplated by the annotation?"

Mrs Squire answered "It is really part of conservation, but along with that conservation goes education and research in the aquariums. Obviously, some aquariums are also doing captive breeding, so that would all be encompassed

What we perhaps did not explain is that the words "primarily conservation" in the annotation to Appendix II would allow a minor commercial purpose in the country of import. This would not be possibly regarding animals on Appendix I.

The words "primarily conservation" in the annotation is to be distinguished from the requirement regarding Appendix I animals that they not be exported for "primarily commercial purposes". Resolution 5.10 make it clear that the word "commercial" should be defined very broadly so that any use which is not "wholly non commercial" in the importing country will be regarded as commercial. (A commercial transaction is allowed between the exporting and importing country. CITES recognise that animals will not be supplied for free, so the fact that animals are purchased does not mean the transaction becomes commercial simply for this reason).

The real distinction is that whilst not for profit institutions could obtain sawfish to do educational displays or research on sawfish if they were on Appendix I, it would be very difficult for profitable organisations to do the same. This is regardless of the conservation benefits of the display or whether the for-profit institution intends devoting twice as much to research on sawfish as the not for profit or government organisation may spend. A commercial benefit is assumed because the organisation is a for-profit institution. Appendix I does not appear to allow a dual purpose, even if the commercial benefit is minor compared to other benefits that promote conservation of the species.

We were also asked by Senator Forest whether it would be impossible for a for-profit aquarium to satisfy Appendix I requirements. We indicated it was not impossible – we are aware that the Dallas World Aquarium for example

has imported species on CITES appendix I however this is an exceptional case and they were obviously able to show there was absolutely no commercial benefit in that particular case.

Most of the large aquariums doing significant amounts of research and educational display on sawfish however would not be able to do this. Again – the reason is because it is not enough to show that research or conservation is the main purpose, resolution 5.10 requires a wholly non commercial purpose.

With *Pristis microdon* on Appendix II with the annotation, it does not matter that there is a minor commercial aspect in the country of import provided the predominant or primary purpose is conservation related. Indeed, it is the minor commercial aspect that allows the “super aquariums” to fund the significant amounts of research that they do.

We should also point out it is not a simple matter to show the purpose of display in an overseas aquarium is “primarily conservation”. DEWHA do not simply accept that there will be conservation benefits because in any public display, education will be a casual side effect. Much more is required.

- For example, at present we have a sawfish export application before the government that has been lodged since May 2008 still waiting approval. The organisation (Atlantis) that is seeking to import the sawfish is probably the most respected organisation in the world when it comes to captive breeding of sawfish. They are the only ones to date that have limited success in breeding sawfish. Their research on these animals is significant. They have not tried breeding *Pristis microdon* before however it is a very exciting opportunity to have such a well respected organisation interested in breeding *Pristis microdon*. Atlantis is seeking to import a pair of microdon for captive breeding, display and research purposes. They have amazing facilities at their disposal including the ability to regularly conduct ultrasounds on pregnant sawfish.

Even an application such as this however, has been (and continues to be) the subject of careful consideration by the government. Applications are not easily approved and very detailed information must be supplied before the government is satisfied that all necessary requirements have been met. In this case, the aquarium is a public aquarium but is housed inside a resort so DEWHA are seeking to ensure that this in no way impinges on the conservation benefit to be provided by supply of the sawfish.

Once an export is approved, the necessary requirements are formalised in the ambassador agreement.

Accordingly, we know first hand that the government takes their obligation to ensure conservation benefits to the animal very seriously indeed.

2. Question by Senator Cash re difference in views: Appendix I v Appendix II

At the recent hearing Senator Cash stated that “*The sticking point between [Cairns Marine] and HSI is whether or not the annotation should be in appendix I or appendix II.*” In fact this is not the case. We believe it is our duty to the committee to point out that HSI is seeking that the annotation be abolished all together and that all sawfish be listed on appendix I. We are unsure whether this was made clear in our answer to Senator Cash.

