3 Can Anti-IUU Trade Measures Diffuse to Other Market Countries? Case Study of Australia

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Introduction

The international trade regime's acceptance of unilateral trade measures by the EU, US and Japan against IUU fishing has opened up potential pathways for policy diffusion – for more countries to adopt similar measures for their seafood imports. If trade-related measures on seafood imports spread, further reducing the markets that will allow entry to product not documented as being legally caught, the effects on seafood production and supply chains could be profound.

In this chapter we look at Australia. Australia is not a big seafood market, with a population of a little over 25 million and relatively low per capita annual seafood consumption of less than 15kg (Department of Agriculture, Fisheries and Forestry, 2022). Australia, however, has been an active participant internationally in creating catch documentation schemes to prevent the trading of illegal, unreported or unregulated (IUU) catch. It has been a strong proponent of preventing overfishing, is closely aligned with the US, EU and Japan in international relations, and imports well over half of its seafood. For these reasons, Australia could be expected to be the kind of state to which anti-IUU trade measures could diffuse, in terms of Australia emulating the EU and other seafood importing authorities in implementing anti-IUU trade measures on imports.

Both Australia and Thailand are potential 'receivers' of policy diffusion from the EU, US and Japan, but in different ways. Policy diffusion by emulation is a different kind of diffusion than the coercive type of diffusion considered in the case of Thailand (chapter 2). Thailand's diffusion is through being on the receiving end of anti-IUU measures on its seafood exports, and being forced to implement the policy in order to be able to continue exporting to the EU. Australia is already compliant with anti-IUU measures for its exports, so the question we consider in this chapter is whether Australia would implement anti-IUU trade measures on imports to its markets, with the only impetus being whether Australian decision makers decide an anti-IUU trade measure will be

DOI: 10.4324/9781003296379-3

useful in preventing IUU, and to 'level the playing field' between imports and the heavily regulated domestic seafood industry.

In this case we look at the internal factors affecting policy diffusion on the receiving end. Scholars of policy diffusion have pointed to the need to consider how policy ideas are accepted, rather than focussing only on the political relevance of the idea itself, as part of considering the conditions that must be generated before policy change is possible (Stone, 2012, p. 489). Legacies of existing administrative structures and domestic policy discourses are some of these conditions (Stone, 2012, p. 485; Steenbergen, Song, & Andrew, 2022). We find that domestic administrative structures and discourses about what kinds of regulation are appropriate at different points along seafood supply chains have acted as obstacles preventing Australia from emulating the anti-IUU trade measures (Garcia Garcia, Barclay & Nicholls, 2021). The generally positive conditions for diffusion noted earlier have hitherto not been able to overcome these contextual obstacles. A new Labor government, which came to power at the federal level in 2022, has indicated it may be more willing than the previous Liberal National Party to consider anti-IUU trade measures, but at the time of writing, Australia still did not have anti-IUU trade measures in place.

The chapter first details the methods and data used in this research on Australian seafood policy. The chapter then examines the historical background of the construction of IUU as a policy object in the Australian context. We go into further depth on the objectives of Australian fisheries management and the boundaries drawn between policy areas – sustainability of fisheries, trade and the regulation of food. Deliberation on the related policy areas of Country of Origin Labelling (CoOL) and standardisation of the naming of seafood at the point of sale provide rich material for considering policy positions regarding anti-IUU trade measures. Assessing the domestic context in terms of enabling or preventing policy diffusion is useful to chart the potential evolution of trade-related measures against IUU fishing and, more generally, potential pathways for greater compatibility between environmental provisions and multilateral trade regulations.

Methods and data

The data for this chapter was collected by Sonia Garcia Garcia for her doctoral research and includes interviews and observations as well as policy texts as data sources starting in September 2017 and ending August 2019 (Leipold et al., 2019, p. 449, see Table 3.1).

Interviewees were broadly categorised into government (fisheries managers, environmental managers, policy officers), research (researchers inside and outside academia and research providers), industry (fishers, aquaculturalists, seafood producer group representatives, retailers, wholesalers,

Table 3.1 Research data

Types of data	*Subtype*	*Data-collection method*
Observation	Event ethnography	Note-taking of paper presentations, discussions and event documentation for Seafood Directions conference, Sydney, September 2017
Documents	Research (literature review) Policy documents	Theoretical and snowball sampling Use of 'fields of action' classification (Wodak, 2001, p. 68)
Interviews	38 (face-to-face, in-depth, semi-structured, mostly individual, 3 groups) 30 men, 11 women	Audio recording and transcripts Purposive and snowball recruitment (Maxwell, 2013, pp. 89–91)

Adapted from Creswell (2003, p. 186).

restauranteurs and consultants) and civil society actors (consumer group representatives and environmental NGO campaigners). A number of participants had overlapping roles. The total number of interviews was 38, 35 of them one-to-one, and three with two interviewees from the same organisation. Interviews were semi-structured, with a common block of questions on the activity of the respondent, their definitions of sustainability, and the main issues in labelling and traceability, followed by questioned tailored to their role(s).

