



# **HOUSE OF REPRESENTATIVES**

## **STANDING COMMITTEE ON PRIMARY INDUSTRIES, RESOURCES AND RURAL AND REGIONAL AFFAIRS**

**Reference: Management of Commonwealth fisheries**

**CANBERRA**

**Wednesday, 8 April 1997**

**OFFICIAL HANSARD REPORT**

**CANBERRA**



HOUSE OF REPRESENTATIVES  
STANDING COMMITTEE ON PRIMARY INDUSTRIES, RESOURCES  
AND RURAL AND REGIONAL AFFAIRS

Members

Mrs Bailey (Chair)  
Mr Adams (Deputy Chair)

Mr Andren	Mr Fitzgibbon
Mr Baldwin	Mr Leo McLeay
Mr Broadbent	Mr Nairn
Mr Causley	Mr Ronaldson
Mr Cobb	Mrs Stone
Mr Crean	Mr Wakelin

Matters arising from Audit Report No. 32 1995-96 Commonwealth Fisheries Management: Australian Fisheries Management Authority.



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AFFAIRS

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Mrs Bailey (Chair)

Mr Andren

Mr Leo McLeay

Mr Causley

Mr Nairn

The committee met at 9.05 a.m.

Mrs Bailey took the chair.



**CHAIR**—I declare open this public hearing of the inquiry by the Standing Committee on Primary Industries, Resources and Rural and Regional Affairs into the management of Commonwealth fisheries. The committee is reviewing a report by the Auditor-General on the management of Commonwealth fisheries which was presented to the parliament last year.

This hearing concludes the evidence gathering part of the inquiry. We have undertaken extensive consultations with industry, governments and the public and have now come back to Canberra to take final evidence from the Australian National Audit Office and the Australian Fisheries Management Authority.

Committee public hearings are recognised as proceedings of the parliament and warrant the same respect as proceedings of the House of Representatives. Evidence given before the committee is protected by parliamentary privilege. Witnesses will not be asked to take an oath or to make an affirmation. However, they are reminded that false evidence given to a parliamentary committee may be regarded as a contempt of the parliament.

The committee prefers that all evidence be given in public but should witnesses at any stage wish to give evidence in private they may ask to do so and the committee will give consideration to the request.



[9.06 a.m.]

**EXEL, Mr Martin Lewis, General Manager, Fisheries, Australian Fisheries Management Authority, Burns Centre, 28 National Circuit, Forrest, Australian Capital Territory**

**MEERE, Mr Frank McFarlane, General Manager, Strategy and Planning, Australian Fisheries Management Authority, Burns Centre, 28 National Circuit, Forrest, Australian Capital Territory**

**ROHAN, Mr Geoffrey Vincent, General Manager, Operations, Australian Fisheries Management Authority, Burns Centre, 28 National Circuit, Forrest, Australian Capital Territory**

**STEVENS, Mr Richard Andrew, Managing Director, Australian Fisheries Management Authority, Burns Centre, 28 National Circuit, Forrest, Australian Capital Territory**

**CHAIR**—Thank you very much. We have received three submissions from you and have authorised publication of them all. Do you wish to make any changes to any of those submissions?

**Mr Stevens**—No, Madam Chair.

**CHAIR**—I would invite you to make an opening statement if you wish and then we will proceed to questions.

**Mr Stevens**—Thank you very much, Madam Chair, and committee. Since our last appearance before the committee in November 1996 we have provided further information to the committee on a number of additional matters. This included our definition of maximising economic efficiency in the exploitation of fisheries resources and its relationship to our sustainability objective. We will, of course, be happy to clarify any of that information or answer any additional questions the committee may have.

However, I would like to take the opportunity to make a few comments prior to answering further questions from the committee. In my opening statement to the committee in November last year I emphasised the importance of this committee's report to AFMA. Having been under almost continual review since we were established five years ago, we are certainly seeking an outcome from this inquiry which will clearly establish the approach to be adopted by the Commonwealth in managing fisheries.

My opening statement in November set out the main challenges facing fisheries managers, the nature of the industry itself, the partnership approach being taken by AFMA and some comments on the ANAO audit. I do not propose to restate any of those points. Rather, what I will try to do this morning is respond to a number of the submissions and evidence which have been provided to the committee since July last year and provide a perspective on where I think we should be heading with Commonwealth fisheries management.

As a general comment, there was certainly a great diversity of comments made in the submissions to the committee; and I understand that your hearings in Brisbane yesterday brought out some differences of view in relation to the management of billfish stocks. This highlights our previous statement to the committee that almost everyone has a point of view on fisheries management and it is a rare occasion indeed when these



points of view happily coincide.

My specific comments on submissions are as follows: Firstly, I was pleased to see that most submissions reflected positively on the approach taken by AFMA staff in their dealings with the industry or other stakeholders. AFMA has always endeavoured to respond courteously and helpfully to its clients. In doing so, we recognise that, as independent resource managers, AFMA's decisions are unlikely to please everybody and it is only natural that some operators will be dissatisfied.

Secondly, other agencies have differing approaches to fisheries management and we respect their views. Some of the ideas put to the committee reflect philosophical differences, particularly where AFMA is trying very hard to strengthen the partnership approach with industry. This is not perceived as a positive by all management agencies. However, I believe AFMA's approach in this regard to be an essential ingredient to successfully dealing with complex fisheries management issues. AFMA makes a genuine effort to discuss, listen and incorporate the views of industry and other stakeholders into all facets of our management processes.

Thirdly, there were some constructive comments made in a number of submissions. Equally, there were a number of issues and criticisms raised by people who were not satisfied with fisheries management outcomes. Some of these issues were inherited by AFMA. Some were the result of recommendations coming to AFMA through the management advisory committee process, whilst others were the result of specific decisions made by the AFMA board. Importantly, some were also the result of decisions made by the Administrative Appeals Tribunal/Federal Court process, where findings in fact supported AFMA's policies but exemptions to those policies were delivered by the tribunal/ court on a grace and favour basis. Decisions of this kind make the application of fair and consistent management policies in fisheries very difficult.

Despite these criticisms, my initial consideration of the comments made has not altered my belief that the best way to make decisions is through the management advisory committee-AFMA board process. I cannot recall anyone suggesting a return to the departmental-ministerial approach to managing fisheries. Equally, I did not see any suggested substitutes for the MAC process as set out in AFMA's governing legislation. I believe that it is now accepted broadly in many other industries that thorough consultation improves the quality of management so long as the final decision is left to an independent board.

I would add one further comment here. In my opening statement to the committee in November, I emphasised the importance of properly constituted fishing associations at the port level, regional level, state level and nationally. These are essential if the industry is going to help itself to deal with some of the more difficult non-fisheries management issues it faces, such as taxation, native title and some of the more sensitive environmental issues.

Whilst the MAC process is an important and very much transparent forum for the discussion of fisheries management arrangements and decisions, the industry cannot and must not expect the MAC process to become a substitute for fishing industry associations. Specifically, MACs should not be diverted on to subjects which are more appropriately handled through a properly constituted advocacy organisation.

Above all, AFMA considers there is an urgent need for a properly funded national fishing industry



body, not only to undertake the kind of role presently undertaken by the National Farmers Federation in agriculture, but to contribute positively to the policy debate about fisheries management in both domestic and international forums.

Fourthly, I did not detect any submissions—including those from the CSIRO, the Bureau of Resource Sciences, the Australian Institute of Marine Science, or any of the state fisheries management agencies—which supported one of the major criticisms made by the ANAO, and I quote:

Analysis of AFMA's decision-making regarding the limits placed on commercial fishing are, almost without exception, set in favour of maintaining viable fish catches even in the face of precautionary or contrary stock assessments.

An examination of that statement reflects very poor sentence construction. However, that aside, we have taken it to be a criticism of the limits we have placed on commercial fishing and, apart from a superficial analysis in the ANAO report itself, we do not believe any proper analysis has been undertaken, including peer review by either the CSIRO or the Bureau of Resource Sciences in support of that statement.

AFMA also did not come across any submissions which supported the ANAO's comment:

. . . the picture provided by AFMA Annual Reports regarding the state of Commonwealth fisheries is significantly different from internally available information.

Nor did we see any supporting evidence in relation to the ANAO's assertions regarding our approach to environmental assessment. On the contrary, the Environment Protection Group, in evidence to the committee, commented favourably on the approach taken to environmental assessment by AFMA. This is very much at odds with the ANAO analysis and the rigid approach it recommended. It would have been helpful if the ANAO had spoken to relevant officers in the Environment Protection Group prior to finalising their conclusions in relation to environmental assessment.

In the absence of any supporting evidence from any of the above expert groups, I trust the ANAO will recognise the weakness in its conclusions and the unfair damage it has caused to AFMA's reputation and make appropriate amends. At the same time, as I have said previously to the committee, the ANAO did make a number of positive suggestions which AFMA appreciates. We have moved to implement many of these already.

What remains at issue, however, is the number of unrealistic and unjustified statements and costly recommendations made by the ANAO which detract from the overall value of their report, as well as from AFMA's reputation and standing. In the end, all that these unsupported statements provided was an opportunity for organisations such as the World Wide Fund for Nature to attack us in the media at the Second World Fisheries Congress held in Brisbane last year.

It is interesting to note that, at the end of that conference, the keynote speaker, Dr Pamela Mace, from the National Marine Fisheries Service in the United States, commented at a media conference on the success of Australia's approach to fisheries management. In fact, she ranked South Africa, Australia and New Zealand as world leaders in this field. However, as is so often the case, neither the World Wide Fund for Nature, the ANAO nor the media who picked up the WWF criticisms were anywhere to be found when Dr Mace made



those comments.

Of far greater concern to us, however, is that the rather bold and damaging generalisations by the World Wide Fund for Nature in Brisbane, based on selective quotes from the ANAO report, were not supported in any substance whatsoever in their evidence before this committee.

As many of the submissions to this committee attest, fisheries management is risky and uncertain. Whilst we would all like to be assured that we can achieve sustainable fisheries, the reality is that we are never going to have sufficient resources to access all the necessary research and other information to meet that objective. This is largely because neither the government nor the industry can afford to pay for it.

Additionally, the international nature of fisheries, covering such issues as highly migratory species and international agreements, adds an increasing level of complexity to the management process.

It is also clear that fisheries management decisions are not going to become easier in the short term. In fact, they are going to become harder. This is because the fishing industry's take-up of new technology by way of improved fish capture techniques, and improved vessels and engines, continues to be so rapid that fisheries managers inevitably have to place a growing number of constraints on the fleet's capacity to harvest the catch. This applies to both the commercial and recreational sector. Understandably, many fishers do not like further constraints being placed on their operations, and react accordingly.

I would now like to make some comments on AFMA's preferred approach to managing fisheries. We believe output controls—namely, total allowable catches allocated on an individual transferable quota basis—remain the most attractive and preferred management approach. Output controls enable autonomous adjustment and commercial flexibility and, importantly, leave it up to the individual operator to determine what level of investment, including new technology, he or she is prepared to make.

In saying this, our experience in the South East Fishery has demonstrated that, unless output control systems are also based on equity and fairness, particularly in the initial allocation process, there is bound to be limited support from the industry itself and, more than likely, considerable litigation.

Getting the consultative processes right and all the necessary preconditions in place from the outset are the keys to developing and implementing successful output control fisheries. The clear message from the submissions to the committee, including our own, is the importance of achieving a sound partnership approach, together with a consistent framework in which fisheries management can operate effectively.

AFMA believes that an essential ingredient in achieving this aim is the establishment of a clear and secure fisheries access right, where the right is an access right rather than a property right over the fish themselves. To be more specific, a fisheries management regime based on secure access rights where, as an example, each fisher owns a set share of the total allowable catch results in fishers having a much greater incentive to conserve stocks and, thus, their share of the stock. Importantly, it helps to remove the incentive for operators to fish as quickly and as intensively as possible to enlarge their share of the catch and thereby ensure sustainability into the future.



In a new book published by the Atlantic Institute for Market Studies entitled *Taking Ownership: Property Rights and Fishery Management on the Atlantic Coast*, the institute's president, Mr Brian Crowley, states the following in support of allocating secure access rights in fisheries:

. . . the owner becomes a powerful decision maker about what is to be done with the resource, a decision maker moreover who benefits directly each time the resource is put to a use which is more highly valued in the market place. This means that the owner has a powerful reason to devote considerable time and attention to finding these more valued uses. The result is that society gets its natural resources efficiently: the minimum of resources is invested in order to achieve the most valuable uses.

Both the present government and the opposition when it was in government clearly recognised the importance of establishing secure access rights in Commonwealth fisheries.

Once individual fishers recognise the value of the access right they own, we can expect them to take greater responsibility for the management of fisheries. The amendments to AFMA's legislation presently before parliament, which provide for the ongoing recognition of access rights, even if a management plan is repealed, will further strengthen these arrangements.

In conclusion, AFMA has great confidence in the partnership approach contemplated by the federal parliament when it enacted AFMA's governing legislation in 1991. We believe it to be one of the best models of public administration available to address natural resource management issues. At the same time, we readily acknowledge that in fisheries management one must always be vigilant, stay abreast of changes occurring in the behaviour of both stakeholders and the resource, and always strive for improvement.

This is why we have repeatedly emphasised, firstly, the importance of a responsive, professional and helpful approach, supported by sound financial and administrative systems; secondly, the importance of due process for recommendations and decisions on fisheries management issues through the MAC/AFMA board process; thirdly, the establishment of an annual program of research priority setting, thus making the most effective use of available resources and leading to the best fisheries assessments we can achieve on the information available for our major commercial fisheries; fourthly, the importance of open and transparent decision making processes; fifthly, the importance of listening to the views of others, and taking account of possible improvements developed by them in our operations; and, sixthly, the importance of establishing secure access rights as the best means of enhancing the industry's approach to management and conservation of fish stocks and the marine environment.

In the end, while an organisation can have the best legislation, policies, procedures and operational guidelines—and these certainly help the whole process—they amount to nothing if, firstly, those affected by decisions are not genuinely included in the decision making process and, secondly, these same people do not feel that their input is treated with sincerity, courtesy and respect.

Madam Chair, you will have noted our vigorous reaction to some aspects of the ANAO report. We believe that if considerable taxpayer resources are to be allocated to the conduct of performance audits by the ANAO then the agency being audited, the parliament and the community itself should reasonably expect statements made in such audits to be based on a thorough and balanced evaluation using all available information sources. We are not convinced that this occurred in our case.



The committee's deliberations on the management of Commonwealth fisheries are important not only to the sustainability of a natural resource, which is not easy to manage, but also to the future wellbeing, profitability and strength of the industry itself. You and your committee have been most patient in hearing the two opening statements I have made, and I thank you for that. Obviously, AFMA has a very real interest in the committee's report, which is awaited with keen anticipation.