By way of example consider a situation where a not for profit aquarium spends \$50 000 per annum doing research on sawfish; and where an aquarium run with a view to profit spends \$500 000 per annum on sawfish research. If sawfish were listed on Appendix I and there was no annotation (as requested by HSI) in all likelihood Cairns Marine could not supply to the organisation spending \$500 000 per annum on sawfish research. This is because there is an assumed commercial benefit because the aquarium is run with a view to profit. CITES does not appear to accept that there may be a “dual purpose” or that the commercial aspect may be very minor compared with the conservation benefit.

With the annotation on Appendix II however, we can still export to aquariums doing significant amounts of research or educational displays.

Further, if the majority of large aquaria we generally send animals to can no longer take sawfish (i.e. because *pristis microdon* was listed on Appendix I) we would be unable to collect them and in turn facilitate the very important research being done on Sawfish in Australia. This is because without some form of cost recovery, it would be impossible for us to spend the significant amounts of money we currently do on sawfish collection trips and research.

It was put to Ms Benyon by Senator Pratt that if *Pristis microdon* were listed on Appendix I the types of information being collected on sawfish by for-profit organisations may be lost. Senator Pratt elaborated “*I suppose it is a case of whether there is sufficient funding to make those kinds of investments if it has not got an actual for-profit institution attached to buying the specimens to start with.*”

It is our experience that in reality, not for profit organisations simply don't have the budget required to purchase sawfish, adequately house them and then fund the all important research. Accordingly, the majority of research on sawfish is done in public aquaria run with a view to profit – that is – those aquariums that have the budgets to invest back into sawfish research.

Further, if a sawfish is going to be kept long term, there has to be an appropriate holding facility and funding for proper husbandry. We are not aware of any research institution in Australia or elsewhere that has the funding or facilities to do this. It is really the large public aquaria that are able to appropriately house a sawfish on a long term basis. Cairns Marine would not sell any animal to any organisation that is not capable of holding it appropriately on a long term basis for ethical reasons.

We are also not aware of any aquarium in Australia that has the budget to cover the costs of collecting a sawfish. We note that Ms Benyon gives the example ASSUMING we could sell a specimen to SeaWorld then noting SeaWorld could do research on it. With respect, this example is simplistic.

We doubt HSI have ever really considered whether SeaWorld (or any aquarium in Australia) actually has the resources (financial or otherwise to actually do this). SeaWorld for example, is situated on the Gold Coast. The park pumps water in from the sea adjacent to where they are situated. The Park's water is not temperature controlled. The park's water would be far too cold to safely house *Pristis microdon*.

Further SeaWorld only has a limited research budget and that is primarily spent on researching grey nurse and turtle rehabilitation, as well as some other minor areas. There is no way SeaWorld could even hold sawfish let alone have sufficient facilities and funding to purchase several sawfish with the intention of establishing a captive breeding program. (We note recently SeaWorld were asked to raise a young whale that had been separated from its mother and again SeaWorld advised it did not have the facilities to do this).

The Sydney Aquarium have made it clear to us previously they are not interested in having sawfish because they are concerned sawfish may scratch their acrylic tanks. The Melbourne Aquarium does not have the budget to purchase sawfish.

The only Aquarium that we are aware of in Australia that has the right water temperature to hold sawfish is Reef HQ in Townville. We have already donated a sawfish to them however they are doing very limited research. We believe it is limited to having injected the sawfish with tetracycline. They do not have the budget to do further research being a government run organisation. They are not interested in obtaining any more sawfish.

The fact is that if sawfish are not exported from Australia, we will not be able to fund the collection of sawfish and therefore all the research that we facilitate or fund in Australia will cease. There is extremely little other funding available to allow these research projects to continue.

The loss for research would be twofold. First, many of the researchers in Australia would be unable to continue their field research because it could no longer be facilitated or subsidised by Cairns Marine. Secondly, aquaria that might otherwise import sawfish and do significant amounts of research on them, would be unable to access sawfish and therefore be unable to continue research into the species.

We note Senator Forest asked what the difference to Cairns Marine would be if the sawfish was on appendix I and commented "*You still get to export 8 or 9 or these fish [per year]*" With respect to Senator Forest, this is not the case. If Sawfish were on Appendix I, there would be very few (if any) aquaria

that could show there is no commercial benefit whatsoever in importing the species.

