

The Auditor-General
Audit Report No.23 2009–10
Performance Audit

Illegal Foreign Fishing in Australia's Northern Waters

Australian Customs and Border Protection Service

Australian National Audit Office

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Canberra ACT
23 February 2010

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in Australian Customs and Border Protection Service in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit and the accompanying brochure. The report is titled *Illegal Foreign Fishing in Australia's Northern Waters*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian McPhee', is positioned above the printed name.

Ian McPhee
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations

ACPB	Armidale Class Patrol Boat
ACV	Australian Customs Vessel
ADF	Australian Defence Force
AEZ	Australian Exclusive Economic Zone
AFMA	Australian Fisheries Management Authority
AGD	Attorney-General's Department
AMSA	Australian Maritime Safety Authority
AMSOC	Australian Maritime Security Operations Centre
AMSRA	Australian Maritime Security Risk Assessment
AQIS	Australian Quarantine and Inspection Service
BPC	Border Protection Command
BPCIC	Border Protection Command Intelligence Centre
CDF	Chief of Defence Force
CDPP	Commonwealth Director of Public Prosecutions
CIU	Cabinet Implementation Unit
CRAM	Common Risk Assessment Methodology
CSIRO	Commonwealth Scientific and Industrial Research Organisation
CWCSS	Coastwatch Command Support System
DAFF	Department of Agriculture, Fisheries and Forestry

DEWHA	Department of the Environment, Water, Heritage and the Arts
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship
DIMA	Department of Immigration and Multicultural Affairs (DIAC's predecessor)
DOFAD	Department of Finance and Deregulation
FFV	Foreign Fishing Vessel
FOC	Future Operating Concept
GBRMPA	Great Barrier Reef Marine Park Authority
HPCG	Homeland and Border Security Policy Coordination Group
HQJOC	Headquarters ADF Joint Operations Command
HQNORCOM	Headquarters ADF Northern Command
IOPP	Integrated Operations Planning Process
IUU Fishing	Illegal, Unreported and Unregulated Fishing
JAMAG	Joint Agencies Maritime Advisory Group
JOPC	Joint Offshore Protection Command
JTF 639	Joint Task Force 639 in HQNORCOM
MOSD	Maritime Operations Support Division
MOU	Memorandum of Understanding
NMU	National Marine Unit
OPG	Operations Planning Group

ORWG	Operational Response Working Group
PAWG	Planning Advisory Working Group
PM&C	Department of Prime Minister and Cabinet
RAAF	Royal Australian Air Force
RAN	Royal Australian Navy
SIEV	Suspect Irregular Entry Vessel
SMMC	Strategic Maritime Management Committee
TARAWG	Threat and Risk Assessment Working Group

Summary and Recommendations

Summary

The program to combat illegal foreign fishing

1. The Australian Customs and Border Protection Service (Customs and Border Protection) manages the security and integrity of Australia's borders. Customs and Border Protection is the lead agency responsible for the prevention of incursions by illegal foreign fishing vessels in the Australian Exclusive Economic Zone (AEEZ),¹ and coordinates the whole of government effort in both northern waters and the Southern Ocean.²
2. In northern Australian waters, the majority of foreign fishing vessel (FFV) incursions are historically by fishers from Indonesia targeting shark for the international shark fin market. A smaller number are apprehended targeting reef fish, and sea-bed species such as trochus and trepang (sea cucumber). From 2003 to 2006, there was a significant increase in FFV activity in Australia's northern waters. In 2003–04, 134 FFV's were apprehended. This increased by 51 per cent to 203 apprehensions in 2004–05, and then by a further 80 per cent to 367 apprehensions in 2005–06.
3. In 2005–06 and 2006–07, in response to the increase in FFV incursions, the Australian Government committed additional funding totalling \$543 million to combat the problem of illegal foreign fishing in Australia's northern waters. The largest component was the appropriation in the 2006–07 Budget of \$388.9 million over four years for the program titled 'securing borders against illegal foreign fishing'. Described by Ministers as 'an integrated whole of government plan' the program comprised additional resourcing to a number of agencies including Customs and Border Protection; the Australian Fisheries Management Authority (AFMA); the Australian Quarantine and Inspection Service (AQIS); the Department of Agriculture, Fisheries and Forestry (DAFF), the Department of Defence (Defence), the Department of Immigration and Multicultural Affairs (DIMA, now DIAC); the Great Barrier Reef Marine Park Authority (GBRMPA); the Attorney-General's Department; the Australian Federal Police; and the Commonwealth Director of Public Prosecutions (CDPP).

¹ Australian Customs Service *Annual Report 2007–08*, p. 41 and 45.

² Australian Customs Service *Annual Plan 2008–09*, p. 18.

4. The components of the whole of government program reflect the interdependent factors identified as necessary to achieve increased apprehensions of FFVs fishing illegally within the AEEZ. These were:

- the ability to deploy vessels to respond to sightings, apprehend vessels, detain illegal foreign fishers and transport both to land;
- the availability of sufficient on-shore processing and medical facilities for detainees while they undergo initial processing;
- the capability to deal with quarantine risks of the vessels and their destruction;
- the availability of immigration detention centres to house illegal foreign fishers while repatriation arrangements are made or prosecutions underway; and
- an investigations and prosecution capacity.

5. Border Protection Command (BPC) within Customs and Border Protection is the lead organisation for security response to threats in the Australian Maritime Domain. BPC coordinates surveillance and response operations against eight recognised maritime security threats to Australia, one of which is the illegal exploitation of natural resources, which includes illegal foreign fishing. To perform this function, BPC plans and directs the surveillance coverage of aircraft provided by private contractors, and has operational control of the relevant Customs and Border Protection and Australian Defence Force (ADF) surface assets which respond to surveillance contacts.

The audit

6. The objective of the audit was to assess the effectiveness of Customs and Border Protection's performance in managing and coordinating enforcement operations against illegal foreign fishing in Australia's northern waters. The audit focused on Customs and Border Protection's role within the whole of government policy coordination framework; the effectiveness of its intelligence support for operational planning and policy and strategy development; its performance in planning, prioritising and administering effective enforcement operations; and its performance in measuring and reporting on the effectiveness of the program.

Overall conclusion

7. The program against illegal foreign fishing in Australia's northern waters is a complex whole of government program comprising a number of agencies and interdependent activities. Customs and Border Protection, through BPC, coordinates surveillance and enforcement operations on behalf of AFMA as the enforcement authority under relevant Commonwealth legislation. Customs and Border Protection also holds certain leadership responsibilities for coordination of the program but is not formally designated as the lead agency for the program.

8. The ANAO concluded that, overall, Customs and Border Protection has effectively managed and coordinated enforcement operations against illegal foreign fishing in northern waters. As a result of the impact of additional funding on increased detection, apprehension and destruction of FFVs, there was a substantial reduction in FFV apprehensions in northern waters, from 367 in 2005–06 to 216 in 2006–07, 156 in 2007–08 and 27 in 2008–09. These apprehension numbers reflect a similar substantial decline in the number and extent of incursions by FFVs into the AEEZ and the retreat of FFV activity to waters north of the AEEZ line. All involved agencies regard the program as having been successful.

9. The outcome of the program has rested on the effective coordination of surveillance and response operations by BPC and an effective whole of government coordination structure overseen by the Strategic Maritime Management Committee (SMMC), chaired by the Department of Prime Minister and Cabinet (PM&C).

10. The Government's expectation in 2006 was that the program would lead to a doubling of apprehensions, initially to 717 per year for the first two years, and to 650 for the final two years. The fact that the program has had the opposite effect meant that effectiveness indicators for the program required substantial revision over time, and indicates a gap in agencies' strategic understanding at that time of the drivers and dynamics of illegal foreign fishing activity.

11. Going forward, there are a number of challenges for the administration of the whole of government program, particularly in terms of program leadership responsibility, the lack of a continuing overarching implementation plan and ongoing performance evaluation of the program. Resolving these challenges will be important in ensuring there is appropriate high level direction and coordination of the program in the future, and that the

program's resources and capabilities continue to be a cost-effective response to the threat. Given its specific border protection remit, and the lead agency responsibilities for aspects of the program that it has held, Customs and Border Protection is well placed to initiate action to address this gap.

12. The ANAO has also identified several areas of improvement within Customs and Border Protection, including BPC's intelligence support for policy and longer term planning and strategy development; deficiencies in the two major risk assessment processes managed by BPC; the transparency of planning and prioritisation processes for BPC's client agencies; and the definition, measurement and reporting of program effectiveness.

Key findings by chapter

Program implementation and coordination (Chapter 2)

13. Customs and Border Protection, primarily through BPC, is the lead agency for the coordination and delivery of enforcement operations against illegal foreign fishing in northern waters. Customs and Border Protection was also the designated lead agency for coordinating and reporting on program implementation to the Cabinet Implementation Unit (CIU) from the 2006 Budget until quarterly reporting ceased in mid-2007 and its subsequent provision of a closure report at the beginning of 2008. However, there is no formal designation of any specific department or agency as the lead agency responsible for continuing policy coordination and development for the program.

