

APPENDIX A INTERNATIONAL CONVENTIONS AND AGREEMENTS ON THE MARINE ENVIRONMENT

Australia's use and management of its oceans and their resources are subject to a range of international treaties to which Australia is a party. These can be broadly divided into three categories: those concerned with regulating activities to protect the marine environment; those relating specifically to conservation of biodiversity; and those relating to the management of shipping. The following sections outline the main international agreements that influence Australia's management.

Australia has also signed a number of international agreements that are not yet in force. They are:

- *International Convention for the Control and Management of Ships' Ballast Water and Sediments 2004;*
- *International Convention for the Control and Management of Harmful Anti-fouling System on Ships 2001;* and
- *The International Convention on Civil Liability for Bunker Oil Pollution Damage 2001.*

International agreements regulating maritime activities including those to protect the marine environment

The convention establishing the International Maritime Organization (IMO) was adopted in Geneva in 1948 and IMO first met in 1959. Australia has been a signatory to the convention since its inception. IMO's main task has been to develop and maintain a comprehensive regulatory framework for shipping and its remit today includes safety, environmental concerns, legal matters, technical co-operation, maritime security and the efficiency of shipping.

IMO, a specialised agency of the United Nations with 167 Member States and three Associate Members, is based in the United Kingdom with around 300 international staff. IMO's specialised committees and sub-committees work to update existing legislation or develop and adopt new regulations, with meetings attended by maritime experts from Member Governments and those from interested intergovernmental and non-governmental organisations.

The result is a comprehensive body of international conventions, supported by hundreds of recommendations governing every facet of shipping. There are, firstly, measures aimed at the prevention of accidents, including standards

for ship design, construction, equipment, operation and manning – key treaties include Safety of Life At Sea (SOLAS) – and, secondly, the MARPOL convention for the prevention of pollution by ships (discussed below).

United Nations Convention on the Law of the Sea 1982

The Australian Government has rights and responsibilities under the *United Nations Convention on the Law of the Sea 1982 (UNCLOS)* to manage seas adjacent to its coastline. Under UNCLOS, coastal states are able to claim rights and responsibilities for seas out to 200 nautical miles from the coast, and to the edge of the continental shelf. Within this area coastal nations can exploit, develop, manage and conserve all resources associated with the water column, seabed or subsoil. Under UNCLOS all Parties have an obligation to conserve the marine environment, including on the high seas (*inter alia* articles 61-65 inclusive and article 119).

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 1995 (Fish Stocks Agreement)

This implementing agreement to UNCLOS provides additional and enhanced rules on the conservation and management of highly migratory and straddling fish stocks that occur on the high seas and within areas of national jurisdiction. The Fish Stocks Agreement promotes cooperation with other States Parties, particularly through the establishment of regional fisheries management bodies. The Fish Stocks Agreement also includes application of the precautionary approach and requires consideration of impacts on the broader ecosystem.

Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 and the 1973 Protocol to the Convention.

This convention affirms the right of coastal States to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate danger to their coastline



or related interests from pollution by oil, or the threat thereof, following upon a maritime casualty. The 1973 Protocol extended the convention to cover substances other than oil.

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention) 1972 and the 1996 Protocol to the Convention

Under this convention, dumping is defined as deliberate disposal of wastes or other matter in the sea that does not constitute normal operations. The convention has been updated by the 1996 Protocol to the Convention (the London Protocol), which Australia ratified in 2000, and which entered into force internationally in 2006. The convention is implemented in Australia under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the *Environment Protection (Sea Dumping) Act 1981*, which have been amended to reflect the London Protocol. These Acts require permits to be issued for the dumping of materials at sea.

Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention) 1972

This convention, which came into force in 1975, provides for the protection of the world's cultural and natural heritage places. The convention is administered by the World Heritage Committee whose functions are to:

- identify nominated cultural and natural properties of outstanding universal value, which are to be protected under the convention and to list them on the World Heritage List;
- decide if properties on the list should be inscribed on the List of World Heritage in Danger; and
- determine how and under what conditions the World Heritage Fund can be used to assist countries in the protection of their World Heritage property.

Under the EPBC Act, the Commonwealth of Australia has the power to submit properties for inclusion on the World Heritage List. This power may be exercised if the Minister for the Environment, Heritage and the Arts is satisfied that the Commonwealth has endeavoured to reach agreement on the listing and management arrangements for the property with the owner or occupier of the property as well as the State or Territory Government in which the property is located.

International Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL)

Under the terms of this convention regulatory controls were placed on operational waste from ships. The convention has six Annexes that specifically address different types of pollution from shipping by prohibitions and/or controlling the discharge through:

- Annex I that addresses the discharge of oil and oil mixtures;
- Annex II that addresses the discharge or escape of noxious liquid substances (i.e. chemicals);
- Annex III that addresses harmful substances carried in packaged forms (i.e. freight containers);
- Annex IV that addresses the discharge of sewage;
- Annex V that addresses the discharge of garbage; and
- Annex VI that addresses air emissions.

International Convention on Oil Pollution Preparedness, Response and Cooperation 1990

This convention facilitates international cooperation to prepare for and respond to major oil pollution incidents and encourages countries to develop and maintain an adequate capability to deal with oil pollution emergencies. In Australia the provisions of the convention are given effect through administrative arrangements of the Australian Maritime Safety Authority and other Government agencies.

International Convention on Civil Liability for Oil Pollution Damage 1992

This convention requires oil tankers to have compulsory insurance against pollution damage liabilities. The convention applies to an oil spill occurring in the territory, including the territorial sea and the Exclusive Economic Zone (EEZ), of Australia, and sets the upper limits of liability, which depend on the size of the vessel.

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992

This convention applies if the cost for a clean-up of an oil spill exceeds the upper limit of liability set under the *International Convention on Civil Liability for Oil Pollution Damage 1969*. Under the convention, oil importing companies in member states are invoiced to pay damages and to cover the clean-up costs of oil spills.

The International Convention for the Control and Management of Harmful Anti-Fouling Systems on Ships 2001

This convention requires parties to the convention to prohibit and/or restrict the use of harmful anti-fouling systems on ships flying their flag, as well as ships not entitled to fly their flag but which operate under their authority and all ships that enter a port, shipyard or offshore terminal of a party.

Regional Fisheries Management Organisations

The Australian Government Department of Agriculture, Fisheries and Forestry develops policies and programs to address Australia's international rights and obligations, and represents Australia's interests in a number of international fora. Chief amongst these are Regional Fisheries Management Organisations, which have been established to govern the management of fish stocks.

Commission for the Conservation of Southern Bluefin Tuna 1994

The *Convention for the Conservation of Southern Bluefin Tuna* formalised the management arrangements between Australia, Japan and New Zealand that had been established on a voluntary basis. The convention created the *Commission for the Conservation of Southern Bluefin Tuna* (CCSBT). The Republic of Korea, Indonesia and the Fishing Entity of Taiwan have since joined the Commission. Cooperating Non-Members participate fully in the business of the CCSBT but cannot vote. Since 2003 the Philippines, South Africa and the European Community have been formally accepted as Cooperating Non-Members. The Commission establishes binding conservation and management measures for the southern bluefin tuna fishery, including a total allowable catch and national allocations. A range of monitoring, control and surveillance measures are being developed by the Commission. The Commission also considers issues related to the impact of the fishery on ecologically related species.

Other fisheries arrangements

Australia also participates in a number of fora that aim to promote regional development through sustainable fisheries management. These include:

- the Food and Agriculture Organization of the United Nations (FAO), through its **Committee on Fisheries**;
- the **Asia-Pacific Economic Cooperation (APEC) Fisheries Working Group**; and



Japanese southern bluefin tuna market. Image courtesy of CSIRO.

- **Pacific Fisheries Fora**, including Australia's involvement in the Pacific Island Countries–US Treaty.

To promote regional fisheries cooperation, Australia maintains a strong and productive dialogue with its close neighbours. Australia conducts bilateral meetings with its neighbours to tackle issues such as shared and highly migratory fish stock management, illegal, unreported and unregulated fishing, and aquaculture development. There are also a number of bilateral agreements or arrangements between Australia and neighbouring countries to ensure the sustainable use of shared resources. The neighbouring countries with which Australia shares cooperative ties include Indonesia, East Timor, Papua New Guinea (including Torres Strait issues), and New Zealand.

There are also several overarching multilateral agreements and arrangements to which Australia is a signatory or a party. These include:

- *United Nations Convention on the Law of the Sea 1982* (UNCLOS);
- *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks* (UN Fish Stock Agreement);



- *FAO's Code of Conduct for Responsible Fisheries*; and
- *Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement)*.

International Agreements for the conservation of biodiversity

International Convention for the Regulation of Whaling 1946

This convention was signed on 2 December 1946 to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry. Over the decades, most member countries have abandoned whaling, but have continued to view the International Whaling Commission (IWC) as the best forum to focus on the conservation of whales. For over 26 years the Australian Government has pursued, through the IWC, a permanent international ban on commercial whaling and worldwide protection for all cetaceans.

Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CITES)

This convention aims to ensure that international trade in specimens of wild animal and plant species does not threaten their survival. CITES works by providing a legalling binding framework whereby Parties adopt their own legislation to implement CITES measures at the national level. The convention also allows Parties to adopt national legislation that is stricter than CITES measures.

All international trade – imports, exports, re-exports and introduction – of species listed under the convention is controlled through a licensing system. The species covered by CITES are listed in three appendices, according to the degree of protection they require. Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled to avoid exploitation that could threaten their survival. Appendix III lists species that are protected in at least one country, which have asked other CITES Parties for assistance in controlling the trade.

Bilateral Migratory Bird Agreements

For nearly 30 years, Australia has played an important role in international cooperation to conserve migratory birds in the East Asian–Australasian Flyway, which stretches from Alaska and the east of Russia, through the countries of East and South East Asia, to Australia and New Zealand. Australia has negotiated and entered into bilateral agreements with Japan, China and Korea to protect migratory birds. These agreements are:

- *Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds in Danger of Extinction and their Environment 1974 (JAMBA)*;
- *Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment 1986 (CAMBA)*; and
- *Republic of Korea–Australia Migratory Bird Agreement 2007 (ROKAMBA)*.

The Partnership for the Conservation of Migratory Waterbirds and the Sustainable Use of their Habitats in the East Asian – Australasian Flyway

Launched in Bogor, Indonesia on 6 November 2006, this partnership represents an important new step in international efforts to conserve migratory waterbirds and their habitats in the flyway. Established as a Type II partnership initiative of the 2002 World Summit on Sustainable Development, the partnership is the major international framework for the conservation of migratory waterbirds in the East Asian–Australasian Flyway, promoting dialogue, cooperation and collaboration between stakeholders. To date, the partnership has been endorsed by 17 governments and organisations.

Convention on Wetlands of International Importance 1971

This convention was the first modern inter-governmental treaty aiming to conserve natural resources. The signing of the convention took place in 1971 in the small Iranian town of Ramsar. Since then, the convention has been known as the Ramsar Convention.

Australia was one of the first nations to become a Contracting Party to the Ramsar Convention. There are now more than 150 Contracting Parties to the convention who have designated more than 1650 wetland sites throughout the world to the Ramsar List of Wetlands of International Importance.

Australia currently has 65 Wetlands of International Importance listed under the Ramsar Convention covering approximately 7.5 million hectares. In the East Marine Region RAMSAR-designated areas include the Coringa-Herald and Lihou Reefs and the Elizabeth and Middleton Reefs (both Commonwealth Reserves) and the Elizabeth and Middleton Reefs Marine National Nature Reserve.

Agreement on the Conservation of Albatross and Petrels (ACAP)

This is a multilateral agreement which seeks to conserve albatrosses and petrels throughout the Southern Hemisphere by co-ordinating international activity to mitigate known threats populations, both at sea and on land. ACAP, which was developed under the auspices of the *Convention on the Conservation of Migratory Species of Wild Animals (CMS)* came into force on 1 February 2004.

Albatrosses and petrels are amongst the most endangered species in the world. Presently, there are 19 albatross and 7 petrel species protected under ACAP. Of these, five albatross and three petrel species breed in Australia and another 14 species are either known to occur, or potentially occur, in Australian waters. Many of these species regularly range through the southern half of the East Marine Region and have an established history of vulnerability to mortality arising from interactions with fishing activities in Australian waters. Seabird bycatch mitigation measures are mandatory south of 25° South for longline fisheries in the East Marine Region managed by the Australian Government.

The Convention on the Conservation of Migratory Species of Wild Animals 1979 (CMS or the Bonn Convention)

This Convention aims to conserve terrestrial, marine and avian migratory species throughout their range. The convention has two Appendices: Appendix I lists migratory species that have been categorised as being in danger of extinction throughout all or a significant portion of their range; Appendix II is for migratory species that have an unfavourable conservation status and would benefit significantly from international cooperation. For species listed under Appendix I, signatory nations strive to take action to protect these animals, conserve or restore the places where they live, mitigate obstacles to migration and control other factors that might endanger them. For species listed under Appendix II, the Convention encourages the development of regional conservation instruments.

Since becoming a party to the CMS in 1991, Australia has been an active participant in implementing the Convention through the development of regional conservation instruments under the CMS. Australia played a key role in the development of the *Agreement for the Conservation of Albatross and Petrels (ACAP)* and the *Indian Ocean and South-East Asian Memorandum of Understanding for Sea Turtles (IOSEA-Turtles)*, and has supported implementation of measures in the agreements since they were finalised. For instance, the Australian Government hosted and provided the interim Secretariat of ACAP from its inception until 2007; since then the interim Secretariat has been funded by ACAP Parties and it is expected that the permanent Secretariat and headquarters will be established in Australia in due course. Australia has also taken the lead in the development of new regional conservation arrangements for marine mammals in the South Pacific. All species listed under the CMS that naturally occur in Australia are listed under the EPBC Act and thereby protected.