Mr Forest later commented “*presumably, that would be because they are not interested in conservation and are only interested in commercial outcomes*”.

What we perhaps did not stress is that resolution 5.10 requires the use in the overseas country to be “wholly non commercial”. There are aquariums that are extremely devoted to conservation and that are doing significant amounts of research, that would still be prohibited from importing sawfish if they were on Appendix I simply because there may be a minor commercial benefit of the display of the animal. Indeed this is likely to be assumed simply by the fact that an aquarium was run with a view to profit.

3. Question by Senator Parke whether education as a casual side effect of public display is really a conservation purpose.

Senator Park queried Mr Squire whether education as a casual side effect of public display is really a conservation purpose. This question raises several issues that it is important that we point out.

First –

- There are many things that CITES consider fall within the phrase “conservation purpose” not just display. For example it would include education, training, research or captive breeding. For example Resolution 13.4 concerns the **conservation of and trade in great apes**. Whilst this resolution urges parties to prohibit all international trade for commercial purposes of great apes, the resolution allows the international use of apes in “*nationally approved zoological institutions, education centres, rescue centres and captive-breeding centres in accordance with CITES*”. It is clear from this document that CITES recognises the conservation benefits of display (i.e. in zoos) or use in educational centres as well as research and captive breeding.

Second –

- The current annotation does not say that display alone (with nothing else) will be for a primarily conservation purpose. Obviously whether there are such benefits must be determined on an individual basis in each case.
- Ms Benyon appears to argue that the only purpose sawfish are being exported for are “just public display” without any other educational benefits, research or scientific purpose. With respect, this is simply not the case.

An ambassador agreement must be entered into before any sawfish is exported. Each overseas aquarium must satisfy Australia of the

conservation benefits of having the sawfish in the aquarium. These will no doubt be different in each case.

- Educational display is one aspect and in this case the ambassador agreement would set out requirements re educational signage about threats to the animal, habitat in which it is found etc.
- If research is also one of the conservation benefits relied upon then the agreement could also outline further conditions in this regard.
- As a minimum the agreement already has certain requirements to facilitate some research/study on the animal.
- If breeding is also to be attempted requirements in this regard may also be outlined in the ambassador agreement.

The DRAFT ambassador agreement referred to by HSI is the basic minimum but as stressed above, each case may be different and the ambassador agreement can certainly have additional requirements in each individual case.

- Accordingly Australia makes absolutely sure that conservation is the primary purpose in the overseas aquarium. Cairns Marine have been exporting animals around the world for over 15 years. We have first hand experience at the challenges involved in doing so and the enquiries made by the Australian Government before being satisfied an animal should be exported.

We note that Senator Cash specifically asked Ms Beynon “*Can you provide us with any specific examples where one of Australia’s sawfish has been exported and it has been proven that it was not for primarily conservation purposes*”?

It is telling that Ms Beynon did not give any such examples despite being aware that 6 sawfish have been exported since the annotation was implemented. The ambassador agreement entered into ensures that there is a real conservation benefit of any sawfish exported – not just some “possible” or sideline benefit of display.

Finally

- HSI argue that display is not a purpose permitted if an animal is on Appendix I Ms Beynon saying “*just public display is not considered appropriate for an appendix I species*” With all due respect to Ms Beynon, again this is not the case. We wanted to clarify that there is no requirement that animals exported on Appendix I animals be sent for conservation purposes. They simply can’t be exported for commercial purposes. There is no prohibition on display provided it is not commercial display. Indeed a

live or dead animal (even one in parts) could be exported and used for a variety of purposes (research, education, display/ identification by customs). Indeed later in her evidence Ms Benyon indicated her uncertainty about CITES saying “*I think that a commercial transaction can still take place with an Appendix 1 species. It is just the purpose at the destination has to be not primarily commercial. So there could still be a commercial return for Cairns Marine Aquarium Fish. But please check that with the government.*”

4.Question by Senator Forest “Are any countries that you know of engaged in exporting sawfish?”