**CHAIR**—Thank you, Mr Stevens. Before I acknowledge that there is general consensus that you have a difficult task, given that one of the very strong criticisms in the audit report—and where there has been, I would suggest, general confusion throughout the industry—is in this definition of economic efficiency and your legislative responsibility to maximise economic efficiency while safeguarding ecological sustainable development, there has been much evidence put before us at this committee to suggest that those two goals and those two responsibilities that you have are actually in conflict. I am aware that you have given us a supplementary explanation of what you perceive as maximising economic efficiency, but could you define for us today, firstly, what you regard as your responsibility in maximising economic efficiency and, secondly, could you explain to us how you translate that to the industry?

**Mr Stevens**—I will get Mr Exel to respond to that, principally because he has been through three or four federal court matters involving the definition of maximising economic efficiency. He is the best person to explain it, I hope, in terms that are understandable.

**Mr Exel**—So do I actually. In terms of maximising economic efficiency, the way the act is structured and the way we treat it at AFMA is that the bottom line is the resource. So, from an ESD point of view, we work out how much fish can be taken. Maximising economic efficiency in our legislation is to pursue maximisation. We look at trying to set up management regimes that provide the maximum possible market flexibility. In other words, ITQs are what we talk about where it is commercially driven with the minimum amount of government impediment. Really, the basic idea behind the whole individual transferable quota system is to get as many government regulations—what we call input controls; in other words, how big your boat can be, which area you can fish in, times of the year—off as possible to allow the industry to actually maximise their efficiency in taking that resource.

That has been the subject of debate, as Mr Stevens mentioned, through the courts for the last two years. It was finally upheld in the Administrative Appeals Tribunal about six or seven weeks ago and it is now the subject of another challenge. However, the approach we are taking is to set up a management framework that allows market driven forces to work and still maintain the bottom line of the stock.

**CHAIR**—What do you say to the ANAO belief that this objective is inconsistent with the objective of ecologically sustainable development?

**Mr Exel**—I would just like to emphasise again that the objectives set by parliament are for AFMA to pursue those objectives. We do not believe that it is inconsistent at all. If you approach the management of fisheries on the basis of setting a total allowable catch first up, and then allow the industry itself to find the level of investment it wishes to pursue in taking that catch, then I do not see how that can be inconsistent at all.



**CHAIR**—Do you feel that part of the problem that the audit office and, in fact, areas of industry have had has been in your attempts at defining what you mean by maximising economic efficiency?

**Mr Stevens**—I guess the problem has been more that some legal practitioners have said that here is a possibility that we can use to maximise the potential of our candidate or our applicant or our fisher, to challenge management arrangements. I do not think that it has been anything more than that.

Until the last two or three years, there were not any challenges about our objectives at all. It is only when we got to allocation decisions or the size of vessels in various fisheries that some legal practitioners decided to challenge the approach that we are taking by using that maximising economic efficiency objective. What they were trying to do was use it in an individual sense rather than in a total fisheries sense. I guess they were seeking to get an advantage for their client over other operators in the fishery. That is the way that the challenges have come forth.

**CHAIR**—The main method of achieving your responsibilities is obviously through the management of the MACs. There have been a number of criticisms of those who can gain access to the MACs. What is AFMA's position at the moment? Do you have any plans on broadening the membership of the MACs?

**Mr Stevens**—As we have set out in our submission to the committee, we have set out the membership of each of the individual MACs, including the moves made by the AFMA board to incorporate in some instances permanent conservation observers to each individual management advisory committee. There is a table in our submission which sets out the membership of each of the management advisory committees.

Our aim as a board is to make sure that those management advisory committees are as representative as possible, bearing in mind that probably 'representation' is the wrong word. Each member of a management advisory committee has got to contribute their skill and expertise to the whole decision making process and not be the representative of a particular state, region or sector of industry.

**CHAIR**—Regarding that sector of the industry, we have had a number of criticisms from the smaller fishers who criticise the MAC membership as being loaded with the big players in the industry. Therefore, when decisions are taken by the MACs they feel that they are not getting a fair hearing and therefore are being adversely affected because the MACs are loaded with the big industry members. How would you respond to that criticism?

**Mr Stevens**—I would refute that criticism. When we appoint members of MACs we go through a process of going to all operators in the fishery and asking them to put their names forward if they wish to be considered for membership of a management advisory committee. There is an assessment and ranking panel which comprises the chairperson of the management advisory committee, the General Manager (Fisheries) in AFMA and the executive secretariat.

Each person who wishes to be considered can put an application forward saying what their skills and expertise are and how they can add value to the whole management advisory committee process. The board then makes a decision based on the various sectors that are involved in the fishery, whether they be on a



geographic or a small time or big time basis. The shark fishery comes readily to mind. We try to get the big boat operators and the smaller operators represented at the table or as members of the management advisory committee. So there is nothing to stop people putting their names forward for MAC membership. Secondly, and most importantly, the board always endeavours to get a proper balanced membership of the management advisory committee based on the various sectors that are involved in the fishery.

The third point I would make is that any individual operator in a fishery can attend a management advisory committee meeting and listen in. People can make submissions if they want to about their sector of the industry and have those submissions considered by the management advisory committee. So there are plenty of opportunities, we believe, for any individual operator to put their point of view, and they do.

**CHAIR**—In your opening statement to us today, you actually highlighted the importance of open and transparent decision making processes. I will give you an actual example here. I will not name the person, but we have, for example, a person who is in fact an executive officer of the South East Trawl Management Advisory Committee, secretary of the South East Trawl Fishery Industry Association, a former member of the quota implementation team, a former member of the SEF adjustment working group and the principal quota trader in SEF. Having said all that, I am of course referring to Gail Hewitt. Obviously those positions are of considerable influence.

If you are going to state that you abide by the principle of open and transparent decision making, do you not think that you leave yourself open for criticism if you allow one person to hold so many positions? Do you not think that other members of industry then feel justified in criticising AFMA for not being what you have stated—open and transparent in your decision making process?

**Mr Stevens**—Let me answer that in a number of parts. Firstly, Ms Hewitt is a person who is prepared to work on behalf of the industry, and I have a high regard for the amount of work that she does for it.

**CHAIR**—Can I interrupt you. I am not casting any aspersions about Ms Hewitt; I am talking about the principle. This is just one example. There have been some general criticisms that perhaps do not go to this extent but still touch on the same issue of people having a whole range of influential positions. Several members of the industry feel that they are able to gain advantage from having those positions.

**Mr Stevens**—In the first instance, one of those positions that you read out was an appointment by the Minister for Resources and Energy. It certainly was not an appointment by AFMA. In the second instance, one of those positions was an appointment by the industry itself, certainly not by AFMA—that is, the South East Trawl Fishing Association. That is an industry appointment, not an AFMA appointment. The third position that you read out was executive officer of the South East Trawl Management Advisory Committee. Again, we went through a selection process and advertised that position. The person you suggested was the person best suited to the position was appointed and is reviewed on an annual basis by the management advisory committee.

I find those criticisms a little uncomfortable, in the sense that it is very difficult to get people to allocate their time, often unpaid time, to be members of management advisory committees or consultative committees that advise AFMA. I will give you another example. Brian Jeffries is President of the Northern



Prawn Management Advisory Committee, he is Executive Officer to the Southern Tuna Management Advisory Committee and he is a member of the East Coast Tuna Management Advisory Committee. We went through the process of selection of people for those management advisory committees, and he was the person who was best suited in terms of his skill and expertise to be a chairperson, an executive officer and a member.

The big problem that we have is that we cannot find people to take on the responsibility of being management advisory committee members and put up with the inevitable aggro that accompanies being a member of a management advisory committee. I guess the best example I can give of that is when the present Deputy Chairman of AFMA, Stuart Richey, and I went and spoke to the Victorian shark industry. There were a number of very sensible people at the table, and we said to them, 'Why won't you put your names forward to be members of the management advisory committee?' And they said, 'Well, we were involved in consultative committees 10 or 12 years ago and, quite frankly, it's a pain in the neck. All you get is aggro calls from people who are continually complaining. We're just not going to put our families through that any more.'

When you go out and call for names of people to be members of the management advisory committee for South East Trawl and you get nine applicants out of 130 operators, you can see that the real issue for us is trying to get quality people on the management advisory committees. In the case you mention, I think the person has put in an awful amount of time, unpaid time, and deserves credit for that.

**CHAIR**—Before any appointments are made to the MACs, do you have a process whereby you have asked people to list what other organisations they belong to so that you are aware if there may be a potential for a conflict of interest?

**Mr Stevens**—We normally ask individual operators in the fishery to put their name forward based simply on the skill and expertise that they can offer to the management advisory committee. Are you talking about industry operators or other?

**CHAIR**—Anyone. Perhaps if there were a process in place whereby it was known whether anyone being considered for the position on a particular MAC was a member of various other organisations at least you would be adhering to your goal of having an open and transparent decision making process.

**Mr Meere**—Attachment 7 of our initial submission details a letter of representation that each member of a management advisory committee must make to the Chairman of AFMA concerning conflict of interest, roles and responsibility and commitment to the fishery in line with AFMA's policy paper on management advisory committees. That would be where we would pick up, for example, if somebody said, 'No, I do not think I can sign this.' The letter is very explicit. It says:

I give my assurance that I will endeavour to participate in an objective and impartial manner and I will serve the best interests of the specific management advisory committee in support of AFMA's objectives.

In addition to that, there are legislative requirements in the Fisheries Administration Act which spell out clearly the conflict of interest requirements of MAC members and of board directors.



**CHAIR**—Thank you. Yesterday a matter was raised in our hearing in Brisbane relating to the granting of an area E licence to Paul and Michael Williams. Michael Williams gave evidence to the committee implying that he had been misinformed about possible access to area E for tuna fishing on the basis of information from an AFMA officer whom he named as Dorothea Huber. He claims to have proceeded to build a tuna boat. He claims the information he was supplied was incorrect. Additionally, at one stage he claimed to have been told by AFMA staff that if he purchased a tuna boat which had an area E licence the licence would be cancelled as they could not be transferred. He believes that, contrary to this, another person was able to transfer an area E licence at that time. Because of this he believes he and his brother were disadvantaged. Can you comment on that complaint that was raised with us yesterday?

**Mr Stevens**—Yes. Mr Williams, is it?

**CHAIR**—That is right.

**Mr Stevens**—The first thing I would say is that, subject to Mr Williams's clearance, we are quite happy for the committee or the secretariat to have total access to the file that we have on this matter so that you can see the full story and get the full picture. The person who undertook the review, Mr Rohan, is at the table. The review was in response to representations made by Mr Williams. If you would like to go into the detail of that, then you can by all means.

Under our legislation there are appeal rights which an operator has. After an internal review is undertaken that person has the right to go to the Administrative Appeals Tribunal. If they believe the accusations have some validity, they can take those accusations to the Administrative Appeals Tribunal and subsequently to the Federal Court. On checking yesterday, my understanding is that an individual operator—himself or herself—is able to appear before the AAT on their own or with legal representation. They are also entitled to apply for legal aid if their circumstances are such.

There are always two sides to these stories. All I can say to you is that I am very confident of the decision making processes that we undertake in AFMA. We deal with something like 10 to 15 internal appeals each year and, on balance, probably one or two of them might be taken forward to the Administrative Appeals Tribunal. I have confidence in the objectivity and fairness of the approach taken by officers and I am happy to have the committee or the secretariat look at our file on the matter. I am happy to provide a copy of the judgment made by Mr Rohan in relation to that appeal and to assist the committee in whichever way they feel appropriate if they believe an injustice has been done.

**CHAIR**—Thank you. We will take you up on that offer.

**Mr CAUSLEY**—Is there a senior officer who will make that decision or is there a group?

**Mr Stevens**—There are nominated senior people who make the decisions, three of whom are at the table. I do not make decisions myself. The three general managers—

**Mr CAUSLEY**—Any other officer?



**Mr Stevens**—The senior licensing officer can make a decision or the principal legal officer can make a decision. I think there might be one or two others.

**CHAIR**—Perhaps Mr Rohan could explain to us just exactly how those licences were issued in area E.

**Mr Rohan**—I would have trouble answering that question precisely, but I will do the best I can. In terms of process, the decision to issue or not issue a licence or permit in the first instance is made by a delegated person under the act. In an internal review, as in the case here where I was the reviewer, we seek to have somebody in AFMA who is not directly involved in the original decision have a look at the matter. I was a person not involved directly in developing the management arrangements in the MAC itself, nor in the decision to refuse the permit. We do seek to have a degree of objectivity, although the matter is considered within AFMA.

In terms of the actual management arrangements that applied at the time, because we are talking perhaps on technical matters, I am reluctant to talk off the top of my head on some of these points. The matter was raised in mid-1995—

**CHAIR**—Perhaps I can just cut you short there. We have a lot of issues that we want to get through and I do not want to get bogged down on this one. I would ask if you could provide the committee with a dot point summary of the process by which those licenses were granted in area E.

**Mr Rohan**—Yes.

**Mr CAUSLEY**—There is one more point I would like to raise. Concerning the allegation that another boat did receive a licence transfer, could it be that there was a legal loophole used by this fisher to get that transfer?

**Mr Exel**—Yes, that is correct. Basically we have non-transferable permits, which is what existed in area E at the time. If it is held by a company, there is a legal loophole whereby all you have to do is change the directors of the company and in effect you can transfer the permit. If it is held by an individual, then a transfer automatically is stopped. We are not into doing company searches to work out how far back you have to go into the company structure as to whether the directors have changed or whether the principals of the company have changed. That is one of the main reasons in fact that the non-transferability of permits in that area has now been altered to become a transferable arrangement. We believe that the company structures that are set up are becoming more and more organised to get around, if you like, the legislation and the legal intent. New Zealand did actually run down a route of trying to track back companies with very similar situations. They discovered that with a team of lawyers they were going as far back as nine layers in trying to trace companies and directorships. The cost related to benefit is not worth it.

**Mr NAIRN**—What about the aspect—with the issue of those licences—of the boat having to have been involved in the fishery prior to the original allocation of permits? As I understand it, that was the situation. Somebody building a brand new boat should not have been able to end up with a permit for that boat. Is that correct?



**Mr Exel**—Yes and no—same issue. It is what is called a boat replacement, otherwise you end up with a boat that is 60 years old; it becomes unsafe, et cetera. So people are allowed to replace their vessels on a licence. Again, there is a legal loophole, if you like, that can be used there. What you do is simply bring in a new boat as a boat replacement under your name and do an under-the-counter legal document deal which we as AFMA never see. It, in effect, transfers ownership in the fishery. It absolutely bypasses our systems and our legislation.

**Mr LEO McLEAY**—What approaches have you made to the government to get this closed?

**Mr Exel**—Basically the easiest way to get it closed is to create full transferability, and that is what we have aimed for in all fisheries.