14. The implementation and ongoing operation of the whole of government enforcement program against illegal foreign fishing in northern waters has been effectively coordinated by Customs and Border Protection. However, there was no high level implementation plan for the program outside the context of reporting to CIU on the measures announced in the 2005 and 2006 Budgets. Following the cessation of quarterly reporting to CIU on implementation of those measures in mid-2007, there has been no ongoing overarching implementation plan for the program.

15. Notwithstanding that it has held specific lead agency responsibilities, Customs and Border Protection does not regard itself as having overall leadership responsibility for the program. This function was performed by a high-level interdepartmental committee, the SMMC, from May 2006 to March 2009, supported by PM&C as the Committee's chair and secretariat.

16. The inter-agency coordination framework provided by SMMC and its subordinate committee chaired by BPC, the Joint Agencies Maritime Advisory Group (JAMAG), worked effectively in overseeing the development of key program capabilities and addressing and resolving program coordination issues as they have arisen.

17. The cessation of SMMC in March 2009, in favour of a new committee—the Homeland and Border Security Policy Coordination Group (HPCG)—means that the program lost its leadership body at policy level. While efforts are being made to provide for continuity, the more strategic focus of HPCG means that filling the leadership gap for the program may entail the key agencies in the program, including Customs and Border Protection, taking more responsibility for its coordination. A failure to address the leadership gap risks the program losing direction and coherence, with a consequent loss of assurance that its various components remain the appropriate response to the threat from illegal foreign fishing.

18. Accordingly, the ANAO considers it appropriate that Customs and Border Protection initiate with PM&C and its whole of government partners in the program consideration of the issue of leadership arrangements for the future direction and delivery of the program.

Intelligence support for operations, policy development and planning (Chapter 3)

19. The focus of BPC's intelligence effort is predominantly operational and directed to servicing its own operational planning requirements, which is BPC's highest intelligence priority. Overall, the BPC Intelligence Centre (BPCIC) is effectively supporting those operational needs, but there is room for improvement in seeking client feedback on its operational intelligence products, and in the analytical content of those products.

20. BPCIC's illegal foreign fishing intelligence cell is currently based in the Australia Defence Force (ADF) Northern Command in Darwin, which is beneficial for its understanding of the operating environment, but detracts from its ability to support policy and longer-term planning and strategy development. A proposal under consideration to move all BPC elements located in Darwin to BPC Headquarters in Canberra will help address this deficiency.

21. There is currently no regular meeting of relevant staff from BPC, AFMA, DAFF and other interested agencies to discuss the developing intelligence picture in relation to illegal foreign fishing and the current and planned intelligence activities of each agency. In view of this, and the fact that there is room for better understanding among agencies of the nature and extent of BPCIC's intelligence responsibilities, there would be benefit in Customs and Border Protection establishing such a forum.

22. The Government's expectation in 2006–07 was that the injection of funding through the whole of government program would lead to a doubling of FFV apprehensions, initially to 717 per year for the first two years, and to 650 for the final two years of the program. The fact that the program has had the opposite effect indicates a gap in agencies' strategic understanding at that time of the drivers of illegal foreign fishing activity. While agencies' understanding of the nature of foreign fishing activity has improved since 2006, its drivers and dynamics are still not well understood.

23. Intelligence support for policy and longer term strategy development remains undeveloped within BPC in comparison to intelligence support for operational planning. Given that BPCIC carries sole responsibility within Customs and Border Protection for intelligence in relation to illegal foreign fishing, this is inhibiting Customs and Border Protection's ability to:

- contribute to the whole of government understanding of future trends and threats in illegal foreign fishing activity;
- play a stronger role in the development of policy options to meet emerging illegal foreign fishing trends and threats; and
- define and plan for its long-term capability development needs through its major internal strategic planning processes.

24. There is room for Customs and Border Protection to enhance BPCIC's intelligence services to improve support for policy development and longer-term forecasting. Existing BPCIC products with a longer term focus provide a sound basis for further developing BPCIC's longer term forecasting capacity. That capacity would be assisted if Customs and Border Protection gave consideration to extending the time horizon for relevant BPCIC intelligence products to more than one year ahead.

Planning, prioritisation and administration of operations (Chapter 4)

25. BPC takes a risk-based approach to the planning of its asset deployment and maintains two separate risk assessment tools, the Common Risk Assessment Methodology (CRAM) and the Australian Maritime Security Risk Assessment (AMSRA). CRAM is a client-based tool used to inform operational planning. AMSRA is an assessment of strategic risk meant to inform government but also has a stated function to inform operational decision-making, which creates confusion when operational priorities apparently conflict with its strategic risk rankings.

26. While both CRAM and AMSRA continue to be viable processes producing useful outputs for, respectively, operational planning and strategic decision-making, both processes have deficiencies. Customs and Border Protection recognises some of these deficiencies but has not addressed them pending the development of a new Integrated Operations Planning Process (IOPP), which would replace both CRAM and AMSRA. As the deficiencies in CRAM are longstanding, and the IOPP has not proceeded beyond a theoretical model that may take a further two years to implement, the ANAO considers that Customs and Border Protection should take early action to review its approach of continuing CRAM in its current state.

27. With regard to the processes for client agencies to task BPC, and the prioritisation of taskings by BPC, there are gaps in the transparency of BPC operational decisions impacting on client agency interests that need to be addressed. In particular, it would be beneficial to review the priority-setting processes and guidance documents for BPC with a view to:

- confirming the BPC Commander's quarterly Statement of Intent as the appropriate document to consolidate guidance on, and accountability for, strategic priorities for BPC;
- establishing a monthly statement/summary of priorities to take account of adjustments to priorities occurring within the quarterly timeframe of the Statement of Intent and their impact on operations; and
- making such documents available to the monthly meetings of the Operational Response Working Group to better inform client agencies of movements in BPC priorities and the impact of these on operations.

28. Overall, the administration of operations is managed effectively. The ANAO has made suggestions for improvement within BPC in the areas of administration, internal communications and information systems.

Program performance measurement and reporting (Chapter 5)

29. The whole of government program against illegal foreign fishing in northern waters is considered to be a success by participating agencies, given the significant reduction in FFV incursions and apprehensions. However, at whole of government level, there is a lack of a clear and agreed definition of effectiveness for the program, and this is compounded by the fact that the only stated effectiveness indicator—the doubling of apprehensions—became redundant early in the life of the program.

30. There is no regular reporting of the effectiveness of the program as a whole. Participating agencies report on their own activities independently. It is therefore not possible to assess the relative contribution to the overall performance of the program of its various components. Furthermore, as the operating environment changes with the decline in FFV incursions, the impact of resultant changes to particular components cannot be assessed in the context of the program as a whole.

31. The ANAO considers that Customs and Border Protection should work with its partner agencies in the program to establish an improved definition of effectiveness and more robust effectiveness indicators, at both the whole of government and agency level.

32. There are structural barriers to comprehensive and effective reporting of Customs and Border Protection's performance in managing and coordinating the program against illegal foreign fishing in Australia's northern waters. These stem from the multi-agency nature of BPC and its multi-tasked operations against eight maritime security threats. However, the ANAO considers that there is an opportunity to improve reporting by developing a consolidated report of BPC's surveillance and response operations, including those relating to illegal foreign fishing, and making that report publicly available through BPC's website.

33. Performance measures used by Customs and Border Protection contain weaknesses and have not been applied consistently over time. Trends in FFV sightings are one of the key performance measures used, yet the sightings dataset contains a significant amount of low quality data. To further improve its annual reporting, the ANAO suggests that Customs and Border Protection

stabilise its reporting outputs to create specific, measurable, achievable, relevant and timed performance parameters. Data collected and used in internal management reporting are available to be drawn on for this purpose.

Summary of agency response

34. The proposed report was provided to Customs and Border Protection for formal comment. Customs and Border Protection provided the following summary response, and its formal response is shown at Appendix 2.

35. The Australian Customs and Border Protection Service welcomes the ANAO's report on Illegal Foreign Fishing in Australia's Northern Waters, which concludes that, overall, Customs and Border Protection has effectively managed and coordinated enforcement operations against illegal foreign fishing in northern waters.

36. The report provides a very useful perspective on the performance of the program to combat illegal foreign fishing and will assist with the further refinement of the program to ensure the best possible approach to meeting its objectives.

37. The recommendations made in the report are of particular use in clarifying the immediate priorities for improvement of the program in the areas of program governance, ongoing performance evaluation, intelligence support and risk assessment. Work is already underway to address the recommendations.

Recommendations

Set out below are the ANAO's recommendations aimed at improving the management and coordination by Customs and Border Protection of enforcement operations against illegal foreign fishing in Australia's northern waters.

Recommendation

No. 1

Para. 2.94

The ANAO recommends that, in order to adapt to changed governance arrangements, Customs and Border Protection initiate consultations with appropriate whole of government partners to clarify:

- the leadership arrangements that should apply to the future direction and delivery of the whole of government program against illegal foreign fishing in northern waters; and
- the role and functions of the Joint Agencies Maritime Advisory Group in providing whole of government policy coordination for civil maritime security issues, including the Group's reporting responsibilities to the Homeland and Border Security Policy Coordination Group.