Ms Benyon was asked what other countries were engaged in exporting sawfish. Ms Benyon did not have personal knowledge but said the IUCN [species profile] said there was increasing demand and that therefore implied there was trade going on outside Australia.

Unfortunately this question was not also put to Cairns Marine nor were we specifically asked about the IUNC species profile. Based on matters raised at the hearing after we had given evidence we feel it is critically important that several things are noted:

IUCN species profile

- The IUCN species profile was based on an assessment done by Compagno, Cook and Fowler in 2006. An assessment does not mean (as seems to be implied by Ms Benyon) that these people have individually gone out and completed research in any of the range areas for the species. Rather, it was a **desk top study**. What the authors did was to look at research that has previously been completed by other scientists and compile all of this together in a very summarised document that comprises approximately 3 pages only! The majority of the information relied upon appears to come from reports published in **1994/1995 – over 10 years ago**. (Obviously the research relied on this papers was done prior to these years).
- All the species profile says about range description in Australia is that freshwater records of *Pristis microdon* show they are found in the “*Gilbert , Mitchell, Daly , Victoria , Ord, Fitzroy, Lynd, Walsh , Palmer and Alligator Rivers and Teogangini Creek...*”. (We should point out that only 5 of these rivers - the Gilbert, Mitchell, Lynd, Walsh and Palmer rivers - are in Queensland)

The three most recent studies relied on by the IUCN in Australia are Last and Stevens 1994, Compagno and Cook 1995a and Skelton 2001. The citations given in the species profile indicate that the research by Stevens in 1994 and Compagno and Cook in 1995 have been heavily relied upon. [We are currently unaware of who Skelton is. We have made enquiries with Cairns researcher Sterling Peverell but he was also unaware of who this person was. Presumably

he is not currently undertaking any research on sawfish in Queensland and specifically the Gulf of Carpentaria.]

It should be remembered that in 1994/1995 *Pristis microdon* were still thought to only occur in freshwater! We know now however that they breed in freshwater but then return to marine environments. This is no doubt why the IUCN species profile only refers to a freshwater range of microdon in Australia. No reference is made to the marine range whatsoever!!!!

It is also telling that the IUCN have only noted that sawfish have been found in 5 river systems in Queensland. Current research being conducted reports them in at least 25 of the 39 main river systems surveyed and research is continuing to be done.

Obviously the IUCN is unable to say there has been any decline in populations in many areas in the Gulf as they don't even have records of them living in these river systems. Further, the main research relied upon is many years old.

In summary, the information relied upon by the IUCN is out of date and does not include the much more recent, extensive and reliable information available in Australia. (For example, see Sterling Peverell's 2004 published report on Distribution of Sawfishes (Pristidae) in the Queensland Gulf of Carpentaria, Australia, with notes on sawfish ecology.)

What also needs to be noted is that given the very extensive range of sawfish in the Gulf of Carpentaria it takes years to properly research the main river systems. It takes Cairns Marine approximately 10 days to catch and tag sawfish in a 10km stretch of river. If one considers rivers can be hundreds of kilometres long and there are 39 main rivers systems in the Gulf, it soon becomes obvious why proper surveys take years to complete and are extremely expensive. If you further consider that it costs Cairns Marine approximately \$15 000 - \$25 000 per trip, and at a minimum you would need at least 5 trips per river system, it is easy to see why proper surveys can easily cost hundreds of thousands of dollars.

Finally, it needs to be noted that the IUCN listing and Australia's current listing on the EPBC Act are different for very good reasons. The current listing on the EPBC Act in Australia is based on opinion from Australia's leading sawfish experts that have (and continue to do) extensive research specifically in Australia on *microdon*. This research is much more specific to Australia and more recent than the information relied upon by the IUCN. The working group of experts that was formed to discuss the recovery plan for sawfish contains scientists of world standing. The group met as recently as a few weeks ago. There is no current view expressed by these experts that the EPBC Act's listing for sawfish is not appropriate or that sawfish require a high level of protection than that already given to them.

