

CHAPTER FOUR

EQUITY OF THE TRANSLATION ARRANGEMENTS

Introduction

4.1 This chapter initially examines whether one-for-one translation from Class A SFRs to gear SFRs would disproportionately disadvantage small operators in the NPF, as was argued in a number of submissions. AFMA rejected this argument on the basis that smaller operators have in turn disproportionately increased the length of their headrope since gear restrictions were removed in 1993. In addition, as indicated by the AAP panel, one-for-one translation is the most legally defensible means of translation. This was not disputed at any time during the inquiry.

4.2 The chapter subsequently examines the impact of the amendment management plan on the structure of the NPF fleet, and upon shore based facilities. Opponents of the amendment management plan argued that the fleet will be reduced to 80 large operators based largely in Western Australia, as a result of which the far north Queensland regional economy will suffer. While not disputing that the number of vessels in the NPF may be reduced, AFMA rejected the argument that operators from far north Queensland will be particularly disadvantaged.

4.3 Finally, the chapter examines the present uncertainty in the industry arising from the protracted implementation of gear SFR management. The concern was raised during hearings that some operators have already positioned themselves in anticipation of the implementation of gear SFR management, and will be disadvantaged by further delay in its implementation.

Small Operators

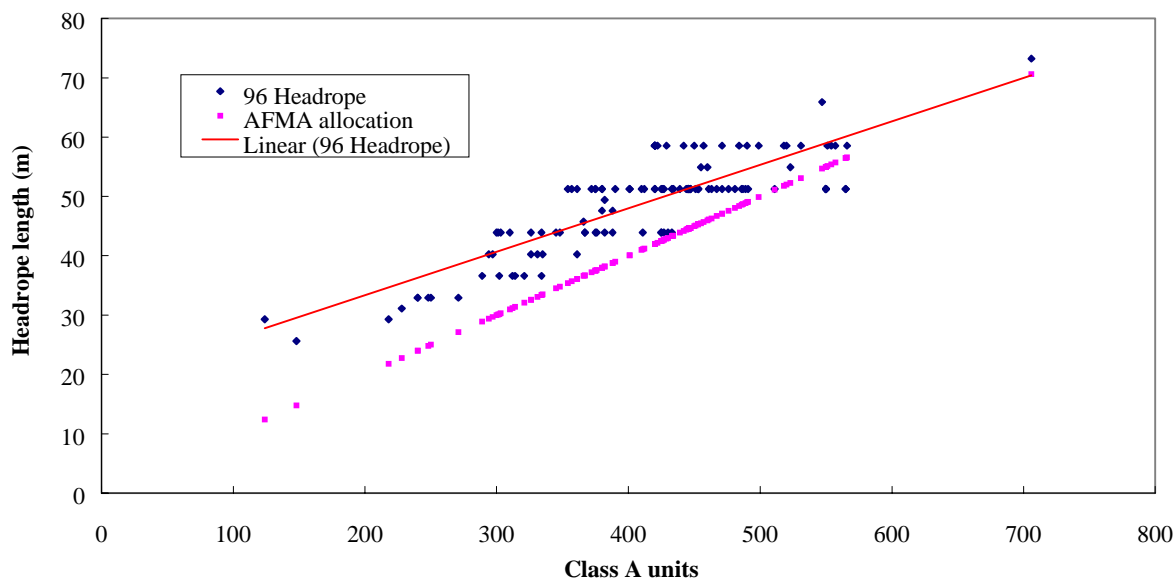
4.4 The NPF (Qld) TA argued in its written submission that one-for-one translation from Class A SFRs to gear SFRs is 'grossly unfair and inequitable for smaller operators'. The basis for this argument is that small vessels will be allocated far less net than they are able to tow at present, and larger vessels will be allocated far more net than they are able to tow.¹

4.5 In their written submission, Messrs Eayrs and Wakeford produced a chart comparing headrope length for individual vessels based on their 1996 Class A SFR allocation with allocated headrope length under the amendment management plan.² This is reproduced in Chart 4.1 below.