**Mr LEO McLEAY**—But you have given two examples there of ways that people can subvert your management practices. They are obviously ways that are known to you and other ways are obviously known to you as well. One would assume that you have an obligation to defend the integrity of your management practices. So when you became aware of what you call these legal loopholes what did you or AFMA do to bring that to the attention of the minister to ensure that those loopholes were closed?

**Mr Exel**—We initiated a full review of all arrangements that applied in that fishery in particular, because that was the main one where it applied. We actually went through a significant process: we froze everything as at a certain date—I am sorry I do not have that date off the top of my head—and we went through the management advisory committee and consultative process to work out what arrangements, if any, needed to be changed. As a result of that process, we changed in March 1996 arrangements to allow full transferability to remove the scope for the legal loopholes. Those legal loopholes that I mentioned only exist when there is a non-transferability clause in the arrangements. Basically where you are trying to say to people you are not allowed to trade a licence the legal loopholes get very big.

**Mr NAIRN**—So really what happened with area E is that the horse had bolted because the 13 permits had been issued and that was it. So from this point on there is transferability and people can buy and sell and trade.

**Mr Exel**—That is correct.

**Mr NAIRN**—So the problem we are talking about was in the original allocation. Because of those two instances that you mentioned, other people who thought that they were continuing to abide by the rules as they saw it were probably disadvantaged.

**Mr Exel**—No, I would not say that. The original allocation was all right. The problem, if you like, is in fact in the non-transferability provisions and that some people used loopholes.

**Mr LEO McLEAY**—But if the AFMA manager was able to say to Mr Williams, ‘If you purchase this boat and the licence that goes with it, I will cancel the licence,’ why was the person not able to cancel the licence of the other operator who profited from this under-the-table transfer?



**Mr Exel**—Because, if you use a company structure transfer arrangement, there is no arrangement as far as we are concerned. It does not occur. You still have a company, the same company, that owns the licence.

**Mr LEO McLEAY**—This is not an industry where there are millions of players. This is an industry where up in area E there are two operators. Two operators own most of the quotas. You are telling me that is wrong, are you?

**Mr Exel**—Well, there are actually 13 licences.

**Mr LEO McLEAY**—How many operators are there?

**Mr Exel**—There are about 10 at the present time that are fishing. There are two major companies there, if that is what you are getting at.

**Mr LEO McLEAY**—I said there are two operators. Are there 10 operators? Are there 10 entities operating up there or are there two entities that control most of the licences?

**CHAIR**—One has seven licences.

**Mr Exel**—Yes, I am sorry, I do not know the numbers.

**Mr LEO McLEAY**—All right, let us say there are fewer than five entities up there controlling these licences. One would have thought, if a licence all of a sudden has gone from one operator or from one area to another, that that might have been something that the people who are managing that fishery would have been aware of. It is not as if there are a thousand operators in there and there are myriad company transactions and you can say, ‘My goodness me, who is Exel Pty Ltd today versus Stevens Pty Ltd? I have got no idea and I cannot be bothered looking.’ But, if there are only a couple of operators and there are only a few boats out there, it would become patently obvious, I would think, to the manager, if the manager was doing his or her job, that somehow or other a licence has moved from a person to another person or from an entity to another entity. Wouldn’t you think that that would be reason for at least a little bit of a look, particularly when you had Mr Williams coming in and saying, ‘I know that this licence has been transferred’? We had evidence from the other big operator up there yesterday who said, yes, he thought that the transfer of this licence was pretty suspect too.

**Mr Exel**—When you get the opportunity to see the history and the chronology when Mr Williams came in and actually said, ‘I know there is a transfer that has occurred,’ and how the process went from there, you may understand a bit better what I am talking about in implementing freezes.

**Mr LEO McLEAY**—Enlighten me.

**Mr Exel**—We are talking about a process which started in 1980 in area E and a review and a process that was in 1995 or 1996.



**CHAIR**—I think we are going to have to move this on. We have got an awful lot of issues that we want to cover. Do you have this information that you can give us now?

**Mr Rohan**—If I can make one comment, I do have a certain amount of information which—

**Mr Stevens**—We would certainly want Mr Williams to clear, because of Privacy Act considerations—

**CHAIR**—I realise that.

**Mr Stevens**—We want him to clear us making the file available to you, but we have no problems making it available to you.

**Mr Rohan**—On transferability, the application which was considered and which I reviewed at the time was for the issue of an additional permit or a new permit, as I understand it, not for a transfer, so there may be two different issues.

**Mr LEO McLEAY**—Mr Stevens, do not get carried away with the Privacy Act. The Privacy Act does not stop you giving evidence here. You are here today as a person who represents the Commonwealth and we can compel you to give evidence.

**Mr Stevens**—Mr McLeay, I checked the legal veracity of what I just said and, if the committee had asked for the file, yes, I could have given it to you without any Privacy Act considerations. But, in the advice that I was given by the Attorney-General's Department, if I offered the file to you, I had to say under the Privacy Act that it had to be offered with Mr Williams's concurrence.

**Mr LEO McLEAY**—Then I think the committee might ask for the file.

**CHAIR**—I think we already have, about 10 minutes ago.

**Mr Stevens**—The file will be made available.

**CHAIR**—Can anyone answer me briefly: why was it 13 licences in that area?

**Mr Exel**—In fact, there was a limit of 10 imposed on a monthly basis. So there was a maximum of 10 and they were issued endorsements for 30 days. There were some criteria set when we attempted to actually close off the fishery, because we had about 25 applicants, and the criteria that were set for final actual allocation of these licences were based on having fished in that fishery under one of those 10 licences before. There were 13 people that simply satisfied the criteria and that was the maximum number that were allocated.

**CHAIR**—So that we all are quite sure what the committee is requesting, this committee is requesting the file dealing with all of the decision making process affecting Mr Williams's application for a licence. This committee is also requesting the actual process of decision making for all of those licences in area E. Is there anything else that any other committee member wants to request before we move on to another issue?



**Mr LEO McLEAY**—Yes. An indication of how many entities there are operating in area E and when it became evident that licences had been transferred within those entities.

**Mr Stevens**—I would again emphasise that there were things that we inherited which we have endeavoured to fix up, and we are now on the record for those matters before this committee. I have said that statement twice, that there were things we inherited and therefore things we have tried to correct, and we are still trying to correct some situations.

**CHAIR**—We understand that, Mr Stevens. We are all here rowing together in the same boat, dare I say.

**Mr NAIRN**—We talk about privacy of information and various things and Mrs Bailey mentioned before about possible conflicts of interest in decision making and things. Is material available for public scrutiny on commercial activities—‘commercial’ is probably the right word but I am not sure that it is—in relation to things like quota transfers that take place in the fishery? This is a general question; I am trying to get a handle on that conflict of interest area. When various licences and quotas and all sorts of things are transferred in the various fisheries that have those, is that stuff that there can be scrutiny of by the public or by the parliament?

**Mr Exel**—There are actually two parts to it; one under a statutory fishing right. For example, in the Southern Bluefin Tuna Fishery, there is a public register. You would be able to find that sort of information there. Generally, what is publicly available is the holdings of the start of a fishing season; that is, whoever holds what amount of quota or whatever fishing right and the holdings at the end of a season, but not all of the commercial transactions within that.

**Mr NAIRN**—That is available through freedom of information or any other processes?

**Mr Exel**—Generally, if people asked, rather than FOI.

**Mr NAIRN**—I am just not sure how the administration of all these things occurs. That is what I am trying to get to.

**Mr Exel**—It actually varies, depending on the state that the management arrangement is in.

**CHAIR**—Could I just draw to your attention, once again, that it is all very well to say to us in an opening statement that the importance of open and transparent decision making processes is one of your overriding principles. But that has to be backed up with practical experience. If there are many sectors of the industry and many individual fishers criticising the AFMA decision making process, surely that is something that you should be looking at. For you to say, Mr Exel, that something might be available under FOI, is not complying with your stated aim of an open and transparent decision making process. Perhaps if the decisions were open and transparent, there would not be the conflict arising—certainly from many disgruntled fishers.

**Mr Stevens**—I would like to respond to that.



**Mr CAUSLEY**—This is an open market. People can buy and sell on the open market.

**Mr Stevens**—We do not try to get involved in the individual commercial transactions of the industry. The comment that I have made there is that, if you have got something to put up in relation to changing management arrangements in a fishery, you put it up in an open forum, rather than have lobbyists come to the AFMA board direct, or to the minister direct, where people do not know what is going on a lot of the time.

The whole open and transparent process that we are talking about there is that, if you want to propose changes to management arrangements, you put up or shut up. You take it along to the management advisory committee and you justify why a change should be made. The minutes of management advisory committees are made available to all operators in the fishery, so everyone knows exactly what is going on. The recommendations which come to the board are, equally, sent to all operators in the fishery. The board itself provides a report on what it is discussing every time it has a board meeting.

**CHAIR**—Mr Stevens, this is surely a two-way process. You talk about how AFMA—everyone applauds you for doing that—is moving to a partnership approach. But you cannot say that others have to put up and shut up if you do not follow the same principle.

**Mr Stevens**—But wouldn't you draw a distinction between what is happening in terms of trading in a quota market and between the—

**CHAIR**—This is not my role to draw the distinction. But what I am saying to you is that we as a committee have heard much criticism about individual fishers not being able, or feeling as if they have not been able, to understand the decision making process of, in some cases, the MACs, or going as far as the AFMA board. I am saying to you that you are sitting here and you are saying to us to abide by this open and transparent policy, that all sectors of the industry must abide by that. You just cannot say that if you then do not actually do that in practice.

**Mr Exel**—Can I just add one thing to it?

**CHAIR**—Last point and then I want to move on.

**Mr Exel**—Thank you. I would just like to clarify that I did not actually say that you had to go FOI. I said that all you had to do was ask for it. The reason there are changes in terms of what we can and cannot provide relates exactly and specifically to the Privacy Act. It is not that we do not want to provide it. It is that we are not allowed to provide it. They are commercial-in-confidence information in terms of transactions. However, all of that aside, we note the other comments you made.

**Mr LEO McLEAY**—At the beginning of the season, any fisherman can come up and say, 'We want to know who's got the quotas in this fishery.' And at the end of the season, the same fisherman can go along and say, 'I want to know who's got the quotas in this fishery.'

**Mr Stevens**—But the reality is there are brokers in the industry who deal with that, and they do not



even talk to us.

**Mr LEO McLEAY**—That is fine. I am asking you: is there a process where someone can walk in off the street and find that out?

**Mr Stevens**—Yes.

**Mr LEO McLEAY**—If there is, you are being nice people. Do not upset me when I am being nice to you.

**Mr Stevens**—Thank you.

**CHAIR**—I think we will move on. Mr Andren has a question.

**Mr ANDREN**—I wanted to get on to some of the environmental issues, particularly the bycatch issue which all of us have been exposed to in some cases for the first time. It just seems to be a tremendous waste of resource. Why are there not any surrender provisions for bycatch in the fisheries and is there any room for a research bounty? We have probably gone across this before, but having spoken to the other witnesses in the ensuing months it seems that there is a real willingness on the part of the fishers to contribute to research. Have you given this any more thought?

**Mr Stevens**—I will get Mr Exel to expand, but there is presently in the set of amendments for parliament a provision for surrender.

**Mr LEO McLEAY**—Can you explain the detail?

**Mr Exel**—It is an issue that we have actually been seeking legislative amendment to for the past five years. We agree fully. The idea with the surrender provision is that, where you have very restricted limits—for example, if a fishery is under threat—somebody may accidentally catch more fish than the limits. At the moment under our legislation, that means they have committed an offence. They are liable for prosecution. If they throw the fish back, it is an offence because you have caught it. If they bring it back to shore it is an offence because you have caught it and it is over your limit.

What we are seeking is some flexibility to allow someone who catches by accident—and the real problem is how to define that—fish over the limit, so that when they bring it back to shore it is not wasted and the money from that can be put towards research. In other words, they would bring the fish back to shore, they would sell it and whatever profits were derived from the sale of that fish would go into a specific research fund.

**Mr NAIRN**—Profits or income?

**Mr Exel**—I use the word ‘profits’ because in fact that is really the debate when you get down to it.

**Mr NAIRN**—There is no incentive for the fishers to give it back if it is going to cost them money.



**Mr Exel**—Exactly. There needs to be incentive for them to actually go out, target and catch lots of fish. So, whatever the price is that is set, there needs to be some allowance for the fisherman to actually offset the cost of ice, catching it, sorting it and bringing it back. Trying to actually negotiate that as a price is really the trick.

**Mr Rohan**—That really is the core of the issue. The issue of bycatch and the apparent waste of fish is not as simple as it may appear, because of those sorts of reasons. There is the difficulty that, if there is no return to operators and crew, they may just dump it anyway. If they do bring it in, there is a potential enforcement problem. If there is no fisheries officer there to see it monitored, then the fish may not be surrendered at all. If our intention in the beginning is to protect the fish stock and minimise the catch of a particular species, we have to look very closely at whether the surrender process actually reduces or increases the amount of fish which comes in and is landed. The process is not as simple as it might appear.

**CHAIR**—Have you looked at the New Zealand surrender provision?

**Mr Exel**—It is an extremely complex provision. In fact what they use there is that the industry employs people who do nothing but quota brokering and trading for individuals in the industry. They have quota sheets that almost defy explanation. They have a certain amount of points for fish. They trade off one species of fish against another, et cetera. It certainly is being considered and is being used as part of the approach we are looking at towards quota surrender.

**Mr Stevens**—I think the most important point is that industry have recognised and we have recognised that it has taken a while to get an amendment up to the parliament. We are certainly going to give it a good shot.

**Mr ANDREN**—Can I just ask a question about the black marlin in regards to the ANAO report on pages 30 and 31? What steps have been taken to establish the threat posed by commercial fishing without which evidence the Attorney-General has suggested that no legislative action can be taken? There were some fairly substantial concerns expressed in Brisbane yesterday. There seems to be debate over whether black marlin, apart from the others, are being targeted and whether there is a market for it. There is evidence that all forms of marlin have been seen in the markets. It has appeared on menus. Are you aware of any growing commercial market for marlin and do you see a ban as the best way of handling this, or not?

**Mr Exel**—The marlin issue is very complex. In its simplest form, I want the committee to understand that, firstly, black marlin is banned from being taken in the period September through to January in each year. In area E that never used to occur. The reason for that is that that is the spawning period; that is when the marlin aggregate.

**Mr CAUSLEY**—Is that recreational or just commercial?

**Mr Exel**—No, the recreational fishermen are able to fish marlin during that period. That is the actual peak recreational fishing season for the large black marlin up off Cairns and North Queensland. Secondly, there is a voluntary ban still in existence for release of black and blue marlin by all of the Australian domestic fleet and it is actually in place for the foreign fleet—the Japanese fleet—in addition to requirements



that they not target any billfish other than broad bill swordfish.