Convention on Biological Diversity 1992

Australia is a signatory to this convention, which was formulated at the 1992 Earth Summit in Rio de Janeiro. The convention has three main goals: the conservation of biological diversity; the sustainable use of its components; and the fair and equitable sharing of the benefits from the use of genetic resources. A significant provision of the convention is the requirement that environmental impact assessments be performed for proposed activities likely to have significant adverse impacts on the environment. The EPBC Act is the mechanism by which the Australian Government undertakes this provision of the convention.

Convention on Conservation of Nature in the South Pacific 1976 (Apia Convention)

The Apia Convention establishes a broad framework for nature conservation in the South Pacific region, particularly in relation to migratory and endangered species and the preservation and management of wildlife habitat and terrestrial ecosystems. The convention entered into force on 26 June 1990.

Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (SPREP) 1986 and related protocols (two)

This convention is a comprehensive, umbrella agreement for protection, management and development of the marine and coastal environments of the South Pacific region. It lists sources of pollution that require control



and identifies environmental management issues requiring regional cooperation. It came into force generally on 22 August 1990.

SPREP Protocol concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region 1986

This protocol is designed to enhance cooperation among Parties in order to protect the South Pacific region from threats and effects of pollution incidents. It came into force generally on 22 August 1990.

SPREP Protocol for the Prevention of Pollution of the South Pacific Region by Dumping 1986

The SPREP Protocol is designed to prevent, reduce and control pollution by dumped wastes and other matter in the South Pacific. It came into force generally on 22 August 1990.

Other Bilateral or Multilateral Arrangements

The UNFCCC and *Bilateral Climate Change Partnership Programme* are specifically relevant to the East Marine Region as some of the network of climate monitoring stations that contribute to international climate reporting, are located within the Region. Coral reef research within the Coral Sea Islands Territory and the Great Barrier Reef also contributes to global knowledge on the impact of climate change on tropical marine systems.

The United Nations Framework Convention on Climate Change (UNFCCC)

The UNFCCC provides the basis for global action ‘to protect the climate system for present and future generations’. Negotiated between 1990 and 1992, the UNFCCC was adopted in May 1992 and opened for signatures a month later at the United Nations Conference on Environment and Development in Rio de Janeiro, Brazil.

Australia ratified the convention in December 1992 – one of the first countries to do so. The convention came into force in 1994 after the requisite 50 countries had ratified it. There are now 186 Parties to the UNFCCC – almost all of the members of the United Nations. Parties to the convention have agreed to work towards achieving the convention’s ultimate aim of stabilising ‘greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system’.

Bilateral Climate Change Partnership Programme

Australia aims to achieve or facilitate emission reductions through this program. Arrangements for bilateral cooperation are currently in place with the United States, China, New Zealand, the European Union, Japan and South Africa. Specific actions include:

- build support for an effective global response to climate change;
- improve scientific understanding of climate change;
- build capacity to enable implementation of mitigation and adaptation programs;
- facilitate market opportunities for greenhouse technologies, products and expertise from Australia and partner countries, thereby expanding the capacity for climate change action; and
- foster direct involvement by industry, business, scientists and communities in bilateral projects to broaden participation in climate change action.

Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) 1980

The CCAMLR is part of the Antarctic Treaty system. It was established to prevent over-exploitation of a key Southern Ocean prey species, Antarctic krill, in part to ensure that exploitation of krill did not inhibit the recovery of whale and seal populations that were onto the brink of extinction. The objective of the CCAMLR is the conservation of Antarctic marine living resources and, for the purposes of the convention, the term “conservation” includes rational use. The convention outlines three principles of conservation which must be achieved when harvesting is considered. These principles seek to ensure that ecological relationships are maintained and that any changes in the marine ecosystem are not irreversible, and prevented or minimised.

Convention for the Conservation of Antarctic Seals (CCAS) 1972

Like the CCAMLR, CCAS is part of the Antarctic Treaty system. It was established to provide a means to regulate commercial sealing in the Southern Ocean should such an industry ever be resumed, as Southern elephant seals and Antarctic fur seals had been reduced to near extinction previously. Although there have been no sealing activities since CCAS came into force, the convention provides for such activities to be undertaken sustainably.

Key References and Further Readings

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Yacht in the Rolex Sydney to Hobart Yacht Race 2005. Photo: Carlo Borlenghi / Rolex.