1 Submission 74, pp 14-15

2 Submission 67, p 3

Chart 4.1: Current headrope length for 129 boats in the NPF and the proposed AFMA headrope allocation



4.6 Based on Chart 4.1, Messrs Eayrs and Wakeford argued that while most operators incur a reduction in headrope length, ‘smaller boats appear to suffer the greatest headrope reduction under the proposed allocation process’. In support, Messrs Eayrs and Wakeford also presented a table comparing 1996 Class A SFRs allocation for various boats in the NPF with allocated headrope length under the amendment management plan.³ This is reproduced in Table 4.1 below.

Table 4.1: Class A units, headrope length (fathoms) for selected NPF boats (based on 1996 data) and percentage loss under the proposed allocation process

Boat name	Class A Units	H/rope length (fm)	Proposed Allocation (m)	Head-rope loss (%)
<i>Tepania</i>	124	16	12.4	57.7
<i>Mabel K</i>	148	14	14.8	42.2
<i>Brahman</i>	326	24	32.6	25.7
<i>Remus</i>	388	24	38.8	11.6
<i>Sea Fury</i>	430	24	43.0	2.10
<i>Alliance</i>	372	28	37.2	27.3
<i>Sea Fever</i>	426	28	42.6	16.8
<i>Carpentaria Pearl</i>	447	28	44.7	12.7
<i>Heron</i>	565	28	56.5	10.4
<i>Adelaide Pearl</i>	420	32	42.0	28.3
<i>Eylandt Pearl</i>	471	32	47.1	19.6
<i>Voltaire</i>	551	32	55.1	6.00
<i>South Passage</i>	706	40	70.6	3.60

4.7 Various submissions attempted to quantify the percentage headrope reductions shown in Table 3.1 into actual loss of income. For example, the submission from Mr and Mrs Menzel argued that under the amendment management plan, their boat would be restricted to 8 fathoms of headrope width from 10 fathoms previously, leading to an annual fall in earnings of \$200,000 to \$650,000.⁴

4.8 Finally, it was also noted in hearings that in recent years, there has been a move by some operators to replace older vessels of around 550 Class A SFR with new vessels of around 420 Class A SFR. In doing so, operators have legally utilised new vessel designs and engines to maintain their fishing capacity.⁵ Again, the NPF (Qld) TA argued that these operators who have invested in new vessels but sold their surplus Class A SFRs are disadvantaged by the new regulatory regime which benefits operators with larger Class A SFR holdings.⁶

4.9 In response to the concerns of smaller operators, the Chairman of NORMAC, Mr Jeffriess, defended the proposed one-for-one translation from Class A SFRs to gear SFRs for the fundamental reason that it is the only legally defensible arrangement available. This argument reiterates the finding of the AAP Panel. Mr Jeffriess stated in hearings that other translation formula may have been more desirable:

But the fact is that they were not legally defensible. It would certainly be irresponsible for anyone on the MAC to entertain anything which was not legally defensible.⁷

4.10 AFMA further argued that although one-for-one translation may appear inequitable, this is because smaller operators have disproportionately increased the size of their nets compared to larger operators since the restrictions on net size were lifted in 1993. AFMA estimated that since 1992, the increase in net size by operators with less than 375 Class A SFRs has been over 15 per cent, compared with an increase of less than 5 per cent by operators with more than 375 Class A SFRs.⁸

4.11 In support of this argument, AFMA presented in its written submission a chart showing the percentage change in average headrope length over the years 1992 – 1998 for operators with less than 375 Class A SFRs, and operators with more than 375 Class A SFRs.⁹ This is reproduced in Chart 4.2 below.