The Japanese fleet has been excluded from numerous areas around Australia, including area E, for example, for 50 miles off the east coast and 50 miles off the west coast. Both of those restrictions were imposed as a result of pressures from the recreational charter boat industry and the alleged interaction between commercial fishing and recreational.

What is being done in terms of working out the impact of commercial fishing? I have the Billfish Assessment Group report which is the process we put in place to draw together the scientific information that was available. The actual group was completed in September 1996. There is currently a three-year study looking at interactions between commercial and recreational fishing for the marlin species. Some of the states have made a decision that marlin should be not landed or not sold, for example, Western Australia. But at this stage the information in relation to commercial catch and impact on recreational is that there is not a strong interaction. We have under our legislation no justification for actually making a decision that would say, 'Let's ban all marlin.' It is a natural byproduct of the fishing operation as long as it is not being targeted.

When we moved to introduce restrictions, the Japanese fleet actually shifted their targeting practice and the Department of Primary Industries and Energy—because they are the ones that actually lead the negotiations—have introduced additional restrictions and area closures to actually ensure that the Japanese fleet is not able to get into the aggregating areas for the black marlin. We have reduced the number of fishing hooks set by the Japanese from the peak of around 13.5 million per year, down to the current level which is about 7½. And obviously again that had a direct impact in terms of the level of catch that the Japanese were taking.

**Mr ANDREN**—Would you agree with one assessment that the striped marlin is the only one of any possible commercial interest?

**Mr Exel**—The striped marlin is probably the strongest commercial interest. Yes, there is a striped marlin fishery.

**Mr ANDREN**—Would the others have any commercial interest?

**Mr Exel**—The broadbill swordfish, but certainly not the black or blue marlin in terms of significance. You will get a few dollars for the black and blue marlin, but it is not a significant fishery like the tuna, for example, or the striped, yes.

**CHAIR**—Just on the black marlin, we have some questions that we want to put to you about some figures here that Mr Nairn will take you through.

**Mr NAIRN**—We had quite a bit of evidence yesterday in Brisbane in relation to marlin and in particular black marlin. The Queensland Game Fishing Association and the Queensland Charter Vessel Association provided a graph which was pretty dramatic showing catches of black marlin going back to 1980. When I say 'catches', there were records from the Japanese fleet and also black marlin tags and the actual



numbers, the domestic catch and things like that were all coordinated. And over a 10-year period from 1985 to 1994, the average total of black marlin that fitted into these categories was about 2,700, with a range of plus and minus about 700.

So the lowest was down to about 2,000 for any one year and the highest was about 3,500 a year. All of a sudden in 1995 the total was 359. On a graph this looks pretty dramatic and you have to ask, 'What has happened?' Something absolutely dramatic has happened when you are averaging 2,700 and then in 1995 it is 359. We were given that information, and then Mr Rowley from—

**Mr Stevens**—Was that sourced?

**Mr NAIRN**—The figures were from AFMA, as I understand it.

**CHAIR**—We are just organising for copies of that to be provided.

**Mr NAIRN**—Mr Rowley in one of his submissions included a CSIRO report from November 1995 about billfish. Included in that were some figures also on black marlin from the Japanese fleet and it was interesting that from 1980 to 1986 the figures were identical to the figures used in here, but from 1987 on they were different. So there was inconsistency there and I thought the source was exactly the same.

We were also provided with evidence from Mr Rowley that, in a fishing tournament over a long weekend, a week or something like that in Port Stephens, over 1,000 marlin were tagged in one event. It does not give a breakdown of black, blue or striped. I guess it is conceivable that of the 1,013 marlin 1,000 of them were striped and 13 were black or blue. I do not know, but I think that is probably unlikely. Once again, it makes the figures look very funny and the total number that we had for 1995 were 359. Here we are in March 1997—and it is very recently that this occurred—and it is over 1,000.

**CHAIR**—At the same time the industry was telling us that they had a very poor year in the last year.

**Mr Stevens**—This is the charter industry?

**CHAIR**—The charter industry, yes.

**Mr Stevens**—That is up off Queensland though. There was something on the radio this morning about it being the best season they had ever had.

**Mr NAIRN**—That is right. Very recently they were saying it is the best season they have ever had, which is indicated here. These figures were for the whole of the east coast, not just for Queensland. There is some real conflicting information and evidence. It is fairly crucial to all of this, because we have very strong representations from the recreational and game fishing associations. They claim that a lot of marlin is being taken by commercial fishers, not only striped—and they are quite legal to take striped marlin as I understand—but black and blue, and they are utilising some of these figures to support their case. I guess we want a clearer picture, if that is at all possible.



**Mr Exel**—I think what you have just outlined actually demonstrates the strongest possible reason for the processes we have set up. That information that you have just provided there is part of the synopsis in terms of the billfish stocks. It is looked at by a group of scientists from CSIRO. There is the Bureau of Research Sciences, there is recreational input, charter input and commercial industry input and the idea is to take in all of those factors—such as the sorts of claims that you are talking about and have just read out—and actually derive the nearest we can get to the truth of what is going on. I am very reluctant to leap into explanations of the graph and so on. I could take 1986 which was a low year because there was no Japanese fishing off there and 1995, et cetera.

**CHAIR**—We would be grateful for some explanation of that. We do not have a copy of that document.

**Mr Exel**—I would be happy to make copies available, individual ones or just this single copy here. If you would like more, we can make more available.

**Mr NAIRN**—Although you can look at individual years, really for 10 years there was a certain amount of consistency, even though it was a range between 2,000 and 3,500. That is still consistent with 359 from one year to the next. I want to make sure that the information that we are being provided with has some validity.

**Mr Exel**—Absolutely.

**Mr NAIRN**—I guess that is where we are looking for any additional information that you can provide. We need to sort out what the problem is in the Japanese catch figures from these ones which the Game Fishing Association say they got from AFMA and the CSIRO ones. They were identical to the very one for marlin from 1980 to 1986, but from 1987 to 1995 the differences were 892 and 742. They are hundreds different. I would like that sorted out if we could too.

**Mr Exel**—That is precisely why you need the group process where the game fishermen can sit down with CSIRO and say, ‘Why is your data different from ours?’, and so on. In terms of answering this and ensuring validity, we have observer coverage on the east coast on the Japanese fleet. I cannot quote exact figures of the observer presence but it is between 10 and 15 per cent of the boats. It is clearly representative. It has been unchanged for the last five years in terms of level of coverage so that we are actually pretty confident with the catch data that we are receiving from the Japanese fleet in terms of the observer coverage, the accuracy of the reporting and the validity of whether it is actually black marlin now being recorded as blue or striped or whatever.

**Mr Stevens**—The key point is that in the period when the marlin strike rates are best off Cairns-Townsville, we have banned the commercial take of fish. I just hope that the Game Fishing Association mentioned that yesterday.

**Mr NAIRN**—Yes. Along those lines, we were given strong evidence that a ban all year round should be considered on black marlin and blue marlin. Where does AFMA sit in relation to that proposal?



**Mr Stevens**—I guess whatever we do we have to be consistent with our objectives. If you are looking at a ban totally on the commercial sector, there must be some grounds—sustainability or whatever other reason for it. You really have to ask the question: is there a case for banning the charter sector as well? If they are targeting those fish when they are spawning, maybe there is a case to say we should ban it all year round. I am sure that is not what they want to hear, but I am sure in the interest of fairness in the discussion on management of that species you just have to take it into account.

**Mr NAIRN**—In relation to that, we also were given evidence that the ECTUNAMAC made various recommendations to AFMA in relation to bans which they claim AFMA did not accept. What level of priority does AFMA place on recommendations from the MACs? Certainly, over the last 12 months, we have seen evidence where it would appear to me that recommendations from a MAC simply are rubber-stamped by the AFMA board and put into place whereas the evidence yesterday, particularly from the game fishing and recreational sector, indicated that quite a number of recommendations from the ECTUNAMAC were not accepted. When does AFMA accept a MAC recommendation and when does it not?

**Mr Stevens**—The best way to answer that is to say what the process is. Recommendations come through from the management advisory committee. Advice is sought on legal and fisheries management aspects of that from within AFMA and that advice is provided to the AFMA board.

In the case of the main recommendation which came from the tuna MAC which the board did not endorse, it was a recommendation to ban totally the take of blue and black marlin in the Australian fishing zone. We questioned whether we had the legal authority to make such an allocation decision. We sought advice from the Attorney-General's Department and we sought advice from a private QC to determine whether under our objectives we could make such a decision, and we were advised that we could not; that the decision had to be made in accordance with our objectives and particularly our sustainability objective. There was no evidence available at the time that blue and black marlin stocks were going down the gurgler.

In fact, there are international interactions and all sorts of things associated with blue and black marlin. We sought advice from CSIRO and BRS as to the state of the blue and black marlin stocks. The board took that into account, together with the legal advice, and we were under no misapprehension that we could not make such a decision. In fact, if we had we would have been challenged and we would have gone down the gurgler. We made that advice available to Eastern Tuna MAC when we responded.

**Mr ANDREN**—The Queensland government yesterday made a couple of suggestions, one of which was that the Commonwealth—and that would be AFMA—accept management responsibility for the recreational and game fishing sector of the tuna and billfish industry off Queensland. How do you react to that?

**Mr Stevens**—We have, in our negotiations to date, accepted responsibility. However, we can only exercise the responsibility if we include those sectors under a management plan. We have not got a management plan in place for the East Coast Tuna and Billfish Fishery. We do have one in place for the Southern Bluefin Tuna Fishery but, at the time that was brought in, we elected not to exercise our right to manage the recreational and charter fishery. There is a reason for that: mainly that every state, other than Queensland, does not want the Commonwealth involved in managing the recreational and charter fisheries



and has said so very strongly. Queensland is one state where they would like us to exercise our responsibility but New South Wales, Victoria and Tasmania do not want us involved at all. In bringing in a management plan which covered recreational and charter fisheries we would be doing that against the wishes of four states.

**Mr ANDREN**—Is there any way you could strike an independent deal with the Queensland government in this area? It strikes me that the game fishing industry is feeling that they are a major commercial factor in the fishery and they should be included under the umbrella of the management.

**Mr Stevens**—I can understand where they are coming from.

**Mr ANDREN**—More so than the other states, I would suggest?

**Mr Stevens**—Yes, probably more so than the other states. The charter sector in Queensland, as I understand it, is already managed in sorts by the Queensland government, whether it is through QFMA or the QDPI, and they are already licensed. I guess our view would be that, if you are going to look at managing the recreational and charter sector—and particularly licensing the charter sector, which our act contemplates—you have to look at the cost-benefit of doing that around the whole of the Australian coast, particularly with the definition we have of a charter fishing boat, which says that it is a boat that is used for charter fishing or receives something in kind for taking people out to fish.

I would not want to be the licensing agency that tried to take that on. Every time you went out to do charter fishing you gave the operator a bottle of Black Label Johnnie Walker. How the hell do we try and implement a licensing scheme to cover those sorts of people? I think what the Commonwealth is doing at the moment is looking at the possibility of, rather than the Commonwealth itself taking responsibility for recreational and charter fishing, the states doing it. The states are far better placed in terms of having people on the ground than we will ever be from Canberra in trying to license the charter or recreational sector.

**Mr ANDREN**—Moving on to logbooks, there seems to be conflicting evidence as to the reliability or otherwise of the logbook system. Do you think there is any sort of value in a system where a delivery docket to a processor or a buyer and the logbook data are one and the same in some form? Or do you believe the logbook data is accurate?

**Mr Rohan**—We have varying forms of logbook data—and I am trying to pin down the exact nature of the question—which fall, generally, into two main categories. There is the logbook that the operator fills in whilst they are fishing, which we basically required on a trip basis. This mainly gives us our research data. It gives us information relating to the catch, the amount of effort that went in, the amount of nets and time spent fishing. That stops generally at the point of landing. There is other documentation that relates specifically to quota fisheries, where the operator is required to complete a document at the point of landing—it commences at landing—on the actual catch. There may be some overlap in that the two should reconcile, but bear in mind also that not all fisheries are quota fisheries.

That second document, the quota document, travels with the fish to the fish receiver, and that may be the point of your question. We have generally kept them separate because one lot of documentation picks up



a lot more information than the other. The quota documentation really only requires the quantity of each species of fish landed and the form in which it is landed so that we can check that against the receipts by fish processors. That is our way of checking compliance with quota management systems. The accuracy can vary between fishery and between those different types of log books.

**Mr CAUSLEY**—I have a few questions. Maybe we can go back to the black marlin to start with, seeing we are on that. You said that there was a ban on the taking of marlin commercially during their spawning season, but not by the charter industry. Can it be assessed as to what stress does to a female black marlin heavy in roe and whether it does affect her spawning ability?

**Mr Exel**—I am sure if CSIRO were here they would say yes, but if you have got the money and the time would really be the answer. The real difficulty with something like that is I would see it as being, firstly, a long-term project, and secondly, a large number of replicates—that is, you would have to get out there and catch however many, and keep doing it.

**Mr CAUSLEY**—Pretty difficult.

**Mr Exel**—Very difficult, I think.

**Mr CAUSLEY**—The other question was the fact of bycatch of the black marlin. Some evidence suggested that there was a method of setting hooks so that in fact you could reduce the bycatch. Is that a possibility?

**Mr Exel**—Certainly there have been allegations that differing ways of setting hooks actually reduce the number of marlin that are caught. For example, the 500-hook limit that is in in area E was based on two things. One was shark attack of the marlin so that if there were any caught they could be released alive and undamaged because there are fewer hooks in the water so they are setting them and hauling them much more quickly. The time of day that you set hooks or the depth that you set the hooks at will also vary your marlin catch.

The real problem from our point of view is, short of having an inspector on every boat, we are not able to say to somebody you must not shoot your hooks below 50 metres deep and you have to have them spaced 20 metres, or whatever it might be, apart. So it is a matter of trying to tailor the requirements of fishing with the requirement to reduce the amount of bycatch that is actually taken.

**Mr CAUSLEY**—Why are the Japanese allowed 3,500 hooks then?

**Mr Exel**—They are not even allowed to fish in area E. They are allowed 3,500 hooks—

**Mr CAUSLEY**—But in Australian waters they are allowed 3,500, are they not?

**Mr Exel**—As is any Australian. There is no limit on Australian boats outside of that area E.

**Mr NAIRN**—The 500 only applies to area E?



**Mr Exel**—That is correct.

**Mr ANDREN**—But we were told yesterday that there is no way in the world that you could police the 500. They could put more on in area E and no-one would know. Is that right?