HSI argue sawfish should have a higher EPBC listing even though this is not backed up by Australia's leading experts of notable world standing.

Comment that there is increasing demand for live sawfish

The IUCN species profile notes “*There is increasing demand for live sawfish to put on display in public aquaria, with most specimens sourced from Australia.*” What is not noted is that the countries that have previously exported sawfish are no longer doing so. We unaware how the IUCN concluded there was “increasing demand” for sawfish in Australia. As previously said in our evidence, our supply has not increased in recent times.

Given we are the only company now exporting sawfish, we fail to see how the IUCN could conclude there was “increasing demand”. Perhaps it was assumed by the IUCN that because more and more aquariums now have sawfish there is increasing demand. The truth is that sawfish have had very good survivability in aquariums. Obviously if several sawfish are exported each year and there are no mortalities – over time there will become more and more sawfish in aquariums. This does not mean however that “demand” has increased.

Our criticisms of the IUCN species profile have already been noted above. We stress this is an extremely short document and the author’s give no corroboration, research or reference to other papers as to how they arrive at the conclusion that there is increasing demand for sawfish in aquaria. Cairns Marine were certainly not contacted in this regard. With respect, as the only company exporting sawfish, we are really in the best position to give evidence on whether the demand is or is not increasing.

In fact, the CITES proposal of Kenya and the USA is much more accurate than the IUCN species profile in this regard stating “*According to McDavitt (2007) there seems to be steady global demand for less than 10 individual sawfish annually for aquaria.*”

HSI have not commented on this clear and obvious inconsistency between the two documents. At the CITES conference it was clearly recognised that Australia is currently the ONLY country exporting live *Pristis microdon* to aquariums. The last reference to another country exporting was from Indonesia to Canada close to a decade ago. Perhaps Ms Benyon was not aware of this having not attended that last CITES conference personally.

5. Question by Mr Simpkins as to whether HSI have done a survey. Further whether “someone has actually been to the gulf to make this assessment.... Or have they made generalisations from across the world... or are [Cairns marine] the only people who have actually been there and made an assessment.

Ms Benyon’s final answer is “*There are other Australian researchers who have researched freshwater sawfish. It is a good question and it is a question that the Australian government should have been asking instead of solely relying on Cairns Marine Aquarium Fish’ information. They asked John Stevens but I think there should have been a wider investigation*”.

In response to this statement we feel it is important to raise several issues:

- First - Prior to the last CITES conference DEWHA sought comment from industry, researchers and other relevant organisations prior to reaching a conclusion as to the government's final position. Australian researchers certainly made comments in this regard (e.g. Sterling Peverell from DPI - who is currently conducting significant research into sawfish in the Gulf of Carpentaria.) The CSIRO report prepared in 2005 was **only part** of the information taken into account. More recent information by those scientists currently conducting research in the Gulf was also taken into account. In addition to all of this Dr Stevens also gave further verbal comment.

HSI are correct that Dr Stevens was not asked to do a survey of the river where Cairns Marine is collecting. As indicated above, this could take years to do. This type of research is already being conducted by people like Peverell. Whilst the research is not complete (some rivers are still yet to be surveyed), the results to date are extremely promising and showing many populations are very healthy. DEWHA certainly had access to these results from researchers (even though final reports have not been published).

- To our knowledge Dr Stevens is not currently conducting research on sawfish although he has previously published reports in this regard. It is apparent from his comments however that he is also aware of the results of research currently being done on sawfish by people like Peverell because he refers to the research projects and says "*There is little doubt that populations of several species are more healthy in some areas of Australia than we imagined before any work was carried out*".

Cairns Marine is well aware of the research being conducted on sawfish in the Gulf because they are helping to facilitate most (if not all) of it. The difficulty is that until the research is complete and the results published, few people save Cairns Marine, and the researchers themselves are aware of the real numbers of sawfish in the Gulf. Certainly the IUCN listing has little relevance given the IUCN are not even aware of the majority of populations that even exist in the Gulf nor aware of the recent research done in the area.