Customs and Border Protection response: Agreed

Recommendation

No. 2

Para. 3.79

The ANAO recommends that, in order to improve the understanding of the illegal foreign fishing threat within the whole of government program, and improve planning to address that and other threats in the maritime domain, Customs and Border Protection review the capacity of BPC's intelligence services to support the longer-term forecasting of trends in illegal foreign fishing, and to support its requirements for policy development and longer-term operational and capability planning.

Customs and Border Protection response: Agreed

**Recommendation
No. 3
Para. 4.36**

In order to ensure that deficiencies in the Common Risk Assessment Methodology do not compromise the effectiveness of Border Protection Command's risk-based operational planning, the ANAO recommends that Customs and Border Protection review the approach of maintaining the Common Risk Assessment Methodology in its present state until a replacement planning process is developed.

Customs and Border Protection response: Agreed

**Recommendation
No. 4
Para. 5.34**

The ANAO recommends that Customs and Border Protection develop, in consultation with appropriate whole of government partners, a definition of effectiveness and robust effectiveness indicators for the program against illegal foreign fishing in Australia's northern waters in relation to both:

- Customs and Border Protection's agency contribution (including Border Protection Command) to the whole of government program; and
- the overall whole of government program.

Customs and Border Protection response: Agreed

Audit Findings and Conclusions

1. Introduction

This chapter provides background on the program to combat illegal foreign fishing in Australia's northern waters and describes how the ANAO undertook the audit.

Background

Illegal foreign fishing in northern waters

1.1 Illegal foreign fishing is one of eight threats to Australia's national interest recognised by the Australian Government as existing in Australia's civil maritime environment. The eight threats comprise:

- illegal activity in protected areas;
- illegal exploitation of natural resources (which includes illegal foreign fishing);
- marine pollution;
- prohibited imports and exports;
- unauthorised maritime arrivals;
- compromise to bio-security;
- piracy, robbery or violence at sea; and
- maritime terrorism.³

1.2 These threats potentially overlap. Illegal foreign fishing activity, for example, not only threatens the depletion of fish stocks generally, and the depletion of populations of endangered fish and other marine species (for example, sharks hunted for their fins), but also potentially threatens bio-security through the carriage of exotic pests and diseases on and in foreign fishing vessels (FFVs). Illegal foreign fishing may provide a vehicle for the illegal entry of people or goods to Australia, and is a potential source of marine pollution.

1.3 Australia's northern waters are those waters within the Australian Exclusive Economic Zone (AEEZ) defined as Coastwatch Areas 1, 6 and 7 (see Figure 1.1). In northern Australian waters, the majority of FFV incursions

³ Border Protection Command *Concept of Operations*, BPC, Canberra, April 2008, Appendix 1, p. 17-21.

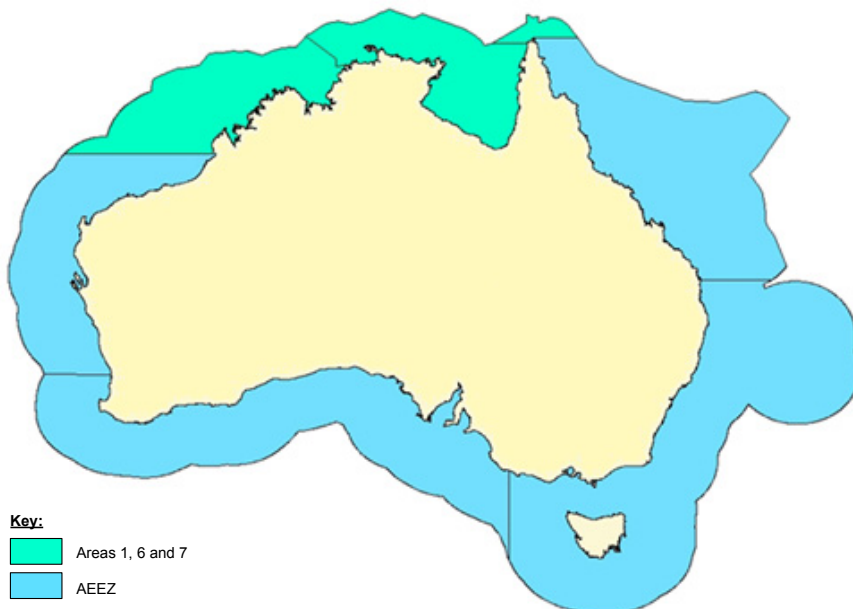
are by fishers from Indonesia targeting shark for the international sharkfin market. A smaller number are apprehended targeting reef fish, and sea-bed species such as trochus and trepang (sea cucumber).

Role of the Australian Customs and Border Protection Service

1.4 The Australian Customs and Border Protection Service (Customs and Border Protection) manages the security and integrity of Australia's borders. Customs and Border Protection is the lead agency responsible for the prevention of incursions by illegal FFVs in the AEEZ,⁴ and coordinates the whole of government effort in both northern waters and the Southern Ocean.⁵ Customs and Border Protection exercises this responsibility primarily through Border Protection Command (BPC), which directs and manages surveillance and response operations in northern waters.

Figure 1.1

Australia's northern waters: Coastwatch areas 1, 6 and 7



Source: Border Protection Command

⁴ Australian Customs Service *Annual Report 2007–08*, p. 45.

⁵ Australian Customs Service *Annual Plan 2008–09*, p. 18.

1.5 BPC is situated in Customs and Border Protection and staffed by officers from Customs and Border Protection, the Australian Defence Force (ADF), the Australian Fisheries Management Authority (AFMA) and the Australian Quarantine and Inspection Service (AQIS). Established as the Joint Offshore Protection Command (JOPC) on 30 March 2005,⁶ BPC is the Australian Government's lead organisation for security response in the Australian Maritime Domain.⁷ Its mission, in concert with other government agencies and stakeholders, is to protect Australia's national interests by generating awareness of activity in the maritime domain and responding to mitigate or eliminate the risk posed by the eight designated maritime security threats, including illegal foreign fishing.

1.6 The Commander BPC is responsible to the Chief Executive Officer (CEO) of Customs and Border Protection for civil functions and to the Chief of Defence Force (CDF) for military functions. The Commander's mission, responsibilities and tasks are set out in a joint directive from the CEO and the CDF.

1.7 Within this dual accountability framework, BPC is organisationally more closely aligned with Customs and Border Protection than with Defence. This reflects its primary responsibility for civil, non-military, maritime security. ADF assets and staff are assigned to BPC in order to service that responsibility. Consistent with this alignment, BPC appears in the Customs and Border Protection organisation chart as a division under the Border Enforcement program.⁸

Policy and budgetary initiatives in 2005 and 2006

1.8 Between 2003 and 2006, there was a significant increase in the number of FFVs illegally fishing in Australia's northern waters. In 2003–04, 134 FFVs were apprehended. This increased by 51 per cent to 203 apprehensions in 2004–05, and then by a further 80 per cent to 367 apprehensions in 2005–06.

⁶ JOPC was re-named Border Protection Command in October 2006.

⁷ The Australian Maritime Domain is defined in the BPC *Concept of Operations* brochure as 'all things relevant to the national interest on, under, associated with, or adjacent to Australia's maritime zones. Australia's maritime zones are those physical areas where certain legal or administrative arrangements apply.'

⁸ In the Customs and Border Protection Portfolio Budget statement, the objectives under 'Program 1.4: Civil maritime surveillance and response' represent the functions performed by BPC.

1.9 Against this background, the Department of Prime Minister and Cabinet (PM&C) conducted a Review of Australia's Fisheries and Maritime Surveillance, Compliance and Enforcement Arrangements (the 2005 Review) during the second half of 2005. The current framework of whole of government arrangements for combating illegal foreign fishing in northern waters derives substantially from this Review.

1.10 The 2005 Review was considered by the Government in February 2006. Its three key outcomes were:

- the expansion of the responsibilities of JOPC to include control and coordination of all operational responses to civil maritime security threats;
- the enhancement of JOPC's analytical capability to collate and fuse intelligence about threats; and
- the establishment of a high level strategic committee—the Strategic Maritime Management Committee (SMMC)—to oversee maritime domain awareness, regularly consider maritime security threats through a strategic risk assessment, and advise government on appropriate response arrangements.⁹

1.11 In 2005–06 and 2006–07, in response to the increase in FFV incursions, the Australian Government committed additional funding totalling \$543 million to combat the problem of illegal foreign fishing in Australia's northern waters.

1.12 The 2005–06 Budget included an additional \$91.4 million over five years provided to AFMA, AQIS, the Department of Immigration and Multicultural Affairs (DIMA, now the Department of Immigration and Citizenship (DIAC)) and Defence to increase AFMA's capacity to apprehend and prosecute illegal fishers; to strengthen processing and detention of apprehended fishers; and to enable AQIS to better monitor and protect Australia from potential quarantine risks from apprehended FFVs.

