

TORRES STRAIT PRAWN MANAGEMENT ADVISORY COMMITTEE	Meeting No. 3 9 February 2007
Update on Australian industry access to the PNG jurisdiction of the Torres Strait Protected Zone	Agenda Item No. 7.1

RECOMMENDATION

THE TSPMAC NOTES:

1. The Australian Government is in negotiations with Papua New Guinea (PNG) authorities to develop access arrangements for Australian prawn fishers in the PNG jurisdiction of the Torres Strait Protected Zone.
2. That an expression of interest was conducted with all licence holders to determine Australian interest in access to the PNG jurisdiction and 19 licence holders responded and a ballot was conducted from the 19 licence holders to determine endorsement priority.
3. Once PNG have advised final costs and conditions of access, the first seven operators to accept these conditions will be proposed for Treaty endorsement.

BACKGROUND

Following the bilateral fisheries discussions held on 23 August 2006, Australia and Papua New Guinea Authorities have been working to establish access conditions for Australian operators to access the PNG jurisdiction of the Torres Strait Prawn Fishery. It was agreed that up to seven vessels would be nominated for Treaty endorsement under sub-section 20(4) of the Torres Strait Fisheries Act 1984 (Act), for a total of 253 days of fishing effort.

The Australian Government Department of Agriculture Fisheries and Forestry (DAFF) conducted an expression of interest (EOI) to all licence holders in the Torres Strait Prawn Fishery to ensure a fair and transparent process was used to nominate licences for Treaty endorsement. This was conducted in consultation with the Torres Strait Prawn Entitlement Holders' Association (TSPEHA).

DISCUSSION

DAFF received expressions of interest from 19 licence holders following the EOI. On 22 January 2007 an impartial ballot was conducted by DAFF legal officers to determine endorsement priority. One additional EOI was received on 24 January 2007 following the ballot and was ruled ineligible due to its late delivery.

The exact conditions of access are yet to be determined and will be outlined by Papua New Guinea, but in preliminary discussion PNG indicated the following conditions were expected to be applied:

- Adherence to Papua New Guinea law – Boats entering Papua New Guinea must adhere to all applicable Papua New Guinea law.
- Lobster bycatch – operators would need to comply with the Papua New Guinea regulations regarding lobster bycatch.

- Observer coverage – Boats entering Papua New Guinea must have the capacity to take an observer. Australian boats operating in Papua New Guinea would need to have a National Fisheries Authority observer on board at all times. Papua New Guinea indicated that it may reconsider the requirement to have 100% observer coverage before the start of the 2007 fishing season but it was unlikely to remove this requirement for vessels operating in the Papua New Guinea jurisdiction during the tropical rock lobster migration period (September – October).
- Vessel Monitoring System (VMS) – Boats entering Papua New Guinea must have a VMS on board that meets Papua New Guinea specifications. The Queensland Department of Primary Industries and Fisheries (QDPIF) are liaising with National Fisheries Authority to determine what specifications are required for PNG VMS system, and to determine if Australian VMS can be converted to work with the PNG system, or if a new unit is required.
- Notification - Endorsed Australian vessels crossing over into the Papua New Guinea jurisdiction would be required to notify management agencies on the day that they were crossing over into the PNG jurisdiction and on the day when they were returning from the PNG jurisdiction.
- Data reporting – Boats are required to fill out log sheets that will be provided to both Australian and PNG fisheries managers. PNG indicated that because PNG log sheets were very similar to Australian log sheets, there would not be a requirement for different log sheets to be used.
- Customs and immigration issues – Boats entering PNG waters are not permitted to make land fall in PNG or to approach other vessels unless they have the appropriate clearances from Customs, Immigration and Quarantine Authorities.

The Australian Government has sent a submission to the PNG National Fisheries Authority requesting they outline the conditions of access for the 2007 fishing season. The PNG conditions will be collated with the other outstanding matters including Australian quarantine issues (see Agenda item 5.2), and final costs and conditions will be presented to potential nominees for consideration.

Operators will then decide if they wish to proceed with the formal nomination process. Potential nominees with rankings between 1-7 in the ballot process will be given the opportunity to consider the costs and conditions first.

The initial nominees are under no obligation to accept the costs and conditions and if initial nominees decline, additional spaces will be offered to lower ranked potential nominees. The first seven operators from the EOI list who accept the costs and conditions will proceed to the formal nomination process under the Torres Strait Treaty.

TORRES STRAIT PRAWN MANAGEMENT ADVISORY COMMITTEE	Meeting No. 3 9 February 2007
Update on Australian Quarantine and Inspection Service issues in regard to Australian vessels fishing in PNG waters.	Agenda Item No. 7.2

THE TSPMAC NOTES

1. That there are quarantine implications associated with Australian prawn fishers accessing the PNG jurisdiction of the Torres Strait Protected Zone, and that there is a legal requirement for vessels landing such product in Australia to hold an AQIS import permit.
2. That prawns caught by a vessel registered in Australia and fitted out at a port in Australia for a voyage to catch and gather “produce of the sea” are not liable to any duty of Customs or be subject to the control of Customs.