4 Submission 3, p 7

5 Evidence, RRAT, 3 February 2000, p 56

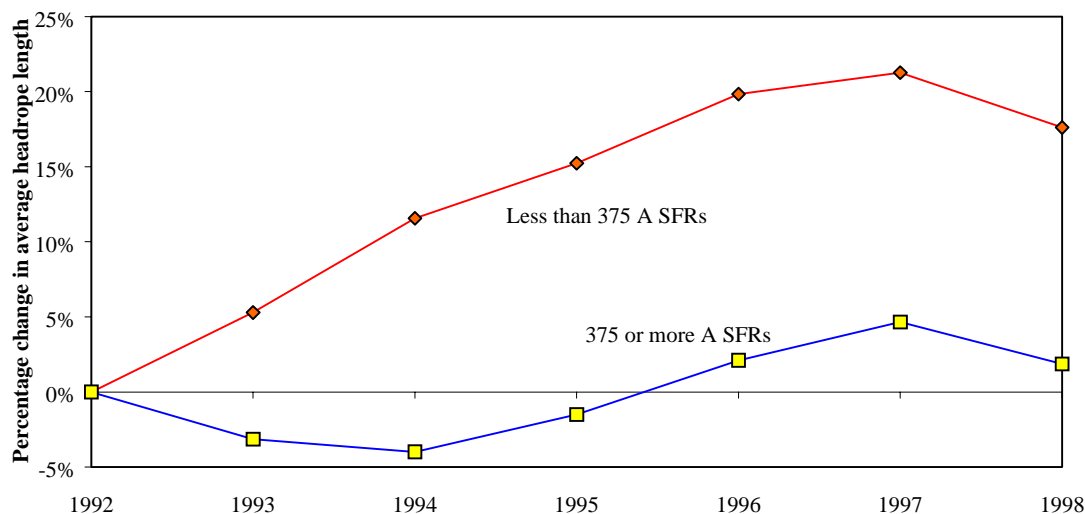
6 Submission 74A, pp 4-5

7 Evidence, RRAT, 4 February 2000, p 120

8 Submission 69, pp 9-10

9 Submission 69, Attachment 8, Figure 7

Chart 4.2: Percentage change in average headrope length over the years 1992 – 1998



Note: The year 1992 is used as the base year as it was the last year that interim headrope restrictions applied. All boats were assumed to be using the maximum headrope permitted in 1992.

4.12 The argument that smaller operators have disproportionately increased the size of their net since the removal of restrictions in 1993 was also made in the AAP report:

The information available to the panel suggests that, in general, the smaller operators have been able to “use” their statutory fishing rights more efficiently than the larger operators. This increase in efficiency is the result of smaller operators increasing the size of their nets when the limits on headrope length in the fishery were lifted in 1993. The panel does not believe that this, in itself, is reason enough to reallocate fishing concessions in favour of the more efficient operators.¹⁰

4.13 Finally, the Committee also notes that the increase in net size after net restrictions were removed in 1993 could only have been to increase efficiency and therefore catch. This indicates that there is a significant relationship between net size and trawl performance.

Structural Impact of the Amendment Management Plan

Impact on Fleet Numbers

4.14 Both the NPF (Qld) TA and NTTOA attributed the perceived inequitable translation arrangements under the amendment management plan to a deliberate strategy on behalf of the larger operators.¹¹ They argued that by pushing the amendment management plan through NORMAC, the larger operators were

¹⁰ Northern Prawn Fishery Independent Allocation Advisory Panel (10 August 1999), *op cit*, p 17

¹¹ Submission 74, p 13. See also submission 75, pp 11-12

effectively attempting to reduce the efficiency of the smaller operators (approximately 20 to 22 metres long and in the range of 375 to 475 Class A SFRs), while at the same time increasing the efficiency of their own less efficient vessels:

In effect, the proposal to introduce Gear Units is ... turning economically efficient operators (demonstrably shown in the various literature to be those within the general ambit of 375 to 475 Units) to operators who can, over a period of time in order to meet reduction requirements, become more and more inefficient by reducing the amount of fishing gear which a formerly efficient vessel is entitled to tow. This has all been done under the guise of showing Gear Units are more responsive to situations where there is the need to reduce fishing effort ...¹²

4.15 The NPF (Qld) TA argued that the smaller vessels in the NPF are more efficient because they can work effectively both schooling banana prawns and non-schooling tiger prawns. In support of this argument, the NPF (Qld) TA cited the following finding in the AAP report:

The data also support the view of many submissions that the financial position of smaller boats is relatively stronger than that of the larger boats in terms of rate of return to capital and rate of return to full equity'.¹³

4.16 As a result of this strategy by the larger operators, the NPF (Qld) TA and other parties argued that smaller operators would be forced from the industry, leaving only approximately 80 large vessels owned by multiple-vessel operators. This is because smaller operators are generally not in a position to buy up additional SFRs to maintain their position, given that Class A SFRs currently cost around \$6,500 each.¹⁴