Documents were compiled according to Wodak's (2001) 'fields of action' classification (Table 3.2). From these, one particular document contained a wealth of material about IUU: a 2014 parliamentary inquiry in the Australian Senate, *Current requirements for labelling of seafood and seafood products* (Commonwealth of Australia, 2014). The inquiry provided an extensive public record of stakeholder discussions around regulation of seafood imports, including IUU fishing. The inquiry documentation includes records of 2 hearings, 25 submissions and 1 report, as well as speeches and media releases produced during the inquiry. The inquiry material was coded in NVivo together with the interview transcripts.

The policy construction of IUU fishing by the Australian Government

Australia is a minor player in global seafood terms, with around 1% of the global trade value, but it is firmly established in seafood trade networks of the Pacific region. Its fisheries are oriented towards regional exports of high value seafood to China, Vietnam, Japan and Hong Kong (Steven, Mobsby & Curtotti, 2020, p. 25). The export of products such as

Table 3.2 Categorisation of documents

Legislative instruments	*Regulatory procedures*	*Executive and administration*	*Communication*	*Political control*
Acts and regulations (11) International agreements and conventions (4) Resolutions (2)	Consultation (working groups, meetings) (1) Research and government reports and related documents (12)	Policy papers (3) Government positions (3) Strategic plans (6) Guidelines (3)	Press releases (1) Speeches (1) Factsheets (3) Media materials (interviews, documentaries, news, leaflets) (39)	Parliamentary inquiries and related docs (3 inquiries)

Adapted from Wodak (2001, p. 68).

abalone, bluefin tuna and rock lobster accounted for a gross value of production (GVP) of AUD 1.58 billion out of an overall GVP for fisheries and aquaculture of AUD 3.58 billion in 2019 (Steven, Mobsby & Curtotti, 2020, pp. 2, 5), before exports markets, especially to China, were disrupted during the COVID-19 pandemic. Imported seafood, mainly from Thailand, China, Vietnam and New Zealand, makes up over 60% of the overall seafood consumption by volume (Steven, Mobsby & Curtotti, 2020, pp. 25, 36; Department of Agriculture, Fisheries and Forestry, 2022).

Historically, Australia was a key player in the construction of IUU fishing of Patagonian toothfish (also known as Chilean sea bass) as an international issue within the CCAMLR (Österblom & Sumaila, 2011). Australia promoted holistic approaches to fight IUU fishing internationally and engaged actively in drafting measures such as the catch documentation scheme for toothfish in the CCAMLR (Agnew, 2000, p. 367); and the trade information scheme for Southern Bluefin Tuna in the Convention for the Conservation of Southern Bluefin Tuna (CCSBT) (Department of Agriculture, Fisheries and Forestry, 2005, p. 37). Australia also intervened actively in the drafting and negotiation of international instruments such as the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), the Port State Measures Agreement (PSMA) and the Regional Plan of Action to Promote Responsible Fishing Practices including Combating Illegal, Unreported and Unregulated Fishing (RPOA-IUU). Finally, Australia participated in working groups on IUU such as the High Seas Task Force in the UN and in the OECD (Department of Agriculture, Fisheries and Forestry, 2005, p. 5; Department of Agriculture, 2014, p. iii).

Australia's efforts to address IUU fishing were framed from the beginning as a means to protect national resources:

> We were having significant problems in the sub-Antarctic with Patagonian toothfish poaching and that's where this whole process of IUU came from because not only we couldn't identify the owners of the vessels, we couldn't prosecute anybody, we couldn't follow any trade and we were genuinely annoyed and we went to the FAO the first time and the FAO told us to read the compliance manual. We said thanks for your assistance, we've already read that we want to do something a bit more. (Interview respondent, fisheries manager)

The two National Plans of Action against IUU fishing, published in 2005 and 2014 (Department of Agriculture, Fisheries and Forestry, 2005; Department of Agriculture, 2014), show an evolution in the approach to the prevention of IUU fishing from a militarised approach to cooperative action and regional cooperation in the Pacific, and acknowledge the

economic and social impacts of IUU fishing (Department of Agriculture, 2014, p. 2). However, this evolution did not involve moving towards using trade measures on imports to Australian markets, as happened in the EU. The Australian plans rested on the assumption that monitoring, control and surveillance measures on fishing and a careful port policy regarding distant water fishing for overseas markets are sufficient to block access of unlawful products to Australia's domestic market, for two reasons:

> Given the very small quantities of fish which foreign fishing vessel operators have sought to land in Australia, the actual market-related implications have to date been insignificant.
>
> (Department of Agriculture, Fisheries and Forestry, 2005, p. 36)

> Given the limited extent of IUU fishing involving Australian-based operators – other than in the mainly criminal activities of domestic groups involved in illegal abalone and rock lobster fishing and trafficking discussed elsewhere in the AUS-NPOA-IUU – there has been little need to date to respond in Australia to the provisions of IPOA paragraphs 73 and 74, which call for action against importers, trans-shippers, buyers, consumers, bankers and others who may do business with IUU fishers or engage in activities that support IUU fishing.
>
> (Department of Agriculture, Fisheries and Forestry, 2005, p. 38)