THE TSPMAC RECOMMENDS

1. That the TSPMAC members prepare a scientific submission that can be presented to Biosecurity Australia to demonstrate that PNG jurisdiction prawns come from the same stock as Australian prawns and thus do not pose a quarantine risk.
2. That the Steering Committee for the Torres Strait Prawn Fishery Research program recommend funding be provided to allow for scientific genetic testing of prawn stocks in the region.

BACKGROUND

See Agenda item 5.1

DISCUSSION

In November 2006 DAFF advised industry that there were potential quarantine and customs implications associated with the planned capture of uncooked prawns in the PNG jurisdiction. DAFF undertook to explore legal and scientific options available to assist industry overcome these potential problems. The Australian Government Solicitor (AGS) provided advice on the interpretation of the *Quarantine Act* 1908 and *Customs Act* 1901.

According to that advice, prawns caught in the PNG jurisdiction are outside the Australian territorial sea, and are thus caught outside Australia. AGS considered such prawns would be imported into Australia if they were landed in Australia.

Under section 131A of the *Customs Act* 1901 vessels registered in Australia and fitted out at a port in Australia for a voyage to catch and gather fish are not liable to any duty of Customs or be subject to the control of Customs.

AQIS have advised DAFF that as these prawns would be considered “imports” under the *Quarantine Act*, there is a legal requirement for importers to source an import permit. AQIS import permits currently cost \$76 (if application submitted electronically) or \$160 (if application submitted manually) and last for 2 years.

The current conditions that would be applied to import permits for uncooked prawns are attached for consideration, but industry should be aware that Biosecurity Australia is in the process of reviewing the conditions for uncooked prawns and have proposed a draft policy that could effectively ban the importation of uncooked prawns. Comments on the draft Import Risk Analysis are due to Biosecurity Australia by 21 February 2007.

In preliminary discussions with AQIS and Biosecurity Australia, it was noted that there is potential scope to put a scientific submission to Biosecurity Australia to show that prawns in the PNG jurisdiction of the Torres Strait Protected Zone come from the same population as within Australia and do not pose a quarantine risk. In discussions with QDPIF, it was suggested that existing tagging data may be sufficient to demonstrate the link between populations, but a genetic study would be a more definitive tool. Biosecurity Australia also noted that any submission would need to demonstrate that vessels fishing in this area would not be fishing in other parts of PNG.

DAFF held preliminary discussion with Ms Jenny Oviden, Senior Fisheries Geneticist, QDPIF, who suggested that a basic genetic study (if required) would cost approximately \$5000.

CURRENT AQIS COMMERCIAL CONDITIONS FOR UNCOOKED PRAWNS.

Applied to all countries except New Caledonia

Sourced from www.aqis.gov.au/icon

1. An Import Permit is required and must be applied for prior to importation. Permit applications should be sent to the AQIS Canberra Office for assessment.
2. A Quarantine Entry must be lodged for each consignment.
3. The Import Permit will detail the specific importation requirements including the requirement for consignments to be accompanied by a manufacturer's declaration detailing processing and/or certification issued by the Competent Authority of the country of origin, as specified in the conditions of the permit.
4. All consignments of whole or headless unpeeled raw prawns will be directed to a quarantine approved premises cold store for a full unpack and inspect to ensure that the imported raw prawns are graded larger than 29 to the pound, or 66 to the kilogram and are intended for human consumption.
5. The Taura Syndrome Virus (TSV) and Yellow Head Virus (YHV) are managed by the same risk mitigation measures including size limitations (see point 4 above), Competent Authority certification (as detailed by the Import Permit) and post arrival inspection.
6. Prawns must be packaged in a manner to facilitate inspection. This does not include whole block form.
7. Prawns that are not packaged in a manner that facilitates inspection (eg in whole block form) need to be re-exported, destroyed or the importer will be required to arrange for the frozen blocks to be sawed open under quarantine supervision to facilitate inspection while the product remains frozen.
8. Each batch of prawns will be tested for white spot syndrome virus (WSSV) and must test negative, before being released from quarantine control. Documentation from the exporter, supplier or Competent Authority verifying the number of batches in the consignment must be provided to AQIS. This documentation must clearly detail the labelling of each batch in the consignment. If the number of batches cannot be determined from documentation, a full unpack and inspect may be required in order to determine the number of batches.
 - a. For the purpose of this testing, a batch is defined as a different pond population or fishing period population.
9. If positive for WSSV, the consignment must be re-exported or destroyed or further processed at a quarantine approved premises.
10. Testing will use a sampling and test protocol designed to detect WSSV infection present at 5% prevalence with at least 95% confidence.

11. The importer or authorised agent is required to sign a declaration form stating the number of batches in the consignment, and the laboratory they wish to conduct the WSSV testing, prior to sampling. The facilities currently approved by AQIS to undertake this testing are:
 - OIC Virology Laboratory- Elizabeth Macarthur Agricultural Institute (EMAI), Sydney NSW.
 - Berrimah Veterinary Laboratories, Darwin NT.
12. All expenses associated with WSSV testing (including sampling, transport, and testing) are to be borne by the importer.