**Mr Exel**—I would not go that far. It used to be that you were only allowed to shoot 500 hooks so operators would go to sea carrying maybe 2,000 hooks on their boat. What we actually did, as part of the review in fact, was to change that so that they are now allowed 500 hooks on their line and 250 spare hooks on their boat. Yes, if somebody wanted to go out to sea and tie up 250 lines while going out, they may well be able to get away shooting 750 hooks. I think—

**CHAIR**—How regularly are they checked as they leave the port that they have only got those 500 hooks on board?

**Mr Exel**—To be honest, I could not give you an exact answer. It would be a random check. I do not know whether we would have figures even.

**Mr Rohan**—We do checks, but I could not actually tell you the numbers. We have an arrangement with Queensland fisheries officers to check vessels in port and to check catch coming off the boats, but I would have to find out the details.

**Mr Stevens**—Generally the charter sector or the recreational sector would tell us if they think something skew-whiff is going wrong, and that is normally a sign that we should put a bit greater effort into it. But, during the period when the ban is on, that is it—no marlin.

**Mr CAUSLEY**—You have been criticised for not concluding the OCS agreement. Have you had the cooperation of the states?

**Mr Stevens**—We have now signed up South Australia and Tasmania since we last spoke to you, and we are very close to signing up Victoria. We are continuing to negotiate with New South Wales, Mr Causley.

**Mr CAUSLEY**—I think we were close, but we will not go into that.

**Mr Stevens**—Our minister has written to the New South Wales minister seeking a meeting to try and resolve outstanding issues.

**Mr CAUSLEY**—I would like to have a look at the process of the audit, if you do not mind. I know we are just about out of time. There are a couple of questions I would like to ask. You said in the opening statement that you made this morning that you have been five years under inquiry, and I suppose that is about the life of the organisation which you set up to manage a very big area of fisheries around Australia and probably influencing other boundaries, countries, et cetera, as well. What time has it taken your staff, how many staff do you think have been tied up in these reports, and have you got any idea of what cost it is to the organisation?



**Mr Stevens**—We have had a Senate review, we have had an Industry Commission review, we have had an ANAO performance audit which we invited in, and we have had this review. I would say it has probably cost the organisation in excess of half a million dollars in terms of my time, the three people here, and staff who have had to respond. Particularly the ANAO audit was a very resource intensive process. They wanted access to all kinds of information held by the organisation—which we provided. I would say it has been a very costly exercise for us. I have no objection to the process of review of an organisation; I think it is very healthy that it occurs. But, in the end result in this game, I think it is time that we had some opportunity to really score some points, and it has just created that degree of anxiety and uncertainty both within the organisation and industry itself. And how you measure that I am not sure.

**Mr CAUSLEY**—Obviously the audit office would have come back to you on two or three occasions, and they have gone to other organisations as well to get evidence and information but, prior to the audit office coming down with their final report, did they come back to AFMA and check closely with some of the decisions they were obviously running around in their minds as to the practicalities of implementing some of these things?

**Mr Stevens**—Yes, they came back to us with the audit marked ‘ANAO in confidence audit’ as draft documents pretty well right to the very end. The document that we had no clearance of was the document that was provided to the media which is the one which we object to very strongly. That had what I would describe as some cheap shots in it, and statements were certainly not cleared with us prior to it being made available to the media and the parliament.

**Mr Meere**—Can I also just add, Mr Causley, though, in that process—and in fact right up to within months of the final report being tabled—we were not aware, and it was not explained until we had that penultimate report in our hands, that in fact the audit office were not going to pass any comment on the cost effectiveness or the resources that might be required to implement the recommendations in their report. So, while we had been going along looking at drafts and saying, ‘Yes, that sounds okay and we can understand why you’d recommend that,’ it was not until we had that understanding that in fact we had to look very long and hard at many of the recommendations in terms of their cost effectiveness, the benefit cost of actually implementing those arrangements and where the resources might come from to actually do that. We were quite amazed at the time actually to be told by the ANAO that they would not pass any comment on that and that the resource question was really one for us to sort out.

**Mr Stevens**—One further thing. In the report itself, we were provided with a document up to our response. There was another paragraph that was added in which we did not see which was the ANAO response. I have got to say that, pretty well throughout the whole process, the ANAO were up front with us in terms of what they were going to say until it came to the ANAO response and that pamphlet that was handed out to the media, and that is where we got quite upset.

**Mr LEO McLEAY**—Any organisation that has been audited by the Auditor-General surely would go and ask someone. Your people know what happens to other organisations. You would go and read other audit reports?

**Mr Stevens**—Yes, we did that.



**Mr LEO McLEAY**—And you would have been able to expect that that would be the format that the audit officers would use, so if you are able to expect it, it is a bit rough to say now, ‘Well, we don’t like it’.

**Mr Stevens**—Our concern about the pamphlet that was put out was that there is very little justification for some of those statements, and they are not alluded to in the body of the report itself.

**Mr LEO McLEAY**—But when you originally get their draft report, they ask you for your comments, a discussion period occurs, you get to put your point, they see if you are right or wrong and then they make a comment on that. That is just par for the course for them. It happens to everybody.

**Mr Stevens**—Yes, I understand that and I accept that. I guess we have a point of disagreement about some of the statements that are made in their report and we are bringing that to the attention of the committee.

**Mr LEO McLEAY**—You were not treated any differently from anyone else?

**Mr Stevens**—No.

**Mr LEO McLEAY**—You accept that?

**Mr Stevens**—We accept that.

**Mr ANDREN**—You could not have expected to have reviewed their comments before the final publication, surely, because that is their role; and that is why we are now investigating their assessments.

**Mr Stevens**—I accept all of that. I guess I do not agree necessarily with the process, but that is a personal point of view.

**Mr LEO McLEAY**—That is bad luck for you, isn’t it?

**Mr Stevens**—Yes.

**Mr LEO McLEAY**—That is the process that all Commonwealth agencies have to put up with if the Auditor-General looks at them.

**Mr CAUSLEY**—I would ask the question as to what expertise there is in the ANAO to assess the management practices of AFMA.

**Mr Stevens**—And, particularly, to comment about setting of catch limits, particularly where those comments were not reviewed by CSIRO or BRS, who have the expertise to make such a judgment. That is why I feel quite strongly about it.

**CHAIR**—I think we have got that.



**Mr NAIRN**—With regard to AFMA's relationship with the industry and individuals in the industry, is there a management mechanism within AFMA of building that relationship between AFMA staff and the industry, and allowing industry good access to the various levels of AFMA?

**Mr Stevens**—Unless the committee has heard otherwise, there is always very good access to AFMA staff on any subject that anyone wants to discuss. I guess we were criticised in our early days for being too close to the industry. That was by stakeholder groups who were not in the commercial sector of the industry. I think that has levelled out and the appointment of conservation members and recreational members to management advisory committees has certainly helped that process. I believe our relationship with industry, with one or two exceptions, is very sound.

**Mr NAIRN**—If I can raise an example of where it obviously is working, we had evidence yesterday from the Torres Strait Islander people of AFMA being involved in various education programs in some of the communities. Certainly, from the evidence given to us yesterday, there is strong trust there between people involved in the industry through the Torres Strait islands and AFMA. I think it is fair to say that I have not quite seen the same response from other sectors of other fisheries. I am suggesting that there may be some further work to do in that regard to build that trust.

**Mr Stevens**—I agree. In the first opening statement I made to the committee I emphasised very strongly that what we were endeavouring to do was to establish that confidence and trust, taking account of events that have occurred prior to AFMA's implementation. I might also add that there are a lot of people who probably have not come forward and given evidence who, I would hope, are quite satisfied with the arrangement and have developed a growing confidence and trust.

Even in the South-East Trawl Fishery I think there is a growing trust anyway. That was a fishery which was in a hell of a state when we came into being. The fact that people ring us up and do not scream over the phone any more is a sign that we are making progress, albeit tortuous progress at times. I think there is quite a high level of confidence and trust in the management arrangements in the Northern Prawn Fishery and the Southern Bluefin Tuna Fishery, and the Great Australian Bight and Bass Strait Scallops Fisheries.

The fisheries where we have got particular problems which tend to be in the public limelight are the East Coast Tuna and Billfish Fishery, because of the evidence you heard yesterday, and the South-East Fishery where people still have residual bitterness from an allocation process that occurred in 1991. The government has endeavoured to address that problem through the working group report, which had one of your constituents on it, and we are still going through a process of trying to settle that fishery down.

But I still go back to my concluding comments about output controls and secure access rights. If we are to get out of the realms of overregulation and cost to government and industry of implementing management arrangements, then I believe both those ingredients are essential.

**Mr NAIRN**—Another aspect of building trust is enforcement. You utilise the state fisheries officers in many cases for enforcement and policing. Are there fairly strict guidelines put down by AFMA to those state fisheries officers as to the way in which they carry out their enforcement? A lot of bitterness that seems to arise is often around what I would call petty enforcement. I can use an example that came into my office



recently of somebody with a small fishing operation who was threatened with legal action because a licence or permit was paid one day late. In fact, he paid it on time, but it was received into the office after the close of business and he was therefore threatened with prosecution. That does not build trust.

As a small fishing operation, when the weather is fine he wants to be out there catching fish. He does not have a big administration section sitting back at port saying, 'Hey, the licence is due in four days time. We had better send this off today so it gets paid.' He gets the first bit of clear weather for a number of weeks and wants to get out there and catch some fish, and when he comes back to port finds that his licence had run out a couple of days earlier. What guidelines are we using there?

**Mr Stevens**—I hope that is an isolated circumstance, Mr Nairn.

**Mr NAIRN**—We have had a couple.

**Mr Stevens**—Where we have reports of things like that we endeavour to adopt a fair attitude to people. I think fisheries officers by and large do an excellent job. They have not only got to police Commonwealth fisheries laws, but their own state laws as well. Some of the characters that are involved, particularly abalone poachers who deal in drugs, are pretty bloody difficult people to deal with.

**Mr NAIRN**—I accept that.

**Mr Stevens**—Inevitably, it comes down to the exercise of judgment by the officer concerned. I could give you the procedures, the rules—everything else like that. But, ultimately, it comes down to the exercise of judgment by the individual officer. If we have problems of the nature that you are talking about, we would take them up with the individual officer and say, 'Just try and be a bit more understanding of that situation.' Equally, fisheries officers have complaints from other industry operators that someone is getting a free ride, has broken the law or whatever. Ultimately, you have to make a judgment. We rely very heavily on individual fisheries officers at the port level to exercise judgment, and sometimes it is not easy.

**CHAIR**—We are already way over time but I must raise one more issue with you—the question of research. It seems that there is an emphasis on identifying stock levels, but there also must be taken into account habitat and marine biology. Firstly, where does AFMA sit in setting the priorities for research? Secondly, while no-one is ever happy with the amount of funding for anything, let alone research, are you reasonably happy with the way the limited research dollars that are there are allocated? Thirdly, are you concerned at all about levels of research that, for example, could be being conducted in universities but that you do not get access to?

**Mr Stevens**—The process that we use involves the FRDC—Fisheries Research and Development Corporation—the AFMA research fund, which is \$1 million allocated by the government each year to AFMA, voluntary levies raised by the industry itself for research, and bilateral research funds made available through the bilateral agreement with Japan. Those are the four main areas. There is also an allocation by the government of about \$500,000 each year to Torres Strait fisheries which is a straight annual appropriation.

The process that we go through is that we involve the management advisory committees and the



Torres Strait community in setting the research priorities—in other words, what work needs to be done for us to learn more about the behaviour of our fish stocks or how much we can take, et cetera. Each management advisory committee identifies projects—and bear in mind that that involves scientists as well, normally from BRS and CSIRO. Those priorities then come to the AFMA board which goes through the available funds and says, ‘We can fund this many projects and these are the major priorities that we have got.’ Those projects then go through to the fisheries research and development corporation. Each of those projects generally must contribute to the stock assessment process—how many fish are out there, if you like.

The actual synthesising of all that information to come up with a stock assessment—like school shark stocks are okay or under threat or we need to do something—is funded by the AFMA research fund which the government makes available to us. We endeavour to prioritise research through the industry conservation and recreational groups at the MAC level, and state government and scientist as well. That comes through to the board, and we make decisions based on what needs to be done at the time within the available resources. Does that basically answer that?

**CHAIR**—Yes, it does.

**Mr Stevens**—The way they are allocated, the FRDC makes a judgment on whether projects are worth while or not. We have not got the right to tell the FRDC what approvals to make, but I am on that board so I get an opportunity at the Commonwealth level.

**CHAIR**—Are you satisfied that the right priorities have been given to research?

**Mr Stevens**—Yes, I am now. I was not in 1992 or 1993. There was a lot of research being undertaken which had no relevance to the management of Commonwealth fisheries. Through a process of contestability and accountability, we have got research scientists attuned to the fact that if they want their projects to get up they have got to contribute in some way towards the whole fisheries assessment process. That is in areas where we have got leverage over the funding.

They can apply to the FRDC for habitat or whatever other type projects, which the FRDC will fund separately from the stock assessment process. But we generally have a process which complements the amount of money paid by the industry—which is between about \$700,000 and \$800,000 a year, with the matching funds from government, which gives us another 700,000, so it is about \$1.5 million a year. That is what we use from FRDC to fund projects which contribute to stock assessment.

**CHAIR**—What about research that is being done in other areas? Do you get access to that? Is that research communicated through the industry?

**Mr Stevens**—Research is communicated pretty well by the FRDC. We get all the executive summaries of research funded by FRDC. I might also add that, where we identify a project where it is not possible to be done by CSIRO or BRS, we will go to a university to see if there is anyone interested in taking it on and doing it. You do not always get people who have the skills and expertise to undertake difficult projects, so we go out and ask for people to put in tenders for a particular project where no-one else wants to do it and we get it done that way.



**CHAIR**—What about the level of knowledge that is out there amongst the individual fishers? What process does AFMA put in place to ensure that that knowledge is not lost to research and that the knowledge that those fishers have is actually included in the research?

**Mr Stevens**—Again, as I said in my opening statement and taking up the point that Mr Nairn made, unless we get that confidence and trust in the industry, we are not going to get access to a lot of that information. I think I said at our last hearing that there are fishermen out there who have 25 to 30 years of water temperatures which they will not make available to researchers because they feel that in the past that information has been used to belt them around the ears.

Until they get a confidence in the management approach being taken by AFMA, they are not going to come forward with that information and that is why confidence and trust is so important. I must say again that it is a heck of a lot better now than it was in 1991-92. Fishermen participate on the fishery assessment groups, and we would not have got a school shark assessment like the one we have got without the industry being involved in the whole assessment process.

**Mr Exel**—When Mr Stevens talks about the fishery assessment group process, that is a process AFMA actually instituted. Research priorities used to be set by groups of biological scientists. What we have set up is a fisheries assessment group process involving industry to bring in their expertise—economists, conservationists, recreational, scientists and managers to actually derive an overall assessment of things like the habitat needs, the research needs, the management needs and the economic needs. It is through that process that we are trying to encourage provision of data and involvement in the research process.