The section of the Australian National Plan of Action (Department of Agriculture, 2014) on market-related measures in the IPOA-IUU acknowledged the discussion of traceability underway in the international sphere but did not advance it in the Australian context. Rather, it situated trade-related measures as subsidiary to fisheries management measures; it situated traceability under the jurisdiction of the *Australia New Zealand Food Standards Code* and circumscribed Australian participation in catch documentation schemes to two Regional Fisheries Management Organisation catch documentation schemes, CCAMLR and CCSBT (Department of Agriculture, 2014, p. 9), both of which are enforced through import measures in other countries. The role of traceability in preventing IUU-sourced products entering domestic markets mentioned in the US and EU IPOA-IUU documents – transparency, prevention of fraud, level playing field – is absent from the 2014 Australian document and the potential use of traceability to prevent IUU-sourced products entering the Australian market is left unsaid. This construction of IUU as a transnational crime connected to overseas markets largely summarises Australia's policy approach:

> The market is of interest to us but usually other agencies will deal with that. We work with Interpol. We work with Sea Shepherd. We work with a whole bunch of groups of people to prevent and stop IUU fishing. Now, inevitably that does involve markets because you need market intelligence to know where this product is going so you can track it. Groups like Interpol and Sea Shepherd and others who have their own networks of people around the world are very useful in that regard. That helps the operational side know where these boats are likely to be, where they're going to be pulling into port to offload fish and transport it through the supply chains. We get all that intelligence that comes back to us and then we can deploy our staff and the assets we have in the right places at the right time. (Interviewee, fisheries manager)

Whether or not IUU-sourced products are actually entering Australian markets, however, remains to be explored. The literature review and interviews conducted for this research uncovered no studies investigating the legality of fishing of seafood imported to Australia. Two studies on seafood mislabelling have been conducted: a pilot survey conducted in 2003 (Food Standards Australia New Zealand, 2003) and a study in Tasmania in 2015 (Lamendin, Miller, & Ward, 2015). These present an inconclusive picture, the first one finding 23% of mislabelling in two species sampled across the country, and the second finding inaccuracies in the labelling of 38 samples from 15 fishmongers in Tasmania (Lamendin, Miller, & Ward, 2015, p. 438, 442). The Australian government's approach to IUU fishing as restricted to strategic interests and the protection of valuable Australian fishery exports, and not relevant for imported seafood entering domestic markets has, therefore, not been an evidence-based approach.

Boundaries and objectives of fisheries management in Australia

The disconnect between strong regulation to prevent overfishing in domestic commercial fisheries while refusing to regulate for sustainability in seafood markets reflects the boundaries of fisheries management and its objectives in Australian policy over the past couple of decades.

The foundational boundary is that of IUU being something that is regulated at the fishing/harvesting node of seafood supply chains. This construction is not unique to Australia and is a prevalent framing in the field of fisheries management. For example, an IUU fishing Index published in 2019 (Macfadyen et al., 2019) measures the 'degree to which *coastal* states are exposed to and effectively combat IUU fishing' (p. 1, emphasis added). In that index, Australia scored as having extremely low levels of IUU, ranking 138th out of 152 countries. The disconnect comes

in leaving IUU only at the fishing node, when Australia, as noted earlier, was centrally involved in setting up some of the international catch documentation schemes that enabled regulation further along supply chains.

Another policy boundary at play in Australian approaches to IUU is that between federal and state/territory jurisdictions. The prevention of IUU fishing in international fisheries in which Australian fleets are involved is a policy objective at the federal level. The Australian Fisheries Management Authority (AFMA) manages all fisheries beyond three nautical miles from the low water mark including key fisheries signalled as the main target of IUU fishing, like tuna and toothfish. International fisheries negotiations are handled by the federal Department of Agriculture, Fisheries and Forestry (DAFF), with AFMA. Much of Australia's commercial fisheries, however, are coastal and under the jurisdiction of the states. The states have a strong mandate to prevent overfishing in commercial fisheries and target illegal commercial fishing as part of that, but do not address 'IUU' as it is constructed in the international sphere. Australian fisheries destined for export markets are cleared by federal agencies, including as legal for international catch documentation schemes where necessary. There is regulation of domestic fisheries supply chains to try to prevent illegally caught fish from entering markets, and there is food safety regulation, both of which are admininistered under state and territory jurisdiction. Seafood imports, regulated only for food safety, come under the independent, supranational authority Food Standards Australia New Zealand (FSANZ).

The disconnect is also related to the strong primacy of preventing overfishing as an objective for Australian fisheries management, and prioritising recreational fishing over commercial fishing, at federal and state/territory levels, and the relatively weak policy objective for the maintenance or development of domestic commercial fisheries. Australia has integrated the principles of Ecologically Sustainable Development (ESD) across all jurisdictions—federal and in each of the states and territories— and Ecosystem Based Fisheries Management (EBFM) has been adopted in a number of jurisdictions (Pascoe et al., 2019, p. 644). However, operational objectives have focused on the biological component of sustainability, with much less clarity on the economic (Emery et al., 2017) and only recent attention to the social (Barclay, 2012; Pascoe et al., 2019, p. 645). Studies on broader economic benefits than profitability of commercial fishing are only just emerging (Abernethy et al., 2020; Voyer et al., 2016), prompted not by government agencies but by industry bodies needing to demonstrate the contributions of commercial fishing to regional economies and the national economy in order to improve the industries' public image and position in policy negotiations (Fisheries Research and Development Corporation, 2020). A key impetus

behind anti-IUU trade measures in the EU has been to 'even up the playing field' between domestic fisheries and importing fisheries, since domestic fisheries shoulder regulatory costs for sustainability, whereas importing fisheries may not. Australian governments have, since the 1990s, caused domestic commercial fishing industries to shrink and pushed them out of fishing grounds, in order to prevent overfishing or to prioritise recreational fishing over commercial fishing (for details of such policy trajectories in the states of New South Wales and Victoria see Abernethy et al. (2020); Barclay et al. (2020); Minnegal and Dwyer (2008). In this policy context it has been unlikely that government would introduce anti-IUU measures to protect the viability of domestic commercial fishing industries.