1.13 In November 2005, responsibility for the initial on-shore processing of illegal foreign fishers and their transfer to immigration detention was transferred from AFMA to Customs and Border Protection. Customs and

⁹ *Fisheries Taskforce Review*, accessed from BPC website <<http://www.bpc.gov.au/site/page.cfm?u=5797>> [accessed 14 January 2009].

Border Protection received \$53.74 million over four years in 2005–06 Additional Estimates for this purpose.¹⁰

1.14 Following on from the 2005 Review, the Government announced a package of initiatives in the 2006–07 Budget totalling \$388.9 million over four years, under the title *Securing Borders Against Illegal Foreign Fishing*. Customs and Border Protection's share of this was an additional \$197.4 million.¹¹

1.15 Described by Ministers as 'an integrated whole of government plan', the funding included:

- \$209 million to apprehend illegal fishing vessels and to transport, detain and prosecute their crew in order to provide a strong deterrent against illegal fishing;
- \$64.4 million to construct dedicated facilities to destroy seized illegal fishing boats and properly manage the quarantine risks they pose;
- \$43.4 million to enhance helicopter transport capability to rapidly deploy officers from relevant agencies to the sites of illegal landings or abandoned vessels and for charting and surveying work necessary to allow patrol vessels to navigate the Torres Strait and the northern Great Barrier Reef;
- \$42.9 million to conduct surface and air surveillance over high risk areas and to engage indigenous communities to report illegal fishing sightings;
- \$19.6 million to expand the JOPC Headquarters to provide a more holistic and integrated assessment of maritime security threats and for preventative action to deter illegal fishing at its source through cooperation with Indonesia and within the region; and
- \$9.6 million to enhance liaison, detection and response capabilities in Australia's northern waters.¹²

¹⁰ A further \$9.287 million over four years was also provided to AFMA in the 2005–06 Additional Estimates to provide for increased disposal costs of apprehended vessels and increased costs for the construction of a holding facility on Horn Island in the Torres Strait.

¹¹ Budget Measures 2006–07, Budget paper No. 2, Part 2: *Expense Measures, Agriculture, Fisheries and Forestry*, accessed from <http://www.budget.gov.au/2006-07/bp2/html/bp2_expense-01.htm>, p. 75, [accessed 5 May 2009].

¹² Budget Measures 2006–07, Budget paper No. 1, Statement 1, *Budget Strategy and Priorities: Securing Borders Against Illegal Foreign Fishing*, accessed from, <<http://www.aph.gov.au/budget%20dummy/budget%202006-07%20mirror/2006-07/bp1/html/index.htm>>, p. 11–12 [accessed 8 December 2008].

The stated outcome of the increased capability was to more than double the number of apprehensions of illegal FFVs each year.

Trends in illegal foreign fishing since 2006

1.16 Since 2006, there has been a significant decline in the number of apprehensions of illegal FFVs in Australia's northern waters, from a high point of 367 apprehensions in 2005–06 to 27 apprehensions in 2008–09.

Table 1.1

FFV apprehensions 2003–04 to 2008–09

Year	Initial apprehension target	Revised apprehension target	Apprehensions	Percentage change in the number of apprehensions from year to year
2003-04	N/A	N/A	134	
2004-05	N/A	N/A	203	+51.49%
2005-06	N/A	N/A	367	+80.79%
2006-07	717	250	216	-41.14%
2007-08	717	150	156	-27.78%
2008-09	650	60	27	-82.69%

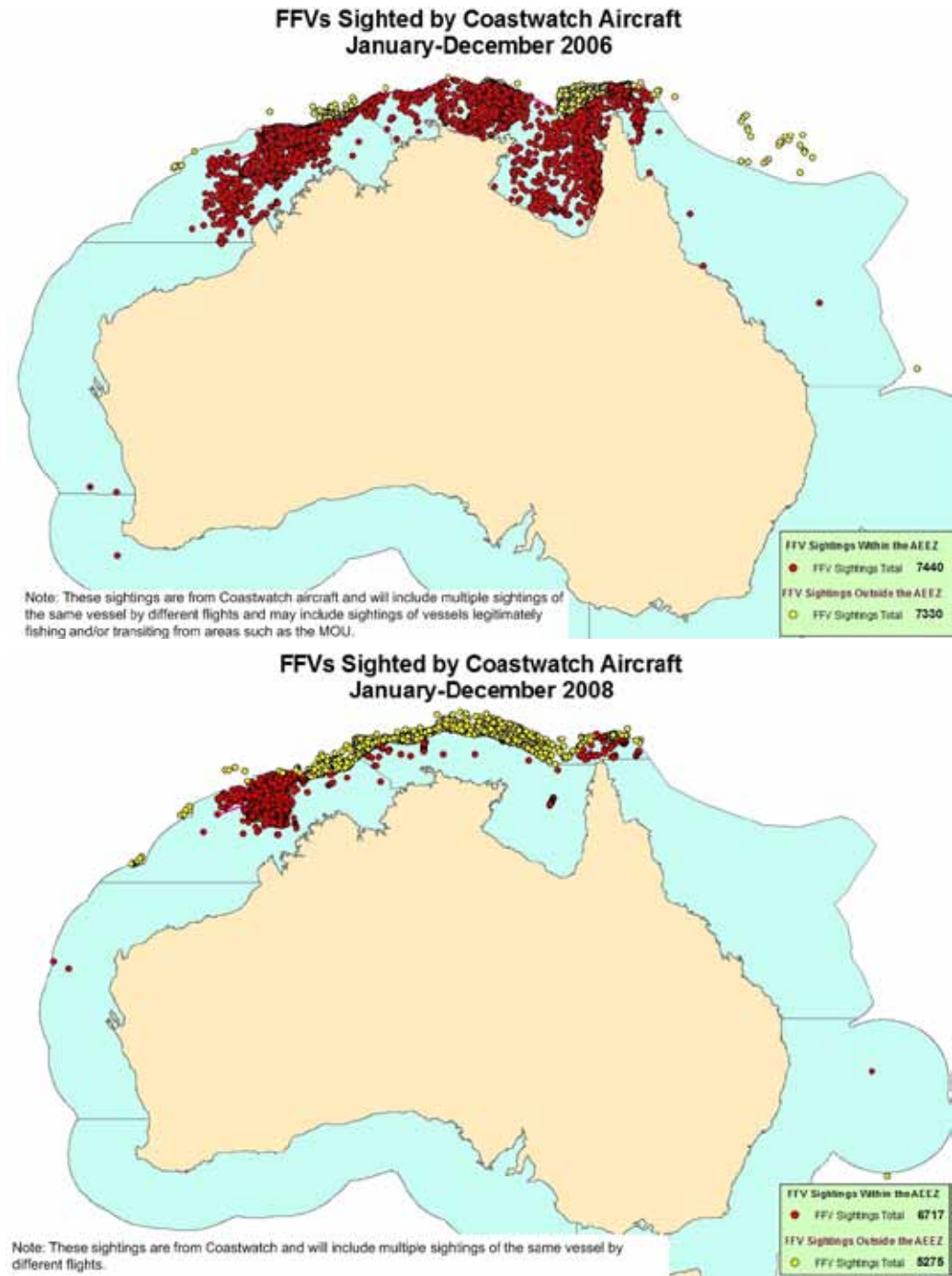
Source: Customs and Border Protection Annual Reports and AFMA

1.17 The decline in apprehensions is not a function of decreased surveillance and enforcement effort. Surveillance and enforcement effort increased as a result of additional funding provided in the 2006–07 Budget initiatives. Rather, the decline reflects a retreat of foreign fishing activity from well within the AEEZ to outside the AEEZ boundary, and a reduced number of incursions by FFVs into the northern waters AEEZ. This trend is illustrated in the following maps of sightings data for 2006 and for 2008.¹³

¹³ Note that the group of sightings off the north-west of Western Australia in these maps includes sightings within an area called the MOU Box. While this area is within the AEEZ, fishing in the Box by Indonesian fisherman in sail-powered vessels using traditional methods is not illegal under an MOU between Australia and Indonesia established in 1974.

Figure 1.2

FFV sightings inside and outside the AEEZ: 2006 and 2008



Source: Border Protection Command

1.18 The contribution of the enhanced enforcement effort funded by the 2006 Budget initiatives to the reduction in FFV incursions and apprehensions is discussed in Chapter 5 of this report.

The audit

Audit objective and scope

1.19 The objective of the audit was to assess the effectiveness of Customs and Border Protection's performance in managing and coordinating enforcement operations against illegal foreign fishing in Australia's northern waters. The audit focused on Customs and Border Protection's:

- role within the whole of government framework for the program;
- effectiveness in providing intelligence support for operational planning and policy and strategy development;
- performance in planning and delivering effective enforcement operations; and
- performance in measuring and reporting on the effectiveness of the program.