4.17 Furthermore, the granting of “top up” SFRs to smaller operators for a period of 2 years under the amendment management plan was dismissed as merely a ‘ploy by AFMA to delay the inevitable result of small boats being forced out of the fishery’.¹⁵ For example, the submission from Mr Ralph noted that he would be entitled to the gear top-up for the first two years under the new management plan, but would be unable to purchase additional SFRs after that time due to their likely cost.¹⁶

4.18 In response to these concerns, Mr Boot from WANTOA argued that there is a contradiction in the position of the NPF (Qld) TA. He argued that on the one hand, the NPF (Qld) TA suggest that smaller operators are inherently more efficient because proportionally they tow more net per Class A SFR, but on the other hand they suggest

12 Submission 74, p 13

13 Submission 74, p 12

14 Submission 71, p 7

15 Submission 56, p 5

16 Submission 27, p 2

that reducing headrope length and net would have no impact on swept area performance.¹⁷

4.19 While noting this perceived contradiction, Mr Boot nevertheless disputed that smaller vessels are inherently more efficient, indicating that in his company, the most profitable vessels for the past three years have been the largest vessels. In addition, Mr Boot also noted that all the small one-vessel operators affiliated to WANTOA have maintained their position in the NPF through the purchase of additional SFRs.¹⁸

4.20 It was also argued by Mr Gamba from WANTOA that larger operators have made a greater investment in the NPF, and accordingly should receive a greater *pro rata* return from their investment.¹⁹ Similarly, the written submission from Tiger Fisheries Pty Ltd indicated that:

Myself and my 2 partners have spent several million dollars on SFRs to cover our share of future effort reductions that the Amendments will precipitate. This was done in plain view of the open market. We chose to maintain our position and have paid honest dollars in advance to do it.²⁰

4.21 Finally, Mr Edwards defended the AFMA and NORMAC consultation process against claims that it has been manipulated by the larger operators. As he stated:

... in relation to matters such as the NPF Management Plan it is difficult to maintain that there is not a proper structure for consultation. If anything the long consultation process has created difficulties of another kind.²¹

4.22 Mr Edwards reiterated this position in hearings, noting that management of the fishery has been handled with great care through a proper arms-length relationship. In particular, the process has been transparent, with NORMAC providing a proper consultative base, but informed by expert technical information from the CSIRO.²²

4.23 The Committee notes that AFMA has not predetermined any outcome in terms of boat numbers from the implementation of the amendment management plan, and further that AFMA does not believe that operators from a particular state will be either advantaged or disadvantaged.

17 Evidence, RRAT, 3 February 2000, p 61

18 Evidence, RRAT, 3 February 2000, p 61

19 Evidence, RRAT, 3 February 2000, p 60

20 Submission 1, p 2

21 Submission 77, pp 2-4

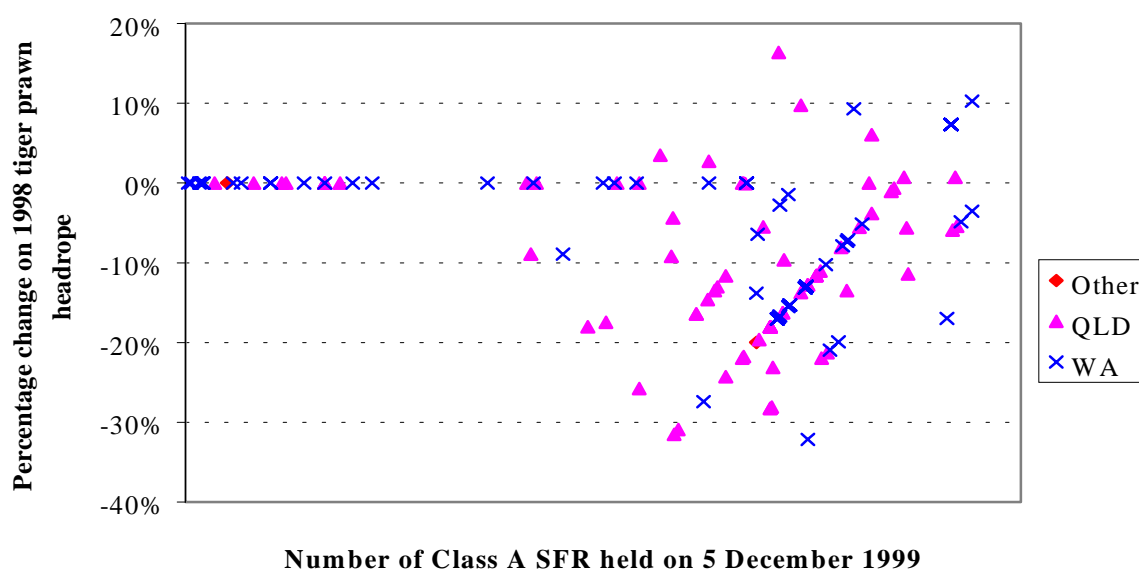
22 Evidence, RRAT, 4 February 2000, p 81