**Mr Stevens**—Just on the third question about the levels of research, one could always do with more, but there are a lot of demands on government and, as far as we are concerned, as long as we have got a process set up to establish the essential priorities and get that work done, we can live with that.

**CHAIR**—We are well and truly out of time, but I will let Mr Nairn ask one more question, just because I am a generous chair.

**Mr NAIRN**—Yesterday, we heard that the Game Fishing Association now have a research and development foundation and are putting some money into some research in areas of interest to them. Has AFMA spoken with them about that? I think there should probably be some communication put in place there as well.

**Mr Exel**—It depends on who you are talking to. I actually talked with the Game Fishing Association of Australia when they were setting up this process—it actually got set up about four years ago, I think, or maybe it was even longer. Yes, they are part of the research group in terms of setting priorities and, basically, through Dr Julian Pepperell who is part of the group we have as a fisheries assessment group, they are focusing on funding those projects that fall outside the norm, if you like, of commercial recreational interaction. They will study things like strike rates of marlin in Cairns with tracking devices. Where possible, we have been trying to have complementary funding. If they put in \$20,000, we will put in \$20,000.

**CHAIR**—We will have to end there. Before finally calling it quits with AFMA, Mr Stevens, I will



give you the opportunity, very briefly, of addressing any issue that we have not raised today and putting you under the griller. Is there something that you just want to raise very briefly in a closing statement?

**Mr Stevens**—I thank the committee for the time that it has put into the inquiry into Commonwealth fisheries management. There are always lots of issues around in fisheries management, as I guess there are in other industries. We regard the management of fisheries as a unique sort of natural resource management challenge and it is something that you always have to be vigilant about. We just appreciate the opportunity that you have taken to be more aware of what is involved in fisheries management and we thank you for the opportunity to be able to contribute.

**CHAIR**—Thanks very much. The committee will just take a 10-minute break and then we will conclude with the audit office.

### **Short adjournment**



[11.04 a.m.]

**BOWDEN, Mr John Arthur, Executive Director, Performance Audit, Australian National Audit Office, 19 National Circuit, Barton, Australian Capital Territory**

**MACARTNEY, Mr Peter Moore, Senior Director, Performance Audit, Australian National Audit Office, 19 National Circuit, Barton, Australian Capital Territory**

**CHAIR**—Welcome. I now invite you to make a brief opening statement before we begin our questions.

**Mr Bowden**—I have a very brief statement. I thank you for the opportunity to appear before you today. Since this inquiry began, we have not undertaken any further performance audit work in the authority and we therefore have no additional information to present formally to the committee beyond that which is in the report and what we have previously made available to you in our submissions.

We have noted the high degree of interest in the inquiry. We have reviewed the submissions and evidence that have come in. We are pleased at the apparently high degree of implementation by the authority of recommendations and thrusts that were in the audit report. I noted particularly the most recent annual report presented by the authority, which we think has made substantial advances in the way it presents performance information.

I understand that the principal reason you have invited us here today is to obtain clarification of some issues that have arisen during the inquiry, and Peter and I stand ready to answer your questions.

**CHAIR**—I know that you heard, even here today, some of the criticism and perhaps disquiet that the AFMA people felt when you made your report public. That lack of consultation has been expressed to us by others, including the deputy chair of the Australian Seafood Industry Council. I will just read out a statement that he made. He said:

I do not know how you can run an audit without consulting the major client. Without being too critical of the ANAO, the fact is that they have got it fundamentally and monumentally wrong. It just gets down to simplistics, that they just neglected to ask people what the facts were.

We have also had some criticism from the Western Australian government who said that you did not consult with them. What would be your response to that criticism?

**Mr Bowden**—I think we consulted fully, perhaps not with all parties but certainly a representative selection. Let us take the industry one first. We did consult with the industry. We went to the National Fishing Industry Council, I think it was called at the time, on a couple of occasions seeking information and obtained no response. We gave up after that. As far as the authority itself goes, continually, during the audit, we were in discussion with them orally, day by day. When we were formalising the report, we provided them first with a draft copy of the report. It basically summarises the issues as we know them to that time. It contains the information that we have gathered as well as our preliminary conclusions. That is given to the



authority to consider.

We then had a round table discussion with authority officers. Following the oral discussion of the report, we obtained AFMA's written response to that discussion paper. Following that, we go away and prepare the formal proposed report under the efficiency audit legislation. That is made available to the authority and, again, under the legislation, they have 28 days to consider that before making their formal response to it. During that period we also had oral discussions on various issues that were in that report.

I think there was adequate consultation with the authority and for them to bring up any errors or omissions that they see in the report. These procedures are standard for all audits. We follow them with all of the audits that we do. We certainly followed them in the case of AFMA. As far as consultation with the state governments, we certainly were in consultation with South Australia, Queensland and New South Wales. We did not go to all states. We do try to rationalise our own resources that we spend on the audit by selecting what we think are the representative sample of the stakeholders.

**CHAIR**—How do you respond to the criticism by AFMA that the brochure that you published was not representative of the report and was more designed for media impact?

**Mr Bowden**—It certainly was not designed for media impact. I state that categorically. In the normal case the brochure is a direct copy of the executive summary of the report. In this case there were so many issues involved and we wanted to be sure that the executive summary also reflected as fully as possible the views of the authority, so it was too long to actually copy across as the brochure. We endeavoured to distil all the contents of the two volumes of the report down to a one-page summary of the major issues that were involved and what we saw as being the major outcomes of all the argument that goes on through the report; we tried to distil down all the discussion of issues to essentially a couple of sentences.

That exercise was only done right at the very end when the report was actually finalised. I think we made a good fist of representing the contents of the report. In hindsight, there may be a couple of things—only minor changes—that we could have made to overcome some of the particular criticisms that have been made. For example, one I know of is that there was no reference to the environmental authority. That statement was true as we did the audit; right up until the time we were doing the audit there had been no reference to the environmental authority. However, during the audit there was some reference made. In retrospect, what we could have done was just put the date in the pamphlet and that would have overcome that little difficulty. But there were only minor things like that that we could have done.

**CHAIR**—Has the audit office ever been engaged in conducting an inquiry into fisheries management previously?

**Mr Macartney**—We did a project audit on Southern Bluefin Tuna Fishery in the late 1980s. That was tabled. Prior to us studying this particular audit, another 1,000-hour audit was started about a year before, but we had some personnel changes and that stopped. So one was tabled and one was commenced. We basically started this one from scratch.

**Mr CAUSLEY**—Do you believe that your officers have an expertise in the management of fisheries?



**Mr Bowden**—No; we do not claim to have an expertise in the management of fisheries. The object of this audit was to identify what the purposes of the legislation were, what the requirements put on the authority by the legislation were, how they addressed those requirements and how they reported their performance against them.

**Mr CAUSLEY**—But, because it is such a complex area, I think it would be absolutely necessary for an office like yours to try and get some very informed advice as to how such an operation would be implemented before you made comments, wouldn't it?

**Mr Bowden**—On each of the issues that are discussed in the report there are conflicting views. I have no doubt there are experts in the field who would take both sides of the case. We tried to avoid any technical judgments at all and to look at the overall performance of the authority against the objectives set by the legislation. All of our recommendations, for example, are addressed at administrative issues to address those technical requirements. The discussion in the report presents both sides of the argument on the technical requirements. We did not see it as necessary for the audit to have that authoritative knowledge of the technical requirements of the industry.

**Mr CAUSLEY**—But you did get involved in some of the technical issues. For instance, you made a comment about efficiencies and you were talking about AFMA being too close to the industry because they are worried about efficiencies and profit of fishers. You confused the difference between efficiency within AFMA and efficiency within a commercial operation.

**Mr Bowden**—With respect, Mr Causley, I do not believe we did. The issue we took up with regard to economic efficiency was that the definition of economic efficiency that was addressed by AFMA in its corporate plan was different from that that was stated in the legislation. We saw that difference as providing an element of confusion. When we set out to look at the issue of economic efficiency we asked AFMA, 'How do you measure your achievement of this objective for economic efficiency?' We then weighed up their answer to us. Their answer I think was that they looked at the number of boats, the amount of latent capacity—things like that—in the industry. We looked at the trends for that over time and came to the conclusion that there had been no marked improvement.

**Mr CAUSLEY**—But if you have a quota system, it does not matter how you catch the fish. One fisher might decide to catch some in one particular way or a lot cheaper than the other. Surely that is their decision.

**Mr Bowden**—Yes, I would agree with that.

**Mr CAUSLEY**—That is really what the statement is saying. I think you have confused the two, quite frankly. You do not understand the industry and you do not understand the way it is managed.

**Mr Macartney**—We start with the policy.

**Mr Bowden**—That is right. The beginning point was that 1989 policy that led to the establishment of AFMA's legislation. We then looked at the way in which that legislation was being carried out and put into



effect.

**Mr CAUSLEY**—If I can move off that, another criticism you made was quite critical, and I think was damning, and that was the fact that AFMA had not done a serious enough audit of fish stocks. Did you at any time try and get advice from other scientific bodies as to whether that in fact was feasible and what the cost might be?

**Mr Macartney**—The stock assessment reports, which were developed by Australian Fisheries Management Authority, were developed in committees with a number of people representing a number of organisations, all of which have a wide variety of expertise. I believe BRS, CSIRO and ABARE are all included in most of these stock assessment committees. We checked the material and the conclusions made in those stock assessment reports, which are conclusions from a variety of experts brought together by AFMA. By looking at those reports, I would consider that we had canvassed a wide variety of expertise and conclusions. Those very reports indicated a lack of scientific data and we went on those. We did not make that conclusion ourselves; we got it from other material.

**Mr CAUSLEY**—It would be rather a cursory look at it, wouldn't it, because surely you should have gone to some experts in the field to see whether it was practically possible to implement what you were recommending?

**Mr Macartney**—That is a different question from the original one. You are now referring to our recommendations, as opposed to the stock assessment reports and how we came to the conclusion?

**Mr CAUSLEY**—Yes.

**Mr Macartney**—The recommendations are pitched at a reasonably high strategic level. When we are looking at compliance with the legislation, compliance with the 1989 policy and with some other government policies, for example, the fraud control policy, we considered that those recommendations would be required to be adhered to in order to comply. We stayed at the level of straight compliance, to comply with government policy, to have effective governance. If the government wants its decisions actually implemented, those recommendations had to be adhered to.

If it was not economic to do that, if on a cost-benefit analysis it turned out that it just was not possible, then that raises some management questions about whether you make recommendations saying that we cannot implement government policy and we recommend a different role. But, in our audits, we do not question government policy. We looked at government policy and the legislation, we saw whether there was compliance or not and made recommendations down that line.

**CHAIR**—Would it be fair to say that the bulk of your work was done by examining the reports, rather than talking to people, talking to experts in the field?

**Mr Bowden**—The bulk of our work was done drawing from AFMA's data. Some of that was reports that they held; some of it was their own management data. We also talked at great lengths to all the fisheries managers in AFMA. We also talked with some people outside. We gained our information from all those



sources. For example, the recommendation we made about research, the lack of stock assessment, was drawn solely from those stock assessment reports themselves which said, 'We don't have enough data. We need to do more work.' We were reporting that that was the consensus view of all the experts that have been retained by AFMA to do that sort of work.

On the research side, for example, we did not draw the conclusion that there had been insufficient research. That was already stated. So what we set out to do then, knowing that the government dollar was limited, was to try to establish that there should be a system of prioritisation. At the time we began the audit there was none. Since then, I heard Mr Stevens say today, there is quite an effective system of prioritisation. That was the flavour that we were trying to give to the audit.

**Mr CAUSLEY**—Why didn't you find that out in the first place, that there was a prioritisation system?

**Mr Bowden**—There was not at the time.

**Mr CAUSLEY**—I do not know, from my state issue it was. Priorities were always given to areas of research. I was the minister for fisheries for New South Wales and I can assure you that priorities were always given to research.

**Mr Macartney**—This was an audit on what AFMA was doing.

**Mr CAUSLEY**—Do you think they might be different?

**Mr Macartney**—They are different.

**Mr Bowden**—Quite possibly.

**Mr CAUSLEY**—I doubt it. Let me go a bit further and ask a few more questions. We had evidence yesterday to suggest that the publicity given to the pamphlet has affected the Australian game fishing industry. The world publicity that it received said that the stocks were reduced and therefore it has possibly affected people coming to Australia to the industry.

**Mr Bowden**—The report makes almost no mention of the game fishing industry.

**Mr CAUSLEY**—It talks about stocks.

**Mr LEO McLEAY**—Would it not be a fact that the report might say that? It could be said that this committee by going to Cairns destroyed the game fishing industry. If we cannot have the audit office make statements of what they believe to be fact—

**CHAIR**—Individual committee members have the right to ask questions, Mr McLeay.

**Mr LEO McLEAY**—I guess my point is that they should not necessarily go uncontested on the



record.

**Mr CAUSLEY**—Leo, this is your second meeting so you are an expert on it!

**CHAIR**—We will just have one person talking at a time.

**Mr CAUSLEY**—I mean, you have never attended the meetings—this is your second meeting.

**Mr Macartney**—May I respond to the last question?

**CHAIR**—By all means.

**Mr Macartney**—There isn't any word in the pamphlet which isn't in the main report. The majority of the material in the main report was with AFMA for four months to correct any errors of fact. Their submission was incorporated in the final report, 100 per cent. The area that you are referring to was not questioned on fact.

**Mr ANDREN**—Do you see any danger in publicising or publishing a pamphlet like this, particularly as the media—especially the commercial television industry—grabs hold of it as their only source of information in many cases. The World Fishing Congress was on at the time and the pamphlet obviously did some harm or made an international impact on our fishing methodology, if you like.

I have a few questions on this. First, do you agree that, in hindsight, it was unfortunate that the negativities of AFMA's involvement with the fishing industry were those that were highlighted? Second, do you feel a need to generate publicity to back up the credibility or the degree of effort you put in to raise your work above the ruck of reports that are being tabled all over the place all of the time? Do you feel publicity is an important part of your role?

**Mr Bowden**—Let me answer the first question. We are always disappointed that the negativity is the only side of the report that receives publicity. We try to present a balanced report. We try to give the plus side as well as the criticisms. If you are saying something nice about somebody they generally agree so there is not much to be said. If you are criticising somebody, there is an argument and there is a lot to be said. The bulk of our reports tend to deal with those issues in which we are being critical. This is what is being picked up by the media.