Another boundary within Australian fisheries management that makes adoption of anti-IUU trade measures less likely is that the regulatory pursuit of biological sustainability in the management of fisheries is seen as belonging mainly or wholly in the harvest space, and not along whole supply chains. The regulation of seafood downstream as it heads towards consumers is placed under the food regulatory system. The Australian Consumer Law and food standards issued by Food Standards Australia New Zealand (FSANZ) regulate the conditions to be fulfilled as food passes along the supply chain. Food policy responsibilities fall into the Health portfolio of the Commonwealth and the States, and enforcement corresponds to the Australian Competition and Consumer Commission and the food authorities in the states. The sustainability of food production methods are considered to be a consumer value that is left to voluntary, industry-driven initiatives rather than being regulated by government. The lack of sustainability objectives for the management of commercial fisheries in terms of their broad economic or social sustainability and the framing of IUU fishing as an issue only affecting exports means that regulatory oversight of seafood beyond the point of harvest is tied to agencies with no responsibility for the sustainability of fish stocks, Australian or otherwise.

This boundary is visible in the way traceability is used in seafood in Australian markets. The concept of 'traceability' in food was initially for food safety, so as to be able to track down all contaminated food for product recalls. Traceability in seafood has expanded out from food safety and underpins catch documentation schemes for anti-IUU measures as well as sustainability requirements in certification schemes – so as to be able to claim at the consumer end of the chain that the food was fished as it should have been. To date in Australian policy regarding seafood traceability has firmly remained a food safety mechanism only.

In the context of this structure of policy boundaries and objectives, demands for improving sustainability requirements for all seafood

consumed in Australia falls 'between the cracks' of the Australian regulatory structure, lacking support from the public administrators responsible for the management of fisheries resources. As summarised by a participant,

> That's a fact that there were no Australian government requirements around the sustainability of any incoming seafood. There was no requirement there for that to be looked at or addressed by anybody. Whereas in the EU there are rules now, America's just brought in rules along that kind of lines and [here it] is not on anybody's radar. Biosecurity is on one branch of DOA's [the Department of Agriculture's] radar, food safety is another branch of DOA's radar, CITES species are supposedly on the radar of the Department of Environment but I don't think anyone's actually checking. (Interviewee, consultant)

The policy tussle over Country of Origin Labelling for seafood in food service outlets (takeaway food shops, restaurants, cafes, etc) shows that the federal government and most of the state governments have clearly refused to address fisheries management concerns at the retail end of seafood supply chains. Here we see another disconnect – this one between (1) the domestic fishing industry which wants government regulation of seafood labelling to avoid fraud and so customers are aware of where their seafood comes from; (2) fisheries managers who construct their responsibility regarding sustainability as being for Australian commercial fisheries and only in the harvest node of supply chains; and (3) food system regulators responsible for labelling and traceability, who are only concerned with food safety.

If anti-IUU measures on seafood imports implemented in the EU, US and Japan are to diffuse to Australia, Australian fisheries management agencies will have to become involved downstream from the harvest node, and also to develop Australian traceability requirements for the legality of overseas fisheries, such as catch documentation schemes. For that reason the Country of Origin Labelling case is an interesting one to help understand the willingness and bureaucratic structural impediments to fisheries management being conducted at the market end of supply chains, and using traceability as a tool for legality of catches in the Australian context.

Fishing industry and marine conservation advocates launched campaigns in the 2010s to try to have government mandate that the country of origin of seafood be shown clearly at the point of sale. Over 80% of consumers surveyed in NSW and Victoria have said they would prefer to buy Australian seafood over imports, but around a third report that they do not know where their seafood is from (Abernethy et al., 2020; Voyer

et al., 2016). Since well over half of all seafood consumed in Australia is imported, if the country of origin is clearer to consumers, it seems feasible purchasing habits could shift.

Labelling requirements and traceability came under the scrutiny of the Australian Senate in an inquiry conducted in 2014 on the requirements for the labelling of seafood (Commonwealth of Australia, 2014). The issue had been publicized at that time through an Australian Broadcasting Corporation (ABC) television series called 'What's the Catch' about sustainability problems in the seafood consumed in Australia, which argued for sustainability regulation for imports, and a concurrent Greenpeace campaign on the same topic. The inquiry debated labelling and traceability requirements in the context of two demands: one, to make use of the existing Australian Fish Names Standard mandatory, a possibility enabled in the food standard regulatory framework pushed by a broad coalition of industry actors and environmental organisations to avoid fraud through the use of misleading names. The other demand was that food service outlets such as restaurants or fish and chip shops should specify the country of origin of their product or, at least, indicate whether it is imported.