1.20 ANAO Audit Report No.37 2003–04 examined the administrative effectiveness of the surveillance and response operations of the National Marine Unit of Customs and Border Protection.¹⁴ The recommendations of that audit were followed-up in Audit Report No.8 2008–09, focusing on the management of marine crew, asset management and financial management.¹⁵ Accordingly, the audit did not re-examine those operational management issues and focused on higher level policy, planning and strategic management issues.

Audit approach

1.21 The audit was conducted from March 2009. The audit team undertook fieldwork within Customs and Border Protection and BPC Headquarters in Canberra and visited regional offices and facilities in Darwin, Thursday Island and Gove.

¹⁴ Australian National Audit Office, ANAO Audit Report No.37 2003–04, *National Marine Unit*, Canberra, 2004.

¹⁵ Australian National Audit Office, ANAO Audit Report No.8 2008–09, *National Marine Unit*, Canberra, 2008.

1.22 The audit methodology included interviews with Customs and Border Protection staff and staff of a number of stakeholder agencies including PM&C, ADF, AFMA, AQIS, the Department of Agriculture, Fisheries and Forestry (DAFF), DIAC, the Attorney-General's Department, the Commonwealth Director of Public Prosecutions (CDPP), the Office of National Assessments, the Department of Foreign Affairs and Trade (DFAT) and the Australian Agency for International Development (AusAID); visits to on-shore facilities, including a facility for holding and processing illegal fishers, the Northern Immigration Detention Centre and boat destruction facilities; observation by the audit team of an aerial surveillance operation over northern waters; visits to a Customs and Border Protection patrol vessel and an Armidale Class Patrol Boat; and examination and analysis of relevant records and policy guidance documents.

1.23 The audit was conducted in accordance with ANAO auditing standards at a cost of approximately \$290 000.

How the report is structured

1.24 The report is structured into the following four chapters, which examine:

- whole of government coordination arrangements for the program, and Customs and Border Protection's role and performance in coordinating program implementation, program administration and surveillance and enforcement operations (Chapter 2);
- BPC's role and performance in providing intelligence to support the program, including support for operations, policy development, risk assessment and longer-term planning and strategy development (Chapter 3);
- the planning process supporting the effective delivery of surveillance and enforcement operations against illegal foreign fishing in northern waters, and administrative issues relating to the delivery of operations by BPC (Chapter 4); and
- Customs and Border Protection's performance in measuring the effectiveness of the program, the nature of the performance data used and reporting arrangements for the program (Chapter 5).

2. Program implementation and coordination

This chapter examines whole of government coordination arrangements for the program against illegal foreign fishing in northern waters, and Customs and Border Protection's role and performance in coordinating program implementation, program administration and surveillance and enforcement operations.

Coordination of program implementation

2.1 Better practice for the implementation of whole of government programs suggests that the identification of a lead agency is usually beneficial. For the arrangement to be effective, the lead agency 'should have the authority and recognition to act in that capacity'.¹⁶ Furthermore, the likelihood of effective cross-agency implementation is greater when there is an overarching, high-level implementation plan that is coordinated by a nominated lead agency and which has clearly defined critical cross-agency dependencies and responsibilities.¹⁷

2.2 This section examines the arrangements established to ensure the effective implementation of the whole of government program against illegal foreign fishing in Australia's northern waters, and the role and performance of Customs and Border Protection in those arrangements, including whether its role was that of the lead agency for the program.

Implementation monitoring through the Cabinet Implementation Unit

2.3 The allocation of responsibility for reporting on program implementation to the Cabinet Implementation Unit (CIU) is an indication of lead agency status.

2.4 With respect to the measures to combat illegal foreign fishing agreed by the Government in the 2005–06 Budget and supplemented in the 2005–06 Additional Estimates (see paragraphs 1.12–1.13), DAFF held the responsibility

¹⁶ Australian National Audit Office, *ANAO Better Practice Guide—Implementation of Program and Policy Initiatives*, ANAO, Canberra, 2006, p. 14.

¹⁷ *ibid.*, p. 26.

as lead agency for reporting on implementation of these measures for the December 2005 and the March 2006 quarters.

2.5 Following the 2005 Review, Customs and Border Protection coordinated the preparation of a cross-portfolio submission proposing additional measures to enhance enforcement and deterrence of illegal foreign fishing in northern waters. Anticipating that these measures would involve an increase in operational activity managed by JOPC in which DAFF would have no direct involvement, DAFF indicated that it would not be appropriate for it to continue as the sole lead agency for the implementation of these measures.

2.6 On the basis of the cross-portfolio submission, the Government announced in the 2006–07 Budget a whole of government program against illegal foreign fishing totalling \$388.9 million over four years. The components of the whole of government program reflected advice to the Government, derived from operational experience, regarding the interdependent factors necessary to achieve increased apprehensions. These were:

- the ability to deploy vessels to respond to sightings, apprehend vessels, detain illegal foreign fishers and transport both to land;
- the availability of sufficient on-shore processing and medical facilities to cater for detainees while undergoing initial processing;
- the capability to deal with quarantine risks of apprehended vessels and their destruction;
- the availability of immigration detention centres to house illegal foreign fishers pending repatriation or prosecution; and
- an investigations and prosecution capacity.

2.7 Accordingly, departments and agencies with responsibilities for these areas received additional funding as part of the whole of government program.

2.8 The Government assigned lead agency responsibility to Customs and Border Protection for coordinating an overarching implementation plan for the program, which was titled 'Enhancement of Fisheries and Maritime Surveillance, Compliance and Enforcement'. This measure comprised nine individual components in three categories:

- Enhanced Surveillance and Enforcement Operations,
- Preventative Action; and

- Arrangements for Apprehended Vessels and Fishers (incorporating the 2005 Budget initiatives).

2.9 Customs and Border Protection had responsibility for reporting on the first of these categories. DAFF was required to provide input to Customs and Border Protection on the other two categories. These implementation and reporting responsibilities applied from the June 2006 quarter on.

2.10 As the lead agency for coordinating and reporting on implementation, Customs and Border Protection established an Implementation Working Group with representation from all stakeholder agencies. The Implementation Working Group's first meeting in July 2006 discussed the composition of, and arrangements for, finalising the implementation plan; implementation responsibilities; the handling of quarterly reporting; and early impediments to implementation. The Implementation Working Group met for a second and final time in October 2006 to review the final draft of the implementation plan and input to the October quarterly report.

2.11 Progress in implementing the nine component measures within the program was reported to CIU over five quarters between June 2006 and July 2007, after which quarterly reporting ceased due to the change of government. Over this period, a total of 45 traffic light reports were submitted for the program, 38 of which were 'green' indicating that measures were on track, and seven of which were 'amber', indicating delays in achieving a milestone.

2.12 The measure involving an increase in aerial surveillance hours was responsible for four of the seven amber reports. The delays in achieving the targeted hours were due to difficulties experienced by the aerial surveillance contractor in recruiting and retaining aircrew in a highly competitive labour market. While this environmental factor was outside Customs and Border Protection's control, it responded by actively managing and reprogramming flights to achieve the required target for night time aerial surveillance hours.

2.13 Two of the remaining three 'amber' reports related to construction delays with a section of DIMA's Northern Immigration Detention Centre in Darwin. The remaining 'amber' report occurred in the June 2006 quarter and reflected initial delays in implementing vessel disposal arrangements in the Torres Strait.

Conclusion

2.14 On the basis of its actions to coordinate implementation of the program, and the positive record of 'traffic light' reporting, the ANAO considers that Customs and Border Protection effectively performed its lead agency responsibilities for coordinating the implementation of the whole of government program while a formal reporting requirement to CIU existed. Following the cessation of quarterly reporting in July 2007, Customs and Border Protection provided a closure report on program implementation to CIU in March 2008.

The absence of an ongoing implementation plan

2.15 The implementation plan for the program prepared by Customs and Border Protection was directed primarily to servicing its CIU reporting responsibilities. While a substantial amount of implementation activity had either been completed or was close to completion by the time regular CIU reporting ceased in July 2007 and the closure report was provided to CIU in March 2008, that cessation occurred less than half-way through the four-year program. For the remainder of the program, there was no ongoing overarching implementation plan against which the continuing implementation of the program and its components could be centrally monitored.

2.16 This situation represents a weakness for a whole of government program containing a number of interdependent components, where the operating environment is subject to significant change over the course of the program. In this case, the environment changed significantly between 2006 and 2009 with the movement of foreign fishing activity away from coastal waters to outside the AEEZ boundary and the resulting substantial decline in FFV incursions and apprehensions.

2.17 This change in the nature of the threat has had a significant impact on some components of the program. For example, the helicopter stationed at Gove, at a cost of \$24.9 million over four years, was to provide as its primary function 'rapid response' to landings by foreign fishermen in the western Gulf of Carpentaria. However, as there have been no FFV landings in its vicinity since it commenced operations in February 2007, the helicopter has been restricted to performing the subordinate function of providing in-shore surveillance and training flights over a limited area of the coast, north and south of Gove.