**CHAIR**—With respect, Mr Andren's question goes to the timing of the release of that report.

**Mr Bowden**—We did not know that worldwide conference was on at the time we were intending to table the report. Our intention is always to table reports as soon as they are available and ready for printing. We do not seek to time them to match other events, other than if there is a major review being undertaken such as a parliamentary inquiry. Then we try to liaise with that committee and make sure that what we have to say is taken into account by that committee so that we make the report as useful as possible. We did not aim for that time.



**Mr ANDREN**—Given the complexity of the whole industry and the fact that AFMA took over at a particularly difficult time, do you see any danger in publishing such condensed summaries of such a complex issue?

**Mr Bowden**—Again, we try to make it as balanced as possible.

**CHAIR**—Is that a normal practice? When you are conducting an audit process—it could be into the pig industry, fisheries or whatever—is it your normal practice to put out a brochure which produces, from your perspective, a summary of the major indicators which you are drawing attention to in the body of your report?

**Mr Bowden**—It is. For quite some time we produced a media release on the day of tabling, which was a further summary, a much reduced one-page summary, of the report itself. That was put solely into the press boxes. In addition, we produced a pamphlet which is meant to be a quick reference to the main contents of the report for members of parliament. Knowing the pressures of how much material you have to read, we try to reduce it as much as possible to give you access to the information. We have stopped releasing the press releases. We have not released them for almost two years.

We use the pamphlet for that purpose as well. So the pamphlet itself contains more information. It is likely to be more balanced than a press release. It is certainly our normal practice. As I said before, in the normal case that pamphlet is a direct copy of the executive summary of the report but where that executive summary becomes too lengthy, for whatever reason, then the pamphlet is reduced and condensed further and that is what happened in this case.

**Mr NAIRN**—With regard to your comments on environmental impact assessments, did you speak with the EPA?

**Mr Bowden**—Yes.

**Mr NAIRN**—You said this morning that during the process it came to your attention that certain things that previously were not happening were actually happening and there was no reference in the report to that.

**Mr Bowden**—They began to happen towards the end of the audit.

**Mr NAIRN**—If my memory serves me correct, we had evidence from the EPA that said that they had had a lot of contact with AFMA over some period.

**Mr Macartney**—From which date?

**Mr NAIRN**—Over a number of years—well before the audit office was involved in this audit—the EPA had been carrying on negotiations with AFMA about a memorandum of understanding between AFMA and the EPA regarding referrals to EPA. The way in which the report comes out, there seems to have been a total lack of communication between the ANAO, AFMA and EPA. That was something that was targeted as



quick as a flash, particularly by your extreme environmental groups. From the evidence given to us by EPA and AFMA, it seems that that was nowhere near the actual reality, that there was good liaison between AFMA and EPA.

**Mr Macartney**—I did an audit on the EPA in the early 1990s and there had been no referrals from any form of Commonwealth fisheries agencies, ever.

**CHAIR**—That was in 1990?

**Mr Macartney**—In the early 1990s. I think I tabled it in 1991 or 1992.

**Mr NAIRN**—That is a very clinical answer when you say ‘no referral’. I am sure it would be very easy in bureaucratic terms to define that to give the impression that nothing had occurred. I am talking about quite close negotiations and liaison between the two organisations.

**Mr Macartney**—I am referring to the legislation and there were no official referrals under the legislation. In the month before the woodchips court decision, I asked AFMA why there had not been referrals. The response I got indicated that they did not think there was anything of environmental significance, which is also using words from the legislation. That begged the question of whether there was any point in having management plans of any kind. I could draw the logic there but I think you can make it yourself.

When I contacted the EPA and asked them whether there had been any official referrals and any official correspondence—I asked John Ash, one of the executive directors over there and the SOG Bs who look after written referrals that would come from the Department of Primary Industries and Energy—none had actually occurred.

**CHAIR**—And did you ask them if there had been any level of contact? Was there consultation between AFMA and the EPA? Did you think to ask that?

**Mr Macartney**—No, that was not canvassed at all.

**CHAIR**—But you asked the question?

**Mr Macartney**—No, I did not. I did not canvass that question.

**CHAIR**—So you asked the question, specifically, was there anything of a formal nature?

**Mr Macartney**—Yes.

**CHAIR**—You were not asking for any information about a consultation based on an informal nature.

**Mr Macartney**—That is right, yes.



**CHAIR**—Is that your normal practice?

**Mr Macartney**—In the normal course of discussion with someone over the phone or in person you canvass a whole variety of things. I did not specifically ask the question that you indicated I could have actually asked.

**CHAIR**—It just seems to me that there are different methods of communication. Networking is probably one of the most important means of communication and exchange of ideas. That does not always happen in the formal process and I am very surprised to hear that you did not ascertain what level of informal networking and communication was happening.

**Mr Bowden**—We would normally begin our inquiry with the formal side of things, but also I would have expected, knowing the negative way in which that answer would have been viewed, that there had been none, that they would have put the view that there has been extensive consultation at a private level or whatever.

**CHAIR**—But is it not your job to ask the questions? It is your responsibility, is it not, to ask the questions? Or do you sit back and wait for others to give you the information?

**Mr Bowden**—No, we certainly ask the questions.

**CHAIR**—But you did not ask the questions in this instance and you made a major recommendation about this.

**Mr Macartney**—In the absence of a memorandum of understanding between the EPA or CEFA at the time that I was doing the audit, any other agency would have decided what kinds of referrals could be made and what did not need to be made. That is what these MOUs are usually for. In the absence of one of those, then there basically is not that option for the agency concerned, in this case AFMA through their minister, to refer anything which they think is of environmental significance. There just is not an option. It is compliance with the legislation.

There have been a number of committee reports, House of Representatives and Senate reports, which reinforce the need for MOUs. They just do not exist and these recommendations have been made for years before 1990. The line of questioning that I was pursuing was that, in the absence of anything formal in place, AFMA as an agency needed to be complying with the legislation. There seemed to be a real dearth of knowledge about that particular EP(IP) legislation in AFMA.

**CHAIR**—But you were dealing with two different organisations over that period of time responsible for the management of Commonwealth fisheries. I am surprised you did not ascertain how AFMA was moving towards those memorandums of understanding and what had taken place to get there.

**Mr Bowden**—We did that.

**Mr Macartney**—In discussion with the executive officer of AFMA there was not a concise list of



questions that I asked John, but basically we certainly covered that area a number of times. It all came to a head when the woodchip decision was actually made and then things had to move very quickly in the Department of Primary Industries and Energy in January and February. So the whole subject was quite current around December and January of 1994 and 1995.

**Mr NAIRN**—Have there been letters of agreement? Was that the terminology that was used?

**Mr Bowden**—Memorandum of understanding.

**Mr NAIRN**—No, separate to that. AFMA had been consulting with EPA along more a letter of agreement aspect with regards to referrals and quite specific things had been discussed and even partially put in place.

**CHAIR**—They were still at the informal stage of development rather than a formal stage.

**Mr Bowden**—And that was repeated in the report. We referred to that in the report itself.

**CHAIR**—But you did not ask any questions about the level of informal communication.

**Mr Bowden**—We knew that level was there, but there was still no memorandum. There had been no formal referrals. What we are saying is that the two agencies needed to structure their relationship and reach this memorandum of understanding to set the basis for what issues should be referred to EPA and what should not. That was what was missing, and that is the sole thrust of our recommendation. They needed to formalise their arrangement so they could rationalise the work that each was doing and meet the requirements of the EPA legislation.

**Mr NAIRN**—Would you agree in hindsight that you probably were a touch unfair in not at least highlighting the things that were happening in that area? Certainly the report gives one the impression that, as far as the environmental impact assessments are concerned, AFMA did not want to know, and I think that is an unfair assessment to make.

**Mr Macartney**—No, there are two different things here. You are talking about consultation with the EPA and actually having the capacity to make an environmental assessment. They are two different things. Having consultation is one thing; having the capacity to make an environmental assessment is another. I would stand by my finding that there was no capacity to do that in AFMA. That was the finding of the audit at that time.

**Mr NAIRN**—No capacity?

**Mr Macartney**—The legislation puts an obligation on statutory authorities and ministers to be able to assess the environmental impact of any of their decisions and assess whether something is of environmental significance or not. It requires you to either buy the capacity or develop it yourself. It was not there in AFMA.



**CHAIR**—Because the MOU had not been signed?

**Mr Macartney**—No, it has nothing to do with an MOU. The MOU is an efficiency mechanism to prevent the EPA from being swamped with every decision related to the environment. If absolutely every decision related to the environment was actually referred to the EPA—because it could be argued that just about every decision has some sort of environmental significance—they would be swamped. They could not keep up with the work. So MOUs are usually brought in place to limit the kinds of things which are referred to major projects. That is a totally different thing from actually having developed the capacity to determine whether something has environmental impact. In questioning AFMA and asking for the answer in writing, at the time of the audit no environmental assessment had ever occurred.

**Mr CAUSLEY**—Why? Could it be that it was impractical to do it? Or might it be the fault of the legislation, that it is broad legislation which in fact puts a responsibility on the agency that cannot be complied with?

**Mr Macartney**—There is a whole variety of different levels of environmental assessment. In looking for a management trail, for why decisions were made and why they were not made, we found nothing in the management trail leading to decisions about management plans, et cetera which considered these areas. So, even though cursory consideration of the environmental impact of a decision would have sufficed, we did not find that. In asking for whether there was such a management trail, we were told there was not one.

**CHAIR**—Could I just clarify that again. Did that occur because there were no environmentally qualified staff employed by AFMA at that time and there are now?

**Mr Macartney**—Resource management people are quite capable of doing environmental impact assessments. It does not matter whatever your degree happens to be. There would not be a fishery's manager—and there are probably a few in this room—who are not capable of at least doing a cursory assessment of the environmental impact of one of their decisions. The short answer is that that is a 'how long is your piece of string' kind of question. The capacity is there. If the requirement is in the processes by which they arrive at a decision, then you would find something in the management trail and the material backing up a decision which would indicate that it had occurred.

So the short answer is that I do not know whether they had specific environmental assessment capacity in the agency, but given the expertise of a number of people in the agency they could either hire again or they could certainly do a first level assessment and document the trail.

**Mr LEO McLEAY**—Does this not really get down to a disagreement between the audit office and AFMA about what is environmentally significant? You have taken your point from what the legislation says and what the minister said after the woodchips decision and they have probably taken a more management approach which is to say that it is not significant, therefore, it does not need to be done.

**Mr Macartney**—I suppose, if we found the definition of what 'environmentally significant' was, we could have a basis for discussion. From a good management point of view, a management plan for a major fishery would, to me, be something of environmental significance. A decision related to the renewal of a



permit for one fisherman would not. So we found that neither were being referred to the EPA. They are now being referred to it, I might add.

**CHAIR**—Did you examine the MAC process to see whether environmental input was happening through the MAC process?

**Mr Macartney**—In some of the MACs, at the time we were looking at the MACs, there was specific expertise brought in related to environmental impact assessment, and we had scientists there in the MACs. Regarding the material backing up a recommendation from a MAC which would go to the board, we were not finding a lot of material in there which had a title ‘environmental impact assessment’ of a particular decision. It was not brought into the process.

**CHAIR**—I just want to try to understand this process. If you were looking at the MACs and decisions that were being taken with environmental assessment being conducted in the MAC process, did you actually examine that process just by looking at records or did you talk to people involved in the MAC process?

**Mr Macartney**—Most people we talked to in that process were the people related to the stock assessment groups who—

**CHAIR**—Could you just answer my question.

**Mr Macartney**—Yes, I am trying to. The decisions made in MACs are basically recommendations to the board. They use recommendations—

**CHAIR**—My question to you was: did you speak to people involved in the MAC process where environmental assessments were made? Just a yes or no will suffice.

**Mr Macartney**—Yes, when you include the stock assessment groups in that process.

**CHAIR**—So you did not just rely on reading of a written report from a MAC to the AFMA board?

**Mr Macartney**—No, especially with the South East Fishery. I spoke to the chairman of the stock assessment group.

**CHAIR**—And how many MACs would you have spoken to?

**Mr Macartney**—When I was speaking to the peak industry body, I think that there were quite a few chairmen there at that time. That was an annual general meeting.

**CHAIR**—It just strikes me that when AFMA moved away from the previous management style of practice, and the cornerstone of the change in management practice has to be the MACs, I would have thought that in order to understand the industry and the way that it was being managed, including environmental impact assessments and how they were treated throughout the management of the industry, you would have actually got out into the MACs and talked to people. So did you actually visit the South East



Trawl MAC or was it the only—

**Mr Macartney**—No, not at all. Actually, I tried to go to a meeting, but AFMA recommended that I did not turn up as it turned out because it would have been contentious. That was a workshop down on the south coast related to the South East Fishery and that was one that I actually did want to attend and I did not.

**Mr ANDREN**—How then did you reach the conclusion that the industry has too much influence over AFMA if you did not speak to the MACs?

**Mr Bowden**—We did not reach that conclusion.

**Mr ANDREN**—You did not?

**Mr Bowden**—We did not say anywhere in our report that the industry has too much influence over the MACs. What we talked about was the spread of representation on the MACs and the fact that the majority of the members of the MACs were there because of their industry connections. We suggested that there should have been a broadening of that representation. I know that the press has interpreted our report in their own way to say that we said AFMA is tied to the industry, but that is not so.

**CHAIR**—Can I remind you of your actual words in both the report and the brochure:

Analysis of AFMA's decision-making regarding the limits placed on commercial fishing are, almost without exception, set in favour of maintaining viable fish catches even in the face of precautionary or contrary stock assessments.

**Mr Bowden**—That is right.

**CHAIR**—They are your words.

**Mr Bowden**—We stand by those.

**Mr Macartney**—Yes.

**Mr CAUSLEY**—Don't the majority of people in Australia rely on the commercial fishing industry for the fish they buy or consume from the common resource?

**Mr Bowden**—I would presume that is so.

**Mr CAUSLEY**—Why would the industry not have a fair input into the MACs?

**Mr Bowden**—We are not saying that it should not. By no means. We never said that at all. All we were saying is that there are other groups involved in it as well and that they were not represented. There were good grounds for that. I understand that since then their representation has been broadened.

**CHAIR**—Could I bring you back to Mr Andren's question. Keeping in mind the quotation that I just read to you, the perception has been created that the audit report stated that AFMA is perhaps captive of



industry. Certainly, you have not said that in the words initially mentioned by Mr Andren, but that is the perception that is created by statements like the one I read out and others. If you made the statement that I read out and that sort of assessment, how do you justify those if you have actually never got out and spoken to the people in the MACs? I do not want to put words into Mr Andren's mouth, but I think that that is where he is heading.

**Mr Macartney**—We looked at final decisions made by the authority and then at the catch statistics behind them. We provided the committee in late July or early August a blow by blow listing of how we actually came up with that particular decision, and I can go through it if you like. We went through each one of the fisheries—

**CHAIR**—Is it not one thing to look at a table of figures and another thing to get out into the body that has actually been making the decisions to see the factors that led the members of individual MACs to make decisions that had the result of achieving those figures?