> Some in the fishing industry were calling for better labelling, some sectors were calling for mandatory fish name standard. Others were calling for voluntary fish names standard, but for the standard to be refined more. The fishing industry was dead against some of the labelling things that we wanted included, in particular the type of fishing gear that was being used. They wanted country of origin labelling, but really, they just wanted to distinguish between something caught outside of Australia and something caught in Australia. And I am sure that that wasn't a universal, they didn't universally want that because many of them have businesses that are partly Australian production and partly importing. (Interviewee, NGO representative)

The NGO representative is alluding to the fact that not all seafood industry players saw Country of Origin Labelling as being in their best interest. The Australian fishing industry was fairly consistent, but many seafood wholesalers and retailers had interests mixed up between domestic and imported seafood, or some focussed mainly on imported seafood. Imported seafood is often cheaper, processing costs in particular are much lower in places like Vietnam and China than Australia, and often it is easier to obtain consistent volumes through imported sources. For the hospitality industry, being able to get the same kind of frozen boxes of fillets all year round from importers is cheaper and easier than sourcing fresh seafood locally, with seasonal and weather-dependent

fluctuations, and cooks may have to do the filleting or other preparation themselves. To use only seafood sourced from domestic commercial fisheries means cooks and customers must be willing to embrace a range of different species, rather than having exactly the same thing on the menu all year round (Abernethy et al., 2020). Moreover, some seafood retailers have benefited from the lack of clarity about country of origin in labelling. For example, fish and chip shops in coastal locations sell cheaper imported seafood to holiday makers who assume the catch is local, or fish shops showcase shiny fresh local catch in their window, and shoppers attracted to the window display assume that the marinara mix or calamari rings are also local (Abernethy et al., 2020).

The long-standing demand of the domestic fishing industry for Country of Origin Labelling (CoOL) in all food outlets had been granted in the jurisdiction of the Northern Territory, through fisheries legislation, not through the food regulation system. The fishing industry wants CoOL for several reasons. One is as a means to establish a level playing field for the domestic produce subject to high production costs, including those regulatory costs associated with sustainable fisheries management. CoOL and the mandatory specification of standard names would also contribute to the prevention of mislabelling practices and to greater efficiency on border controls for imports. The example offered was the use of the term 'flake' for different shark species, both domestic gummy shark subject to strict management controls and five different shark species from overseas fisheries without management strategies (Commonwealth of Australia, 2014, Submission 13, pp. 2–3). Indicating country of origin of seafood in food outlets like fish and chips shops would also enable domestic producers to reap potential price premiums associated with stated consumer preferences for national produce (Lawley, 2015, p. iii).

Several aspects of the inquiry show the effects of the perceived boundaries of fisheries management on the possible roles of traceability and labelling requirements to address IUU fishing and the conditions governing seafood markets. The first one, the Senate inquiry, received 25 submissions,[2] of which four were from agencies responsible for fisheries, three were from the state governments of Northern Territory, Queensland, New South Wales and one was from the federal Department of Agriculture. Fisheries management agencies for half of the jurisdictions did not state any position in the form of a submission, which may be interpreted as saying that the requirements for seafood labelling and traceability are irrelevant to the management of fisheries in Australia. Secondly, only the joint submission by the New South Wales Food Authority and Fisheries New South Wales recommended the adoption of the Australian Fish Names Standard, a demand that had been backed by submissions from actors as diverse as fishing industry bodies, importers,

fish markets, large retailers, environmental NGOs and researchers (Submissions 1, 6, 9, 10, 13, 17, 19, 20 and 24). Indeed, two submissions by fisheries agencies provided arguments to oppose the adoption of the standard on the grounds that although they had adopted its use, it still needed improvements. Thirdly, fisheries agencies submissions asserted that within food regulation sustainability is a consumer value best left to market forces (Submission 19, pp. 3-4) and consistently opposed changes to labelling or traceability that would increase regulatory burden (Submission 4, p. 1, Submission 19, p. 5, Submission 11, p. 5). Several public agencies also pointed out that trade measures could be seen as trade restrictive, and raised alerts about the potential costs involved in a regulatory process, starting with those involved in conducting consultations and cost-benefit analysis. The federal Department of Agriculture made the following statement about international developments in traceability:

> Traceability and labelling is [*sic*] attracting increasing attention in international fisheries management. Some countries are seeking more information on where and how seafood was caught and whether it is consistent with international, regional and domestic fisheries regulations. Unilateral market measures taken by an importing country can be trade restrictive in that they do not necessarily recognise equivalent or better arrangements put in place by other countries with differing approaches. Some, including the EU and the US, have already implemented market state certification requirements that have caused additional requirements for some Australian seafood exporters.
>
> (Commonwealth of Australia, 2014, Submission 11, p. 4)