2.18 Another example is the impact of the changed threat environment on the holding and processing facility for apprehended foreign fishers constructed on Horn Island in the Torres Strait at a cost of approximately \$3 million. This project was completed by AFMA in October 2006 and handed over to Customs and Border Protection to operate from the beginning of 2007. The decline in Indonesian FFVs incursions into the Torres Strait, however, coupled with the effect of the repatriation provisions of the Torres Strait Treaty for Papua New Guineans, and public health concerns related to processing Papua New Guinean fishers on-shore in Australia, has meant that the Horn Island facility is rarely used and generally stands empty.¹⁸

2.19 Against the background of changes in the illegal fishing environment and the reduction in FFV apprehensions, the then Minister for Finance and Administration wrote to the Minister for Justice and Customs in June 2007 and to the Attorney-General in October 2007 requesting a review by all agencies in receipt of illegal foreign fishing funding to ensure that appropriations and estimates accurately reflected the revised anticipated workload. There is no evidence that this request was actioned.

2.20 Had an ongoing overarching implementation plan been maintained for the program beyond the date of the cessation of CIU reporting, this would have enabled the Government to be alerted to the impact on the program of changes in the environment, and prompted early consideration of the need to adjust components of the program to maintain their efficiency and effectiveness. It would also have provided an available framework for responding to the abovementioned unactioned request from the Minister for Finance and Administration.

2.21 To an extent, the requirement for monitoring the implementation status of the program following the cessation of CIU reporting was met by a mid-term review of the program conducted by PM&C for SMMC during 2008. This review generated a number of specific recommendations which were being implemented during 2009. However, such irregular reviews are less able to provide a foundation for ongoing program monitoring, administration and performance evaluation than an overarching implementation plan maintained for the life of the program.

¹⁸ Papua New Guinean fishers are not brought to Horn Island because of the risk that they may carry exotic strains of tuberculosis.

Conclusion

2.22 The absence of an ongoing overarching implementation plan for the whole of government program against illegal foreign fishing, against which the continuing implementation of the program and its components could be monitored, represents a weakness in program governance. As a consequence, components of the program affected by changes in the illegal foreign fishing environment have not been systematically highlighted and adjusted as appropriate.

2.23 The four-year components of the program lapse at the end of 2009–10. Customs and Border Protection is coordinating the review of the lapsing program in the context of the 2010–11 Budget process. The ANAO suggests that this lapsing program review is an opportunity both to re-assess the composition of the program and address future oversight arrangements for its ongoing delivery.

Coordination of program administration

The inter-agency committee framework

2.24 As noted in paragraph 1.10, acceptance by the Government of the recommendations of the 2005 Review resulted in a new whole of government governance framework for civil maritime security, comprising the SMMC as the peak coordinating committee and the Joint Agencies Maritime Advisory Committee (JAMAG) as a supporting committee one level below (Figure 2.1). This section commences with a short description of these committees and then examines their functioning, Customs and Border Protection's role within them and their effectiveness in administering the program against illegal foreign fishing in northern waters.

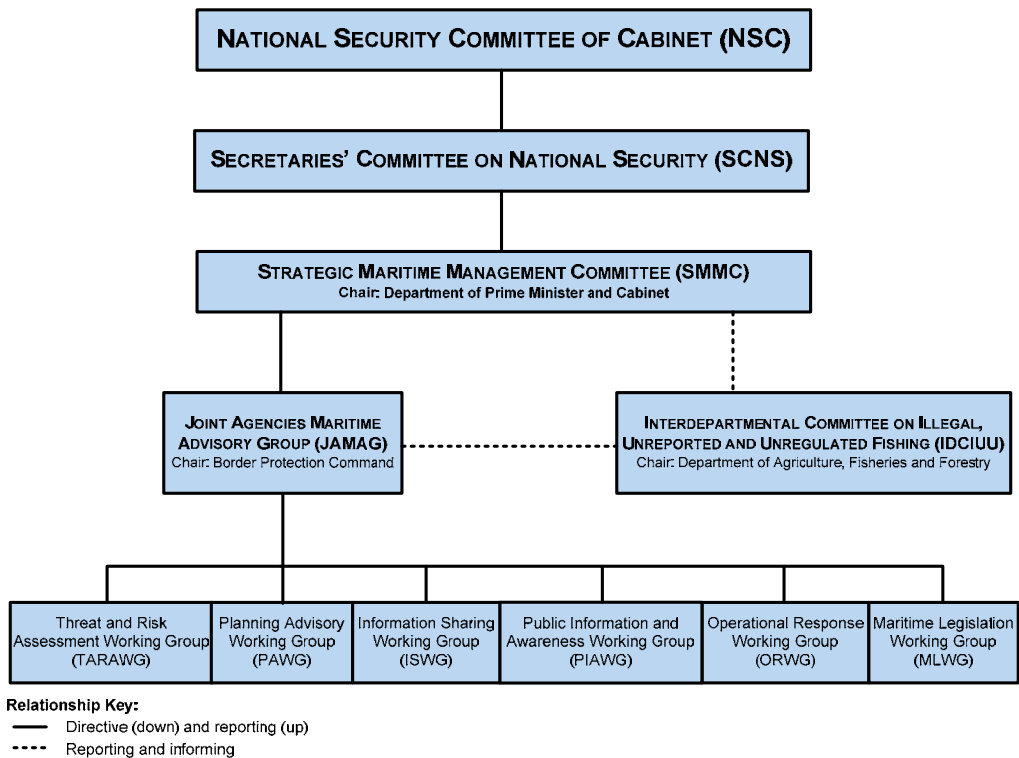
Strategic Maritime Management Committee

2.25 The SMMC was chaired by PM&C at senior executive level and comprised similar level representation from a further 17 agencies, with additional agencies able to be co-opted. It met for the first time on 18 May 2006 and ceased operating in March 2009.

2.26 The terms of reference for the SMMC are included at Appendix 1 and set out its role to provide 'high level whole of government policy and strategic direction with regard to Australia's maritime security.' The SMMC took a primary role in the ongoing supervision of the implementation and further development of the program against illegal foreign fishing.

Figure 2.1

Governance committee structure for maritime security, including the whole of government program against illegal foreign fishing (May 2006 – March 2009)



Source: ANAO

Joint Agencies Maritime Advisory Group

2.27 The establishment of JAMAG was also recommended by the 2005 Review. Chaired by the Commander BPC and with similar agency representation as SMMC, but at less senior level, JAMAG’s main role is to support and advise the SMMC in the development of whole of government policy for civil maritime security surveillance and response. Accordingly, JAMAG meetings are held one month in advance of SMMC to facilitate its advisory role.¹⁹

2.28 The JAMAG established five standing Working Groups covering planning, information sharing, public information, threat assessment and legal issues. Subsequently, a sixth Working Group, the Operational Response

¹⁹ The terms of reference for JAMAG, included in Appendix 1, have remained constant since its inception.

Working Group (ORWG), was established to deal with 'on-the-water' operational response issues and provide a forum for client liaison, including tasking and feedback.

2.29 These Working Groups are the primary working-level vehicle for inter-agency consultation on issues and the development of particular projects. Working Group terms of reference are reviewed annually but the structure has undergone only minor adjustments since 2006.

The Inter-Departmental Committee on Illegal, Unreported and Unregulated Fishing

2.30 DAFF is the portfolio Department for AFMA and AQIS. While AFMA is the agency responsible for enforcing the provisions of the *Fisheries Management Act 1991* and the *Torres Strait Fisheries Act 1984*, DAFF has overall responsibility for developing policy advice to ensure Australia's fisheries are competitive, profitable and sustainable. DAFF also provides policy advice on international fisheries agreements and related issues.²⁰

2.31 DAFF chairs the Inter-Departmental Committee (IDC) on Illegal, Unreported and Unregulated (IUU) Fishing. The Terms of Reference for this IDC shown at Appendix 1 are broad and cover 'all issues as they relate to illegal foreign fishing in the AFZ and the high seas.' In practice, however, the IDC on IUU Fishing does not exercise coordination responsibilities for the program against illegal foreign fishing. It focuses only on DAFF's key areas of responsibility, particularly for:

- coordinating and managing bilateral fisheries cooperation issues under the Australia-Indonesia Ministerial Forum and its sub-working group on marine affairs and fisheries;
- the cooperative activities with Indonesia under the Regional Plan of Action (RPOA) to Promote Responsible Fishing Practices and Combat IUU Fishing in the South East Asia Region; and
- supporting Ministerial and officials level liaison with the States and Territories concerned with illegal fishing in northern waters.

2.32 In light of this, the audit did not examine the activities of the IDC on IUU Fishing in detail. The ANAO notes that there is some potential for the IDC

²⁰ See DAFF website at: <<http://www.daff.gov.au/about/contactus/fisheries>> and <<http://www.daff.gov.au/fisheries/international>>.

on IUU Fishing to cross over with work undertaken by JAMAG and its Working Groups stemming from the IDC's role as a forum for resolving cross-agency fisheries policy issues. For example, on one occasion during 2008, the IDC created a high-level inter-agency review group led by DAFF to oversee downstream prosecution and repatriation processes for apprehended illegal fishers, with membership including Customs and Border Protection and BPC.

