

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

Question No. 79

Senator Birmingham asked the following question at the hearing on 12 February 2013:

What involvement has the Department and/or portfolio agencies (e.g. Australian Customs and Border Protection Service) had in the scuttling, destruction, sinking and/or dumping of illegal foreign fishing vessels (IFFVs) or suspected illegal entry vessels (SIEVs)?

How many vessels have been dealt with in this way in the current and previous financial years? Please detail numbers by location.

What environmental (e.g. under EPBC Act or Sea Dumping Act) or other approvals have been sought? What consideration has been given to fish breeding grounds, including for Southern Bluefin Tuna, in the conduct of these activities? What analysis has been undertaken before and/or after these activities in relation to pollution and any other risks?

The answer to the honourable senator's question is as follows:

What involvement has the Department and/or portfolio agencies (e.g. Australian Customs and Border Protection Service) had in the scuttling, destruction, sinking and/or dumping of illegal foreign fishing vessels (IFFVs) or suspected illegal entry vessels (SIEVs)?

The Australian Customs and Border Protection Service is responsible for the destruction of Suspected Irregular Entry Vessels (SIEVs) intercepted by vessels assigned to Border Protection Command (BPC). These vessels are normally destroyed under section 185B (3) and (4) of the *Customs Act 1901*.

It is normal practice for SIEVs to be destroyed, however it is not an automatic response. Vessels are destroyed on a case-by-case basis in accordance with the above legislation.

The Customs and Border Protection Chief Executive Officer (CEO) has direct authority to destroy, or move to destroy, a vessel deemed hazardous to shipping. Destruction can also result if there are reasonable grounds to believe the vessel is unseaworthy; poses a serious risk to navigation, quarantine, safety or public health; poses a serious risk of damage to property or the environment or is in such poor condition that custody or maintenance would involve an expense to the Commonwealth likely to be greater than the value of the vessel. The CEO has delegated this function and power to Commander and Deputy Commander BPC. The actual destruction of vessels is carried out by assets operating under the command of BPC.

The destruction of illegal foreign fishing (IFF) vessels is undertaken by the Australian Fisheries Management Authority (AFMA). Any questions regarding their destruction should be directed to AFMA for response.

How many vessels have been dealt with in this way in the current and previous financial years? Please detail numbers by location.

Delegate approved destructions and location information 2011/12 and 2012/13 Financial Years

Destruction Locations for SIEVs since July 2011*			
In the vicinity of	FY 11/12	FY 12/13 (to 7 Mar)	Total
Ashmore Islands	30	40	70
Christmas Island	66	102	168
Mainland	2	8	10
Cocos (Keeling) Islands	2	58	60
TOTAL	100	208	308

* The above table does not include vessels set adrift and presumed sunk. In the 2011/12 financial year eight vessels were set adrift and presumed to have sunk. In the 2012/13 financial (up to 7 March 2013) 18 vessels were set adrift and are presumed sunk. Reasons a SIEV may be set adrift include some safety of life at sea situations. In these instances the Australian Maritime Safety Authority's (AMSA) Rescue Coordination Centre is notified, as the coordinating agency, who issues a Sea Safety Message with the last known position of the vessel adrift. There have been incidents where a merchant vessel has assisted in a search and rescue involving a SIEV, under the coordination of AMSA, and the SIEV is set adrift. This action does not occur under the *Customs Act 1901*.

What environmental (e.g. under EPBC Act or Sea Dumping Act) or other approvals have been sought?

A joint application by AFMA and BPC for a sea dumping permit has been submitted to the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC). Although BPC does not currently have a sea dumping permit, BPC is complying with its obligations under the *Convention on the Prevention of Marine Pollution by Dumping Wastes and Other Matter 1972* (the London Convention), its 1996 Protocol, and the *Environment Protection (Sea Dumping) Act 1981*. BPC continues to provide reports of all vessel destructions to the SEWPaC as the Australian national sea dumping regulator.

What consideration has been given to fish breeding grounds, including for Southern Bluefin Tuna, in the conduct of these activities?

BPC has not undertaken an examination of the impacts to specific fish breeds. BPC has engaged a scientific consultant to help identify appropriate disposal sites around Christmas Island and Cocos (Keeling) Islands. To the greatest extent practicable, all reasonable attempts are taken to ensure the location of destruction is in water as deep as possible, and preferably at least 200 metres deep and not less than 40 metres deep. Based on relevant considerations, including distances from local populations, BPC directs that vessels are to be destroyed at least 10 nautical miles from the nearest land, clear from sub-sea structures, marine parks and shipwrecks.

What analysis has been undertaken before and/or after these activities in relation to pollution and any other risks?

Prior to destruction, all vessels are searched thoroughly to ensure dangerous, hazardous and valuable items and evidence are removed and isolated. All objects on board the vessel that will not burn or sink are also removed and quarantined for Department of Agriculture, Fisheries and Forestry (DAFF). While these measures are taken in the vast majority of occasions, there are some instances (for example, during search and rescue operations) when, due to the condition of the vessel, it is not safe to complete a thorough inspection of the vessel.

The preferred method of destruction of SIEVs is burning at sea. For environmental, quarantine and safety reasons, burning is more likely to result in the hull sinking in one large piece, preventing risk of a collision by shipping, or damage to the environment from floating debris. In the occasional case of metal hulled boats, it is necessary to puncture the hull in order to assist the vessel to sink.