**Mr Macartney**—I think it was a legitimate way of approaching it to look at the final decisions of the authority and at the results against those.

**CHAIR**—No-one is suggesting it is not a legitimate way, but we are trying to get a feel for the process that you went through. What is coming through loud and clear is that you are placing a lot of emphasis on reports and statistics without getting out and actually talking to, if you like, the grassroots level of the industry. How did the decision process happen that resulted in those statistics that you looked at? What was the process that the industry was going through?

**Mr Macartney**—I think the level—

**CHAIR**—You have come down with some pretty tough recommendations and quite a bit of criticism. So what process did you go through to reach those positions that you reached in your report?

**Mr Bowden**—We certainly spoke to people, particularly the fishery managers, about the background to the decisions that had been made. We also reviewed the stock assessment reports that were part of the input to those decisions. We reviewed the catch statistics, which is one of the basics that is considered in reaching those decisions. Across all the fisheries the various reasons would have been different. We were trying to distil the whole issue down to a simple observation—if it can be simple—and we looked at the details of TAC decisions and decisions on setting catch limits as they related to the statistics of the catches that were being made.

**CHAIR**—Perhaps the problem is that it is not simple. It is a most complex area.

**Mr Bowden**—That is true.

**Mr Macartney**—We found that the overall direction in which AFMA wanted to go with some fisheries and what was actually resulting led to that particular conclusion that you have there, that very few decisions seemed to inhibit catch. We went through it fishery by fishery—and it was not just over one year's



statistics; they were three-year statistics. We found that for just about all the fisheries in the South East Fishery that the TACs did not appear to inhibit the catch levels, because they just were not catching the catch levels that were set.

We found, away from the South East Fishery, that with the Northern Prawn Fishery the policy was to maintain the status quo. With the Southern Shark it was to maintain the status quo. These are responses from AFMA as to, ‘What is your overall strategy related to these fisheries?’ Eastern Tuna and Billfish Fisheries, the status quo for zones A and B and increased fishing in other zones; Western Deepwater Trawl, increased fishing; and North East Deepwater Fishery, increased fishing. It was just one after the other. So when we start looking at performance reports and at the level that we were looking at them—at the levels being reported to you—this is an appropriate place to start.

If you find almost across the board that when TACs are being set fishermen over a number of years—not just one year—are unable to catch or do not appear to be catching the levels that are set, you would have to come to the conclusion that the TAC is not actually inhibiting catch levels. Part of the conclusion that you have there is that they are either maintaining the status quo or effectively not limiting catch. For most of the other fisheries, the overall policy is to maintain the status quo. That is the overall direction that we found that AFMA was pushing. We actually asked them, ‘What is your overall policy for Northern Prawn?’ and it was maintaining the status quo.

**Mr ANDREN**—Would it be fair to assume then that one could draw the conclusion that AFMA is being dominated by industry interests?

**Mr Macartney**—I do not know how you could measure something like that, and we would never go out to do it. How do you measure that someone is actually influenced by another person in a decision? That is something you cannot document.

**Mr ANDREN**—But there is an implied suggestion in what you say that there is a predominant commercial interest, rather than any other, at play in that sort of—

**Mr Macartney**—We can only stay with these statistics and I would not want to be drawn on any kind of conclusion like that, because you would have to be in the minds of the decision makers. We cannot do it; no-one can do it.

**Mr CAUSLEY**—If the TAC is not being caught, then in fact the fishery is being protected, isn’t it?

**Mr Macartney**—How many years do you have to have statistics like that? If you are setting a TAC which is 100, 200 or 1,000 tonnes over what appears to be able to be caught, all we are saying is that there is a management message there. That is all.

**Mr CAUSLEY**—Did you look at statistics back, say, 10 years because of the fluctuations in the availability of fish according to season, currents, et cetera?

**Mr Macartney**—No. We are looking at the statistics from when AFMA was in place.



**Mr CAUSLEY**—But you cannot just take a snapshot of the fishing industry like that. You have to look at it over a period of time.

**Mr Bowden**—That may be so, but what we were doing was reporting what was available to us, which was over a four-year term, and we defined the basis of that conclusion.

**Mr CAUSLEY**—I want to turn to another area. You made a lot of recommendations. As an audit office, did you take into account the effort that would have to be put in from AFMA to comply with the recommendations as to what costs that would be?

**Mr Bowden**—We try to make our recommendations helpful but not prescriptive. We do not try to usurp the management's job in decision making or the way it applies those recommendations. Our recommendations are directed more at a strategic issue. So what we are looking for is the need to comply with the legislation and the basic policy behind it. There are many ways of implementing the recommendations that we have made. It would be impossible for us to just pick out one particular method of implementation and cost that. It would possibly be quite unindicative of the resultant cost.

For example, one thing we were suggesting was on the log book side where we found that there was a lack of a formal risk assessment of the reliance that could be placed on that data. We tried to come up with suggestions whereby AFMA could set out to provide an assurance of the quality of that data and we suggested various methods of sampling, going to the fishing processes, et cetera. As I say, there is a variety of methods by which it could be implemented, so it is impossible to cost accurately for that.

**Mr CAUSLEY**—But it could be very expensive, couldn't it?

**Mr Bowden**—There are varying methods. You could choose a very expensive method. Equally, you could reduce costs by doing it a different way.

**Mr Macartney**—If it turns out to be too expensive for the budget AFMA has and it reports that it cannot comply with a policy which the government set or with its legislation, that is a reportable thing.

**Mr CAUSLEY**—Yes, but you have set an expectation amongst certain groups who may be critical of the fishing industry that a certain expectation should be achieved. Obviously, if those groups start to try to enforce their opinions or beliefs, that is going to cost government, isn't it?

**Mr Bowden**—That is really the process of government—the compromise between the interests of the various pressure groups involved. It is the case in every situation.

**Mr CAUSLEY**—The process of government is where minority groups put pressure on to get their own way.

**Mr Macartney**—There is a variety of things which may very well have cost implications on which we are prepared to go with AFMA to Finance and to support them. We do this with a number of auditees. We did not make the recommendations lightly. If the conclusion is that complying with a government policy



is too expensive, not possible, not possible at this time or whatever, that is a reportable thing which should be reported to the parliament. If that kind of argument is run with Finance—and we would go with AFMA to Finance to support them—and the conclusion is that the money is not available, then it is not their fault. Basically, they are trying to do the best job that is possible. That is the line we took on these recommendations.

**Mr CAUSLEY**—Can you understand the criticism that comes from industry—not just the fishing industry, but other industries—about Canberra when they say that it is the biggest mistake Australia ever made because it is populated by impractical people?

**Mr Macartney**—Are you referring to AFMA?

**Mr CAUSLEY**—No, I am just saying industry.

**Mr Macartney**—I must have missed something somewhere.

**Mr CAUSLEY**—I will repeat it if you want me to. I just said: can you understand industries saying about Canberra that it is the biggest mistake Australia ever made because it is populated by impractical people?

**Mr Bowden**—I cannot understand that, no. I think there is a variety—

**CHAIR**—Could we come back to the report.

**Mr ANDREN**—What involvement does ANAO have in the implementation of the recommendations after the report? Is there an ongoing review?

**Mr Bowden**—There are probably two things to be said about that. The first is that there is a standing arrangement for the parliamentary Public Accounts Committee to receive what used to be a quarterly but is now a half-yearly report from the Minister for Finance on the rate of progress of implementation of all agreed recommendations. The Minister for Finance in turn obtains his information from the ministers of the various portfolios affected by audit reports. That is one method by which parliament itself follows up the reaction to the Auditor-General's reports.

We also have a follow-up audit program ourselves whereby we revisit areas we have audited a year or two or three previously. We review what level of implementation has been achieved on those recommendations or how the situation has changed.

**Mr ANDREN**—Have you gone to AFMA and gone through the 'disagrees' and the 'agree in principles'? If not, why not?

**Mr Macartney**—The short answer is no. I can give you an idea of the process. I am the audit manager and I would be the one who would be following up that particular audit unless I move on to another portfolio. I would intend following up more than just the responses to the Department of Finance. I would



follow up further than that within the next 24 months, perhaps 12 months. But, currently, we have other audits running and we just keep tabs on what happens in the annual reports and what happens in these quarterly reports. We basically keep a file that is called the follow-up file while other audits are actually running. As for AFMA's follow-up audit, we have a strategic plan for the next 24 months and it is on that 24 months plan.

**Mr CAUSLEY**—So this process assumes that you are absolutely accurate in what you report?

**Mr Bowden**—Why do you say that?

**Mr CAUSLEY**—You were saying you were going to follow up to see whether the recommendations have been followed.

**Mr Bowden**—We see what the new situation is at the time we follow up. If we have made a recommendation, if it has been accepted, we look to see how it has been implemented. If it has not been accepted then we look to see whether there has been other action taken to correct the particular problem we were trying to address at the time. It is a reassessment of the situation and it also assesses the implementation action taken.

The Minister for Finance's system only takes into account agreed recommendations. However, sometimes the Finance people, in seeking the information from portfolios, go back to program managers to ascertain why the particular recommendation is not agreed to. Sometimes they believe they should have been followed. So there is a whole range of meanings to it.

**Mr CAUSLEY**—What does it take to prove that some of your assessments were wrong?

**Mr Macartney**—A logical argument.

**Mr CAUSLEY**—It has not succeeded yet.

**Mr NAIRN**—In one of the comments you made in the report in relation to the South-East Fishery you said how the quota system had not worked to date because of problems in the original implementation. You would be aware that since then the minister has put in place a working group to look at exactly that. Has the audit office done anything as part of your follow-up? Have you had any involvement in looking at that report to see how that may overcome the criticisms that you had in your report?

**Mr Bowden**—No, we have not gone back on any of the work since we actually reported. We have not followed up on any of those actions since then.

**Mr NAIRN**—Would you? That was a specific criticism in the report and now the minister has had a certain thing done. What happens out of that is yet to be seen but would that be your normal process?

**Mr Bowden**—That is right.



**Mr NAIRN**—Would you look at that aspect of it and see whether it overcomes the original criticism?

**Mr Bowden**—We would. I might add that that criticism of the way in which those quotas were applied was not ours. It was drawn from AFMA and other people in the industry. It is in the report.

**Mr NAIRN**—Certainly, that is right.

**CHAIR**—There was one criticism you made in the brochure and I would like to ask you about the basis on which you made the criticism. You said:

. . . there is little evidence to indicate there has been a significant improvement in economic efficiency in Commonwealth fisheries since AFMA was established.

On what basis did you make that statement?

**Mr Macartney**—We asked AFMA how they measured that particular objective—I think it is objective three—and we were given an answer which included boat numbers and the success of their ITQ system. There are three or four different things that were there. That gives you the gist of it. We looked at those to see whether there was any change. The ITQ system which we have just heard, and it was in the stock assessment report as well, indicated that it was not working. That was one problem: the ITQ system was not working. We identified a number of things to try to make it more efficient and I assume this activity that we are hearing about now is going down the route of trying to fix it up.

**Mr NAIRN**—It was only one fishery.

**Mr Macartney**—Yes.

**CHAIR**—This is a very broad, wide ranging statement and I just want to know on what basis—

**Mr Macartney**—I am working on it. That is the first one, the ITQ system. As for boat numbers, we checked out all the boat numbers in all the fisheries and we could not see, except for the Northern Prawn Fishery, a huge change in the number of boats that were actually there. We looked at the statistics since AFMA was there. We did it fishery by fishery, blow by blow, and we included it in the submission that we made to you. We were looking for changes that AFMA is bringing about.

**CHAIR**—What changes were you looking for?

**Mr Macartney**—If they actually wanted to have reduced effort or a reduced number of boats then we were looking for that. It was whatever they intended to do, not what we wanted them to do. We asked them what their overall intention was in respect to that particular objective for each one of the fisheries. We went through it fishery by fishery with each of the fishery managers and asked them had they achieved it or hadn't they achieved it.

**Mr CAUSLEY**—Have you any idea how long it takes to get management into place and to get some reaction from that management to reduce effort or whatever to take into consideration the livelihoods of



fishers?

**Mr Macartney**—AFMA inherited an organisation that was already there. It has had significant changes since then as well, but it was not as if they went in cold.

**Mr Bowden**—The Northern Prawn Fishery, for example, had a fleet reduction program already in place and working. We are also aware that there are other industry surveys done by ABARE and other organisations. We asked AFMA whether they used those and the answer was no, because they include factors which are outside AFMA's control, and it seemed quite reasonable to us that they were measuring their achievement by factors which were within their control.

**CHAIR**—Mr Macartney, you just made a statement that AFMA did not go in cold. Were you aware of the level of confusion and mess that existed prior to AFMA taking over the management and did you factor that into your assessment?

**Mr Macartney**—A number of the people I interviewed indicated that there was one hell of a mess. It was quite difficult before AFMA was created. That is the reason why it was created. A significant change was required. But there was a set of OCS arrangements in place. Some of them did not work, some of them did and they are being revised. There are a number of other preliminary management plans already on the board that were either being implemented, management letters—

**CHAIR**—But my question to you is: did you take that into assessment before making a statement like that?

**Mr Macartney**—The short answer is yes, and the longer answer is that we went through, with each one of the fisheries managers, what their strategies were for that particular objective of economic efficiency and whether or not they had achieved it and what they were planning to do. We actually put in the back of the report the sorts of reports that we suggested that they should make in that area. That is the way we came to the particular conclusion: we could not see at this point in time any significant improvement in achieving that objective.

**Mr NAIRN**—Have you not just said that you really passed on what the AFMA officers indicated was their objective? Surely the benchmark should have been one second prior to the establishment of AFMA. Surely that would be the benchmark as to whether there had been, in your terms, any significant improvements in economic efficiency rather than an expectation. You seem to have benchmarked it against an expectation rather than the reality.

**Mr Bowden**—We quoted the statistics that were from the time of AFMA's actual establishment until the time of the audit. From those statistics for those factors, you could see that there was very little change. So that is what led to the statement. It does start from the time AFMA was established.

**CHAIR**—There being no other questions, if there has not been an issue that we have covered, I give you the opportunity to raise it in a closing statement.



**Mr Bowden**—Thank you, but I have nothing to add.

**Mr Macartney**—Neither do I.

**CHAIR**—As people present would be aware, this marks the close of public hearings into this inquiry. All being well and if we remain on schedule, we would hope to be tabling a report by the end of June. Thank you to everyone who has attended today.

Resolved (on motion by Mr Leo McLeay):

That, pursuant to the power conferred by paragraph (o) of standing order 28B, this committee authorises publication of the evidence given before it at public hearing this day.

**Committee adjourned at 12.09 p.m.**