The Australian federal Department of Agriculture, Forestry and Fisheries (DAFF) is responsible for the prevention of IUU internationally, but in its submission on the Fish Names Standard within Australia omitted the rationale behind unilateral trade measures, thereby dissociating the prevention of IUU fishing from traceability and labelling. State fisheries agencies, not involved in the global fora on IUU fishing or in the management of fisheries post-harvest, ignored the connection brought up by environmental NGOs and producers between traceability and lawful sourcing of seafood products that is now an accepted strategy internationally and which other parts of the Australian government were active in establishing. Seeing their policy mandate as being to sustain domestic fish stocks, the state fisheries management agencies deferred traceability and labelling of imported seafood to the food regulatory framework – disconnecting it from the potential impact on domestic fisheries of IUU fishing in overseas fisheries competing in Australian markets. The lessons learned by Australian

agencies at the international level in the prevention of IUU fishing were not brought home, and the state agencies ignored that the choice of policy tools to address sustainability in the post-harvest space has direct implications for those public bodies with a regulatory responsibility to pursue sustainability in domestic fisheries.

Unsurprisingly, the 2014 inquiry did not result in mandated use of consistent naming in the labelling of seafood and Country of Original Labelling was only partially applied. In 2016 new legislation made Country of Origin Labelling mandatory for retail outlets selling raw or packaged seafood (fish shops and supermarkets), but left it optional for the food service sector selling prepared seafood dishes (fish and chip shops, restaurants, takeaway shops, etc.). Over 40% of overall seafood sales in Australia are from the food service sector (Productivity Commission, 2016, p. 270), so this ommision was significant. In 2020 a review of the effects of the implementation of the 2016 Country of Origin Labelling regulations was conducted. By this stage, groups representing wholesalers who imported seafood as well as fishers were united in calling for mandatory CoOL to be extended to food service, noting that the 2018 introduction of mandatory CoOL for fish shops had not caused major problems for industry (Sydney Fish Market, 2020; Seafood Industry Australia, 2020). The evaluation found, however, that the food service sector had been hard hit by COVID-19 responses so additional regulatory burden in the form of CoOL should not be applied (Deloitte Access Economics, 2021). The federal government accepted this finding and stated in February 2022 that the CoOL regulations would not be changed (Department of Industry, Science and Resources, 2022).

The CoOL policy discussion shows that in the recent past Australian fisheries management agencies, including at the federal level where responsibility for any anti-IUU measures would sit, have promoted a structure of policy objectives and boundaries that is not amenable to anti-IUU trade measures being applied to seafood imports. This structure limits fisheries management responsibilities to the fishing node of supply chains, and limits government involvement in post-harvest nodes of the chain to biosecurity and food safety. Efforts to ensure sustainability along supply chains using traceability techniques are constructed as a consumer choice issue rather than a government responsibility. Spokespeople for fisheries management agencies have called measures other than biosecurity or food safety applied to seafood imports potentially trade-restrictive (and therefore a bad thing).

However, in May 2022 there was a change of federal government, with the centre-right Liberal National Party government that had been in power since 2013 replaced by a centre-left Labor government. It appears that Labor politicians may be more amenable to the kinds of government regulation that could enable the diffusion of the anti-IUU

trade policy. The new Minister for Agriculture, Fisheries and Forestry, Murray Watt, stated in his speech to open the seafood industry conference Seafood Directions (13–15 September 2022, Brisbane) that he would make Country of Original Labelling mandatory for food service outlets. Left-leaning policy think-tank the McKell Institute hosted a meeting about IUU fishing, with former Labor Minister for Trade Craig Emerson as the main speaker in November 2022 to initiate policy guidance and research that can support Australia on creating an IUU fishing policy that applies to seafood imports. So although the policy environment to date has not been fertile ground for anti-IUU trade measures to diffuse to Australia, that may change in the near future, and diffusion might become possible.

Another point worth noting regarding the Australian case, in light of the discussion of application of the EU IUU Regulation in the Thai case, is that the labour and human rights conditions of production of seafood imported to Australia have been largely missing from fisheries policy discussion to date. There are general policy discussions about modern slavery and about government and corporate responsibility to ensure workforces' human rights are protected in the making of products sold in Australian markets. The *Modern Slavery Act 2018* requires all large companies to annually report on risks of modern slavery in their operations and supply chains, including overseas suppliers. A report on the first two years of implementation of this Act finds that two out of three companies covered by the Act are still failing to properly report slavery risks (Dimshaw et al., 2022). The report highlights seafood processing in Thailand as one industry with a high risk of slavery, but labour abuses in imports is not high on the agenda in Australian seafood policy circles. There has been more discussion on sustainability of fisheries, in terms of preventing biological overfishing, and the disconnect between regulating to make domestic commercial fisheries sustainable and not regulating overseas commercial fisheries supplying Australian markets.

Conclusion

Sonia Garcia Garcia has argued that Australia's overall policy stance towards fishing and seafood is characterised by disconnections (Garcia Garcia, Barclay & Nicholls, 2020). One key disconnect is that despite Australia's historical and continuing role in promoting trade-based measures to prevent IUU fishing for other markets, and the importance of international trade for its own seafood sector, Australian authorities have not implemented anti-IUU measures for its own markets. Australian regulation of imports has been limited to food safety and biosecurity. This relates to a disconnect in the domestic policy context between policy towards commercial fishing in Australia – in which sustainability of fish as

a natural resource is the most prominent objective – and policy towards fish as food downstream in value chains – in which food safety is the most prominent objective. Australian policy towards fish as food in markets relegates 'sustainability' to a consumer choice and private sector concern, not as something for government regulation.