Impact on Regional Economies

4.24 The NPF (Qld) TA also argued in its written submission that the economies of the smaller ports in far north Queensland such as Cairns, Innisfail and Karumba would suffer disproportionately as a result of the inequitable translation arrangements. The NPF (Qld) TA based this argument on the claim that the smaller vessels in the fleet tend to operate out of these ports, while the larger vessels are based in Brisbane and Fremantle.²³

4.25 In response to these concerns, AFMA presented in its written submission a chart showing the percentage change in headrope length under the amendment management plan by the state of origin of individual vessels.²⁴ This is reproduced in chart 4.3 below.

Chart 4.3: Percentage change in headrope under the amendment management plan by vessel state of origin



Note: This table has been modified by removing a number of operators to protect commercial confidentiality.

4.26 Based on Chart 4.3, AFMA argued that no one group of operators from a particular state will lose or gain significantly from the proposed translation arrangements. In particular, only one-third of the fleet that will gain headrope under the translation arrangements is from Western Australia.²⁵

4.27 However, while AFMA argued that implementation of the amendment management plan will not disproportionately affect any one region, an overall

23 Submission 74, pp. 34-35

24 Submission 69, Attachment 8, Figure 7

25 Submission 69, p 10

reduction in revenue from the fishery is inevitable if the tiger prawn catch is reduced. In its written submission, the NPF (Qld) TA presented data compiled by the Cairns Region Economic Development Corporation (CREDC) indicating that implementation of the amendment management plan would cost the region 28 boats, up to \$19 million and up to 220 jobs.²⁶ Accordingly, the NPF (Qld) TA submitted:

... it is difficult to see how eliminating viable operators from the NPF would be consistent with the Government's stated objective of promoting and fostering regional economic development.²⁷

4.28 The Committee notes however that under the *Fisheries Management Act 1991*, AFMA's responsibility is for the management of the fishery. This has the endorsement of both the current and previous governments.

4.29 In addition, Mr Jeffriess from NORMAC noted that AFMA and NORMAC are effectively constrained from considering broader economic issues by the terms of the new *Environmental Protection and Biodiversity and Conservation Act*. Mr Jeffriess argued in hearings that the new Act dilutes or excludes provisions on economic and social impact that used to be considered by AFMA. Largely, this reflects recent court decisions that have given priority to sustainability of development over its economic impact.²⁸

4.30 The Committee also received a range of submissions from business owners in far north Queensland, predominantly Cairns, expressing concern at the impact of the management plan on operators in the NPF, and in turn their own businesses. In particular, the submission by Mr Kilfoy included a petition with 70 signatures from business owners in Cairns who supported the submission of the NPF (Qld) TA to the inquiry.²⁹

4.31 However, various submissions argued that the interests of shore based facilities should not influence the Committee in its decision. For example, the submission from Mr France argued that shore based facilities should exist to support the fleet, not the other way round – fishing of the NPF should not be continued beyond prudent levels simply to sustain shore side activities.³⁰ Similarly, Mr Edwards argued:

... if this fishery collapses, then we will not have any submissions 10 years from now from people in Cairns because they will not be servicing that industry.³¹