2.33 The relationship of this group to JAMAG, and its potential duplication of functions with JAMAG and its Working Groups, were the subject of JAMAG discussion at its meeting in August 2008. Subsequently, the prospect of duplication was avoided following DAFF's advice that the group had evolved into an informal forum to consider specific complex issues relating to detention and repatriation as required, with no set terms of reference.

2.34 That such duplication between these committees has not occurred more frequently indicates a sound understanding among the key agencies and the committees of their relative roles. This understanding is assisted by the fact that the IDC on IUU Fishing shares broadly common membership with SMMC and JAMAG and that, in accordance with a policy set down by SMMC early in its life, the IDC on IUU Fishing provides reports on its activities periodically to SMMC and to JAMAG.

Performance of the inter-agency committee framework

Leadership role of SMMC and PM&C

2.35 Consistent with its terms of reference, the SMMC played a direct role in overseeing the development of new capabilities and processes associated with the 2005 and 2006 initiatives against illegal foreign fishing in northern waters. For example, a summary prepared by BPC in August 2007 of the strategic documents it then had under development showed that five of the seven documents were for endorsement by SMMC. The other two were mission and operational guidance documents internal to BPC.

2.36 The SMMC was also active in resolving new policy and implementation issues as they arose. A large part of the policy coordination responsibility fell to PM&C as the Chair and Secretariat to the Committee. Eight of the nine action items from the inaugural meeting of SMMC were allocated to PM&C.

2.37 As well as submitting issues to SMMC as its superior committee, JAMAG has also referred policy coordination issues requiring resolution

directly to PM&C as a JAMAG member, with examples of this practice occurring into 2009.

2.38 A specific ongoing illustration of SMMC's leadership role in resolving whole of government issues was the arrangement for adjusting financial allocations in response to the actual number of apprehensions of FFVs. These allocations were made in the 2006–07 Budget on the basis that the target number for apprehensions would increase for 2006–07 and 2007–08 to 717 per year, and then continue at 650 per year for the following years. The agencies affected were those dealing with the on-shore processing of apprehended foreign fishers—Customs and Border Protection, AFMA, DIMA, CDPP and the Attorney-General's Department with respect to Legal Aid services.

2.39 In the first year of the program, advice was provided to SMMC as early as July 2006 indicating that the lead time needed to bring processing facilities and other new capabilities on line would mean that the target of 717 apprehensions for 2006–07 would not be achieved. At SMMC's direction, PM&C convened meetings of the relevant departments and agencies, including Customs and Border Protection, Treasury and the Department of Finance, in July 2006 and January 2007 to settle a revised forecast for 2006–07 of 400 apprehended vessels (later revised again to 250) and an agreement that savings would be returned to the Budget by the affected agencies.

2.40 SMMC not only continued to monitor and note variations in forecasts throughout its existence, but acted to determine and direct coordinated action to ensure consistent practice across affected agencies. For example, in September 2007, SMMC set out step-by-step arrangements under which Customs and Border Protection were firstly to advise JAMAG and then SMMC of its estimate of apprehensions for the financial year. SMMC directed that all departments and agencies which received funding in relation to illegal foreign fishing would use the agreed apprehension estimates to ensure a consistent approach to the development of Budget estimates.

2.41 The ANAO notes that, while Customs and Border Protection took the lead as directed by SMMC in settling apprehension estimates with DOFAD and advising that figure to other agencies via JAMAG, no arrangements were made for the subsequent coordination, confirmation or visibility across affected agencies for the return of unspent funds to the Budget. Those returns were negotiated separately by agencies.

2.42 The consistent attention given to the apprehension forecast issue by SMMC was partly a function of the potential public sensitivity of the original 2006–07 Budget forecasts not being achieved. The ANAO considers that it is also an indication of the degree to which SMMC and PM&C performed a leadership role to settle coordination issues, and were relied upon to do so by agency stakeholders. This reliance carries implications for program administration into the future, given the cessation of SMMC in March 2009.

Program coordination in the future

2.43 The first major change to the inter-agency coordination arrangements for the illegal foreign fishing program established in 2006 occurred early in 2009, following the establishment of the Homeland and Border Security Policy Coordination Group (HPCG). The HPCG was established as an advisory body to the Secretaries Committee on National Security, in response to a recommendation of the Homeland and Border Security Review conducted by Mr Ric Smith AO in 2008. The HPCG meets monthly, is chaired by the Deputy National Security Adviser and its membership comprises a smaller number of agencies than SMMC.

2.44 In light of the establishment of HPCG, SMMC agreed at its meeting in March 2009 to go into abeyance for 12 months. At the same time, SMMC set out the criteria for its formal disestablishment after the expiry of the 12 month period, these being that strategic civil maritime security priorities were being addressed adequately through HPCG, other mechanisms and whole of government engagement.

2.45 In managing the handover of SMMC work to HPCG, PM&C intends that continuity will be provided by HPCG dedicating a regular meeting to maritime security issues. Guidance from PM&C to maritime security agencies is that issues that would normally have gone to SMMC can be presented to HPCG, and that there are no formal restrictions on JAMAG's ability to refer maritime security issues to HPCG.

2.46 The first maritime security-themed meeting of HPCG occurred in July 2009 and it is too early to assess the success of the transition from SMMC to HPCG in the context of this audit. It is significant, however, for the future administration of the program that HPCG's focus differs from that of SMMC. The Terms of Reference for the HPCG make it clear that its approach to matters relating to homeland and border security is to identify and steer issues requiring *strategic* consideration, and that its direct guidance of policy implementation will apply to policies that may require extensive, unusual or

precedent-setting coordination between agencies. It is therefore probable that HPCG will not be as involved as SMMC was in the detail of civil maritime security policy generally, nor illegal foreign fishing issues specifically.

Conclusion

2.47 The inter-agency coordination framework for the program provided by SMMC and JAMAG has worked effectively in overseeing the development of key capabilities and addressing and resolving policy coordination issues as they have arisen.

2.48 ANAO examination of the records of the SMMC and JAMAG meetings shows that both committees have operated effectively. Meetings of both committees were held on schedule, were well attended at appropriate levels and were supported with agenda papers and with clear records of outcomes and action responsibilities provided by the secretariats. The progress of issues through the various stages of raising, referral and tasking, resolution and reporting was disciplined and transparent.

2.49 Moreover, key participating agencies have commented on the success of the committees in bringing agencies with differing responsibilities and perspectives to the same table and promoting both cooperation in dealing with issues and understanding of other agencies' interests and perspectives.

2.50 Given their past reliance on SMMC to provide leadership and direction for the whole of government program against illegal foreign fishing, the principal agencies in the program, including Customs and Border Protection, will need to adapt to the new governance arrangements represented by HPCG. This may involve them taking additional responsibility for addressing and resolving policy coordination issues that arise in the administration of the program. JAMAG and its subordinate Working Groups, together with the IDC on IUU Fishing, provide well-established inter-agency mechanisms to assist in this.

Coordination of surveillance and enforcement operations

2.51 This section examines the coordination of surveillance and enforcement operations against illegal foreign fishing in northern waters by BPC on behalf of its principal client agencies for this activity, AFMA and AQIS.

BPC's control of operational assets

2.52 BPC's lead role in detecting, reporting and responding to maritime threats in the AEEZ, including illegal foreign fishing, is clearly mandated by the Government and recognised by all client agencies. Its ability to perform that role was enhanced by the outcomes of the 2005 Review. In particular, the Government accepted the Review's recommendation that JOPC assume responsibility for the control and coordination of all operational responses to civil maritime security threats. Prior to this, Customs and Border Protection and the ADF held operational control of their respective surface response assets, meaning that JOPC had to request the allocation of those assets to respond to tasks and incidents.

2.53 In response to the 2005 Review's recommendation, the ADF moved in July 2006 to consolidate its border protection units into Operation RESOLUTE, and placed them under the operational control of the Commander BPC. These units normally consist of seven Royal Australian Navy (RAN) Armidale Class Patrol Boats (ACPBs), but the Commander BPC can request the assignment of an additional two ACPBs from the ADF to supplement his force to respond to a heightened operational threat or particular operational contingencies. The ADF also makes available major and minor fleet units to BPC on a similar basis.

2.54 BPC's access to Customs and Border Protection's vessels has been less complex than accessing ADF assets, given its position within Customs and Border Protection's organisational structure, and the fact that the Customs and Border Protection vessels within the NMU are under civil command. Historically, operations managers in BPC's predecessor Coastwatch would normally call on Customs and Border Protection first for a surface asset to respond to the sighting of a suspect vessel, and only request an asset from ADF when a Customs and Border Protection vessel was not able to assist.

2.55 Notwithstanding this closer relationship, the operational control of Customs and Border Protection vessels in the National Marine Unit was held by the Enforcement and Investigations Division of Customs and Border Protection. This arrangement carried the potential for situations to arise where the views of the Enforcement and Investigations Division on how to manage a vessel in an operational situation might conflict with those of BPC.