The Australian case shows that even when some factors are in place for policy diffusion – such as a strong history of participation in international action against IUU, including a history of aligned action with those states on anti-IUU trade measures for other markets, and close international relations with the anti-IUU trade measure policy-initiating states – it may not occur due to domestic factors confounding the emulation. Existing domestic bureaucratic structures and policy objectives for fish as natural resource vs fish as food with health and biosecurity implications have thus far acted against Australia emulating the EU, US and Japan in implementing anti-IUU measures on seafood imports. The Australian case thus demonstrates some of the ways domestic policy contexts may influence policy diffusion.

Notes

1 The empirical work used in this chapter is adapted from the doctoral research of Sonia Garcia Garcia (2019; Garcia, Barclay & Nicholls 2021) for which Kate Barclay was primary supervisor. For personal reasons, Dr. Garcia voluntarily withdrew from the writing of this book, giving permission to Kate Barclay to publish the research.
2 The list of submissions and the documents are available at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Seafood_labelling/Submissions (retrieved February 1, 2023).

References

Abernethy, K., Barclay, K., McIlgorm, A., Gilmour, P., McClean, N., & Davey, J. (2020). Victoria's fisheries and aquaculture: Economic and social contributions. Fisheries Research and Development Corporation (FRDC 2017-092), University of Technology Sydney.

Agnew, D. J. (2000). The illegal and unregulated fishery for toothfish in the Southern Ocean, and the CCAMLR catch documentation scheme. *Marine Policy*, *24*(5), 361–374. doi:10.1016/S0308-597X(00)00012-9

Barclay, K. (2012). The social in assessing for sustainability: Fisheries in Australia. *Cosmopolitan Civil Societies: An Interdisciplinary Journal*, *4*(3), 38–53. doi:10.5130/ccs.v4i3.2655

Barclay, K., Davila, F., Kim, Y., McClean, N., & McIlgorm, A. (2020). Economic analysis & social and economic monitoring following the NSW Commercial Fisheries Business Adjustment Program. Report commissioned by the New South Wales (NSW) Department of Primary Industries. Retrieved January 31, 2023 from, https://www.dpi.nsw.gov.au/__data/assets/pdf_file/0007/1256128/

Economic-analysis-and-Social-and-Economic-monitoring-following-the-NSW-Commercial-Fisheries-Business-Adjustment-Program.pdf

Commonwealth of Australia (2014). *Current requirements for labelling of seafood and seafood products*. Canberra: Parliament of Australia. Retrieved February 27, 2023 from, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Seafood_labelling

Creswell, J. W. (2003). *Research design: Qualitative, quantitative, and mixed methods design*. London: SAGE.

Deloitte Access Economics (2021). Evaluation of Country of Origin Labelling reforms. Report prepared for Department of Industry, Science, Energy and Resources. Deloitte Access Economics, Melbourne. Retrieved February 24, 2023, from, https://www.industry.gov.au/publications/country-origin-labelling-food-reforms-evaluation

Department of Agriculture (2014). *Australia's second national plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing*, Canberra: Department of Agriculture. Retrieved February 27, 2023 from, https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/fisheries/iuu/aus-second-npoa-iuu-fishing.pdf

Department of Agriculture, Fisheries and Forestry (2022). Fisheries and aquaculture statistics website, ABARES, Canberra. Retrieved January 31, 2023 from, https://www.agriculture.gov.au/abares/research-topics/fisheries/fisheries-and-aquaculture-statistics

Department of Agriculture, Fisheries and Forestry (2005). *Australian national plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing*. Canberra: Department of Agriculture, Fisheries and Forestry. Retrieved February 27, 2023 from, *Australian national plan of action to prevent, deter and eliminate illegal, unreported and unregulated fishing*

Department of Industry, Science and Resources (2022). Country of Origin Labelling evaluation report released. Media release 25 February. Retrieved January 31, 2023 from, https://www.industry.gov.au/news/country-origin-labelling-evaluation-report-released

Dimshaw, F., Nolan, J., Hill, C., Sinclair, A., Marshall, S., McGaughey, et al. (2022). Broken promises: Two years of corporate reporting under Australia's Modern Slavery Act. Melbourne: Human Rights Law Centre. Retrieved February 24, 2023 from, https://www.hrlc.org.au/reports/broken-promises

Emery, T. J., Gardner, C., Hartmann, K., & Cartwright, I. (2017). Incorporating economics into fisheries management frameworks in Australia, *Marine Policy*, *77*, 136–143. doi:10.1016/j.marpol.2016.12.018

Fisheries Research and Development Corporation (2020). *National fisheries and aquaculture industry social and economic contributions study*. FRDC project 2017-210, FRDC, Deakin West, ACT. Retrieved February 27, 2023 from, https://www.frdc.com.au/sites/default/files/products/2017-210-DLD2.pdf

Food Standards Australia New Zealand (2003). *A pilot survey on the identity of fish species as sold through food outlets in Australia*, Retrieved August 1, 2019, from, http://www.foodstandards.gov.au/publications/pages/pilotsurveyontheidentityoffish/Default.aspx

Garcia Garcia, S. (2019). Policy disconnections in the regulation of sustainable seafood in Australia. PhD thesis, University of Technology Sydney, Australia.