26 Submission 74, pp 34 – 35

27 Submission 74, p 35

28 Evidence, RRAT, 4 February 2000, p 117

29 Submission 38, pp 2-6

30 Submission 79, p 11

31 Evidence, RRAT, 4 February 2000, p 81

4.32 Mr Edwards agreed in his written submission that implementation of the amendment management plan would involve a reduction in shore side activity in ports such as Cairns, Darwin, Fremantle and Korumba. However, the NPF management plan will also create positive externalities, including a more certain flow of product to the market, a more certain flow of income in the future (with the potential for an increase in value), and greater security of investment plans.³²

Current Uncertainty in the Industry

Financial Uncertainty

4.33 The Committee received a number of submissions expressing concern at the current uncertainty in the industry. Operators have been aware of the move to implement gear SFR management for many years and, as indicated, a number have positioned themselves in the market accordingly. As stated by AFMA:

Many operators have made commercial decisions on the basis of gear based management being adopted in this fishery and AFMA understands that the delays have already had a serious economic impact.³³

4.34 For example, in his written submission, Mr Lombardo indicates that in 1997, he borrowed substantially to purchase additional Class A SFRs, in anticipation of gear SFR management being implemented. However, he has now been forced to sell part of his purchased Class A SFRs, while waiting for the amendment management plan to be enacted.³⁴

4.35 Further concerns were also expressed at the security that SFRs in the NPF currently offer to financial institutions. For example, in his written submission, Mr Farrell noted that the uncertainty surrounding the future management of the fishery has prompted correspondence from his creditors.³⁵ As Mr Edwards argued:

... if we do not very quickly hammer out this question of sustainability and put in place a new management plan, then there is enough uncertainty over the biological future of the industry that we will find financial institutions simply will not be prepared to back organisations.³⁶

Implementation Uncertainty

4.36 The Committee notes that operators have already purchased new nets in anticipation of the implementation of gear SFR management.

32 Submission 77, p 7

33 Submission 69, p 10

34 Submission 49, p 1-2

35 Submission 32, p 2

36 Evidence, RRAT, 4 February 2000, p 85

4.37 On 23 November 1999, the AFMA board wrote to operators in the NPF indicating its intention to implement gear SFRs in the NPF by 1 April 2000 for the 2000 fishing season. As part of the process, AFMA sought applications for the granting of gear SFR, based on which AFMA began assessing the number of gear SFRs to be granted to individual applicants.

4.38 However, the timetable for this process was extremely tight, and on 23 December the AFMA board again wrote to operators in the NPF advising that it would not be possible to meet the 1 April implementation date. AFMA is now intending to implement gear SFR management in the second half of the 2000 season.

4.39 In his written submission, Mr Payne noted that on 9 November 1999, he received a letter from AFMA indicating that he would need to use 10 fathom nets in 2000. He subsequently bought new nets for \$10,000, and disposed of his old nets. However, on 23 December 1999, he received the correspondence from AFMA indicating that the changes would not be implemented in time, and that he could use his old 14 fathom nets for the first half of the season. As a result, Mr Payne expects his catch to be 25 per cent less in the first half of the year.³⁷

4.40 This issue was also raised in hearings. Ms Deacon-Casey from NTTOA indicated to the Committee that at least two or three operators within NTTOA have already taken steps to reduce the size of their nets in 2000, but argued that this would not be 'a big issue for a lot of people'.³⁸ Similarly, in a supplementary written submission, the NPF (Qld) TA argued:

Some operators have begun the process of altering net sizes to accommodate the proposed new rules. It has been suggested that operators will be economically disadvantaged if the proposed change in rules does not proceed. This is not correct. A reconfiguration of net to accommodate rule changes is not a large monetary impost, neither is the net alteration permanent.³⁹

4.41 Nevertheless, the Committee is concerned that regardless of the cost, it is inequitable that some operators have made the additional expenditure on smaller nets in anticipation of the change to gear SFR management. As stated by the Committee Chair in hearings:

... these people have made this commercial decision based on their belief that there was going to be a certain set of circumstances. It seems very unfair to me that they are left swinging in the breeze if the change does not happen, when they did that based on the best knowledge available to them.⁴⁰

37 Submission 40, p 2

38 Evidence, RRAT, 4 February 2000, pp 92 - 95

39 Submission 74A, p 5

40 Evidence, RRAT, 4 February 2000, p 94