In summary, the final decision made by government was based on various forms of information utilising the most up to date information available/ The decision ultimately made was finalised before the delegates left for the Conference and could in no way have been influenced by anyone who may later represent Australia on the delegation.

6. Question to Kerry Smith re non detriment findings being done independently

It was put to Kerry Smith that non detriment findings should be independent of industry. Again we wish to explain the difficulty with this proposition in relation to sawfish. The majority of sawfish research being conducted in the Gulf is being done with or facilitated by Cairns Marine. To completely fund an independent person (in no way associated with Cairns Marine) to conduct a survey it would not only cost hundreds of thousands of dollars, but it would also take years to do. One further problem is that the independent person would not be a person with significant expertise in collecting sawfish in the Gulf so it is likely they would face many difficulties in conducting their survey.

7 Industry representative on CITES delegation

We have noted that HSI have amended their initial view now saying it is really not appropriate to have industry members attend CITES. We have already stressed that there is no way any member on the delegation is able to affect the government's final position re any CITES proposal as this is decided by the government prior to the Conference and each delegate must sign documentation confirming they will follow the government's position.

The criticisms levelled at Cairns Marine (or industry generally) can equally be levelled at HSI or any other non government organisation. These organisations all have an agenda going to CITES and if it was not for the fact that Australia decides its position re CITES before leaving Australia and requires all delegates to follow its position, one would argue any delegate with a particular agenda could seek to influence the government's decision.

The reality is that there are very genuine reasons for having both industry members and representatives from NGO's attend CITES. For example, when queries are raised at CITES re specific industry practices, one wonders how this is to be addressed if there is no industry member to answer such queries.

It should be apparent from the last hearing alone that Cairns Marine has much information which is relevant (not only to Australia) but many other countries in deciding whether or not to pass a particular proposal. If only members from environmental organisations such as HSI were permitted on the delegation, one wonders who would answer such questions when neither the government representative or NGO representative have the relevant expertise in the area to answer such questions.

As an example, HSI in their evidence suggested SeaWorld on the Gold Coast could hold and do research on sawfish. HSI however, have no actual personal expertise in holding or researching sawfish so have made several wrong assumptions when making this statement. Cairns Marine however (who does have such expertise) has already pointed out the in fact Sea World could not house the sawfish, temperature control being a significant impediment to this.

We stress the proposal by HSI that no industry members attend CITES has tremendous implications not only for Cairns Marine but for any industry that might be affected by a subsequent listing of flora or fauna on CITES. To make a rush decision without proper consultation with all relevant stakeholders will completely deny all such people natural justice and deny the government the ability to make an informed decision on the issue.

The simple fact that HSI themselves have done a complete turn about re their position on this issue, should be proof enough that it is a complex issue that has much wider implications than simply the future of sawfish. We strongly urge the committee not to make a recommendation in this regard without much greater consideration of the issue

8 Setting a precedent

HSI have indicated they are concerned that the annotation on Appendix II re *Pristis microdon* could somehow set a precedent and accordingly seek that at the next Conference Australia propose sawfish be listed on appendix I with no annotation.

Cairns Marine have already addressed the impacts this would have on research on sawfish both within Australia and overseas however we also wanted to comment on HSI's concerns re precedent setting.

First – no animal listing can be changed (or annotation implemented) without being passed by a 2/3 majority at CITES. This sets a very high standard and ensures such annotations are not made on a whim.

Secondly, even if an annotation is made in relation to a particular species, this does not take away from the requirement for a not detriment finding to be made in relation to each species in each country before an animal could be exported.

This annotation was rather unusual because it was clearly recognised prior to it being implemented that not only is Australia the only country exporting sawfish to Aquaria, it was recognised as the only country with robust populations that could satisfy the non determine requirement. These are all factors taken into account prior to approving the annotation, so to say this annotation opens the floodgates is simply alarmist and without basis.

A tremendous amount of knowledge and expertise is required to export live animals. This is not something someone without the relevant expertise could achieve.

9 –Typographical Error

Finally, we simply note a typographical error on page four of our evidence (para 7). The word “Society’s” has been typed when the correct word should be “CITES”

We thank you for the opportunity to clarify the above issues.