Retrieved February 24, 2023 from, https://opus.lib.uts.edu.au/handle/10453/142369

Garcia Garcia, S., Barclay, K., & Nicholls, R. (2021). Can anti-illegal, unreported, and unregulated (IUU) fishing trade measures spread internationally? Case study of Australia. *Ocean & Coastal Management*, *202*, 105494. 10.1016/j.ocecoaman.2020.105494

Garcia Garcia, S., Barclay, K., & Nicholls, R. (2020). The multiple meanings of fish: Policy disconnections in Australian seafood governance. In E. Probyn, K. Johnston, & N. Lees (Eds.), *Sustaining seas: Oceanic space and the politics of care* (pp. 75–86). London & New York: Rowman & Littlefield.

Lamendin, R., Miller, K., & Ward, R. D. (2015). Labelling accuracy in Tasmanian seafood: An investigation using DNA barcoding. *Food Control*, *47*, 436–443. doi:10.1016/j.foodcont.2014.07.039

Lawley, M. (2015). *A final seafood omnibus: Evaluating changes in consumer attitudes and behaviours*, Project No. 2015/702, Bedford Park, SA: Seafood CRC. Retrieved February 27, 2023 from, https://www.frdc.com.au/sites/default/files/products/2015-702-DLD.pdf

Leipold, S., Feindt, P. H., Winkel, G., & Keller, R. (2019). Discourse analysis of environmental policy revisited: Traditions, trends, perspectives. *Journal of Environmental Policy & Planning: Discourse, power and environmental policy: discursive policy analysis revisited*, *21*(5), 445–463. doi:10.1080/1523908X.2019.1660462

Macfadyen, G., Hosch, G., Kaysser, N., & Tagziria, L. (2019). *The IUU Fishing Index, 2019*, Retrieved November 15, 2019, from https://globalinitiative.net/wp-content/uploads/2019/02/IUU-Fishing-Index-Report-web-version.pdf

Maxwell, J. A. (2013). *Qualitative research design: An interactive approach* (3 ed.), Thousand Oaks, CA: SAGE.

Minnegal, M., & Dwyer, P. D. (2008). Managing risk, resisting management: Stability and diversity in a southern Australian fishing fleet. *Human Organization*, *67*(1), 97–108. Retrieved February 24, 2019, from 10.17730/humo.67.1.x38g60k463p26855

Österblom, H., & Sumaila, U. R. (2011). Toothfish crises, actor diversity and the emergence of compliance mechanisms in the Southern Ocean. *Global Environmental Change*, *21*(3), 972–982. Retrieved February 2, 2023, from, 10.1016/j.gloenvcha.2011.04.013

Pascoe, S., Cannard, T., Dowling, N. A., Dichmont, C. M., Breen, S., Roberts, T., & et al. (2019). Developing harvest strategies to achieve ecological, economic and social sustainability in multi-sector fisheries, *Sustainability*, *11*(3), 644–665. doi:10.3390/su11030644

Productivity Commission (2016). *Marine fisheries and aquaculture, final report*. Canberra: Productivity Commission. Retrieved February 27, 2023 from, https://www.pc.gov.au/inquiries/completed/fisheries-aquaculture/report/fisheries-aquaculture.pdf

Seafood Industry Australia (2020). 'Aussie! Aussie! Aussie?': Seafood industry calls on Aussies to support origin labelling review. Media release 6 August. Retrieved January 31, 2023, from http://seafoodindustryaustralia.com.au/aussie-aussie-aussie-seafood-industry-calls-on-aussies-to-support-origin-labelling-review/

Steven, A. H., Mobsby, D., & Curtotti, R. (2020). *Australian fisheries and aquaculture statistics 2018* (Fisheries Research and Development Corporation project 2019-093). Canberra: ABARES. Retrieved February 27, 2023 from, https://www.frdc.com.au/project/2019-093

Stone, D. (2012). Transfer and translation of policy. *Policy Studies*, *33*(6), 483–499.

Steenbergen, D. J., Song, A. M., & Andrew, N. (2022). A theory of scaling for community-based fisheries management. *Ambio*, *51*(3), 666–677.

Sydney Fish Market (2020). Evaluation of country of origin labelling for food, Sydney fish market submission. Retrieved January 31, 2023, from https://www.sydneyfishmarket.com.au/Portals/0/adam/Content/qKYITYG_D0a05MqTTOLoVA/ButtonLink/200910%20Sydney%20Fish%20Market_Submission_Evaluation%20of%20Country%20of%20Origin%20Labelling.pdf

Voyer, M., Barclay, K., McIlgorm, A., & Mazur, N. (2016). *Social and economic evaluation of NSW coastal professional wild-catch fisheries: Valuing coastal fisheries*, FRDC project 2014-301, FRDC, Deakin West, ACT.

Wodak, R. (2001). The discourse-historical approach. In R. Wodak, & M. Meyer (Eds.), *Methods of critical discourse analysis* (pp. 63–94). London: SAGE.