2.56 This potential conflict was removed following, firstly, the establishment within Customs and Border Protection of the Maritime Operations Support Division (MOSD) in February 2008 to manage 'raise, train and sustain'

functions in relation to the Customs vessel fleet, and secondly, the transfer of operational control of its Bay class patrol vessels to BPC in July 2008. The fundamentals of this 'raise, train and sustain' approach closely follows the ADF model.

2.57 As a result of these changes, the intent of the 2005 Review's recommendation has been realised, with BPC now exercising full operational control of contracted aircraft and Customs and Border Protection and ADF surface assets. The ANAO considers that these assets are being managed flexibly and as a whole—within their capability limitations—and therefore more effectively and efficiently than was possible under the previous siloed command and control arrangements.

Unifying BPC through Plan Forge

2.58 Some areas for improvement remain in the coordination within BPC of its civil and military assets. In assessing these areas, ANAO acknowledges there are practical limitations to the unification of a joint military and civilian command. For example, military assets and personnel cannot be commanded by a civilian in operations, so the chain of command for ADF assets assigned to BPC will always need to be a military one and utilise Defence systems to communicate with those assets. At present, that chain of command is provided through JTF 639 in HQNORCOM in Darwin, meaning that BPC is currently maintaining two 24-hour operations centres, one in Canberra and one in Darwin.

2.59 Customs and Border Protection is aware of the duplication and inefficiency represented by this situation. In 2008, it initiated the examination of options for optimally integrating command, control and administrative elements of the Defence and Customs and Border Protection contributions to BPC operations. This project is called Plan Forge. BPC engaged external consultants Noetic Solutions to evaluate options and propose an appropriate organisational structure and implementation plan.

2.60 The preferred course of action presented by the consultants' report in February 2009 was to disestablish JTF 639 in Darwin and collocate those military elements in an integrated BPC Headquarters in Canberra. The benefits of this course of action were identified by the consultants as including:

- reduced duplication, allowing greater staff effort to be directed to under-resourced functions;

- centralised planning, facilitating greater coordination and synchronisation of operational effects;
- simplified command and control by having all direct reporting relationships in the same location;
- reduction of duplication from two to one watch floors and intelligence centres, and the centralisation of administrative functions;
- concentration of staff in one location facilitating re-tasking of staff to deal with an operational surge; and
- a better foundation for developing a distinct BPC organisational culture.

2.61 The recommended course of action has been endorsed by the CEO of Customs and Border Protection and the CDF, and is awaiting Government consideration. Without prejudice to that consideration, the ANAO supports Customs and Border Protection's examination of options to promote the efficiency and effectiveness of BPC.

BPC's relationship with its client agencies

2.62 The whole of government nature of the program against illegal foreign fishing in Australia's northern waters requires Customs and Border Protection and BPC to cooperate closely with the agencies that have responsibilities for supporting the apprehension of illegal foreign fishers. The two main agencies in this respect are AFMA and AQIS.

Australian Fisheries Management Authority

2.63 AFMA has the responsibility for enforcing the provisions of the *Fisheries Management Act 1991* and the *Torres Strait Fisheries Act 1984*. It is a client agency of BPC and relies on BPC's surveillance program to detect foreign fishing vessel incursions into the AEEZ, and on the Customs and Border Protection and RAN surface assets controlled by BPC to interdict and apprehend those vessels.

2.64 As a client agency, AFMA submits ongoing, strategic and tactical tasking requests to BPC for the allocation of surveillance effort to meet its requirements. This tasking process is examined in Chapter 4.

2.65 Procedures for apprehending FFVs are set out in detail in the *Coastwatch Manual for Surveillance Units*. As the responsible agency, AFMA is advised of any sighting of an FFV within the AEEZ and decides whether to

request a response from BPC. Having received such a request from AFMA, BPC determines whether an asset is available to interdict the FFV. Once interdicted, the FFV is boarded and a report prepared—known as a FISHREP—requiring information to be assembled against a standard set of fields. That information represents a basis for the Commanding Officer of the responding Australian vessel to determine whether there are reasonable grounds for believing that an offence has been committed under fisheries legislation, and to make an appropriate recommendation for action. The FISHREP is communicated to the Australian Maritime Security Operations Centre (AMSOC) in BPC Headquarters and referred to AFMA for a decision to approve the apprehension.

2.66 Once an FFV is apprehended, AFMA has responsibility for investigating and preparing a brief of evidence for the offence to be prosecuted. An AFMA officer is on board for between 20 per cent and 30 per cent of patrols. In those cases, the AFMA officer also makes a recommendation in the FISHREP. If apprehension is approved by AFMA in Canberra, the AFMA officer on board becomes the lead investigator for the offence and commences the investigation while the vessel is returning to port.

2.67 If there is no AFMA officer embarked, the Customs and Border Protection or RAN officers on the Australian vessel complete standard evidence packs provided by AFMA and transfer these to AFMA on arrival in port. AFMA then continue the investigation and the preparation of a brief of evidence for the Commonwealth Director of Public Prosecutions.

2.68 The presence of an embarked AFMA officer on a BPC vessel is beneficial in terms of the expertise they bring to determining grounds for an offence and to FISHREP recommendations; the efficiencies available from commencing the investigation and assembling evidence while the vessel is en route to port; and the training and education they provide to Customs and Border Protection and RAN crews during a patrol. For these reasons, AFMA's desired aim is to deploy a fisheries officer on 40 per cent of northern waters patrols. Whether an AFMA officer is able to join a particular patrol depends on the tasking for that vessel and the availability of accommodation on board.

2.69 The ANAO considers that, notwithstanding the decline in FFV incursions and the increased priority for Suspect Irregular Entry Vessel (SIEV) taskings, it is important for training and education purposes, and for maintaining cooperative links, that Customs and Border Protection continue to facilitate opportunities for AFMA officers to embark on patrols.

2.70 The coordination of apprehension processes has been assisted by the component of the measure under 2006–07 Budget which funded the secondment of an AFMA officer to BPC. The seconded AFMA officer works in the AMSOC for 16 hours a day, seven days a week, with on-call arrangements in place for after hours contingencies. An AFMA officer therefore is directly available to BPC operations staff to make decisions about responding to sightings and approving apprehensions. This secondment has simplified lines of communication, enabling quicker decision-making and removing the potential for BPC to assume an AFMA decision without formally consulting AFMA. The ANAO notes that the permanent presence of an AFMA officer on the AMSOC operations floor has improved understanding of the respective roles and approaches of the two agencies.

2.71 AFMA officials interviewed by the ANAO commented positively on the move to give BPC operational control of all surface assets, as this maximises the availability of the full complement of surface assets to respond to AFMA tasking requests and requests to apprehend FFVs following a sighting.

2.72 AFMA advised the ANAO that it ‘strongly supports the BPC framework and the role of AFMA within it, and continues to share a positive relationship in the management of a whole of government approach to managing illegal foreign fishing.’²¹

Australian Quarantine and Inspection Service

2.73 The formal responsibilities of AQIS for protecting Australia’s biosecurity cease at the Territorial Sea Baseline, 12 nautical miles from the coast. While FFVs generally operate outside this limit, AQIS has a significant interest in FFV enforcement activity in terms of the bringing of apprehended FFVs and their crews to port and the potential for FFVs to land on the Australian coastline. The change in policy from 2005–06 to focus on apprehension, rather than civil forfeiture of catch and equipment and release of FFVs, increased the quarantine risk in the former category while decreasing it in the latter.

2.74 Apprehended FFVs are regularly destroyed by authorities at sea. FFVs which are sufficiently seaworthy to make their own way or to be towed may be brought into port after apprehension. Under international law, the owner or

²¹ AFMA letter to ANAO dated 7 September 2009.

master of the vessel has 30 days to make a claim for its return. AFMA have responsibility for holding the FFV during that period and for its subsequent destruction if no claim is made or settled in the claimant's favour.

2.75 For AQIS, all FFVs are considered a high risk. Compared with legitimate vessels entering Australian ports, the port of origin of an FFV and its other landfalls will usually be unknown, and it is highly unlikely to have been subject to any regular or accountable treatment for pests. AQIS estimates that some 60 per cent of 'Type IV' wooden-hulled FFVs would carry borers requiring specialist treatment. Accordingly, once there is an intention to bring an FFV into port, the boarding party is required to carry out a series of checks and treatments aimed at negating or minimising immediate quarantine risks, and to fill out and submit a FISHREP as soon as possible prior to arrival.

2.76 The inclusion of information on observable quarantine issues in the FISHREP helps AQIS determine the appropriate mooring point for an apprehended FFV. Once moored, the FFV comes under AFMA administration and AFMA and AQIS cooperate in arranging an initial quarantine inspection, appropriate quarantine treatments and the preparation of the vessel for destruction if necessary.

2.77 The 2006–07 Budget measures provided funding for an AQIS liaison officer position in BPC. The AQIS officer works two days per week in AMSOC and is also available at other times to facilitate the provision of advice on quarantine issues to BPC assets as required. Decisions on mooring points are taken by AQIS staff in the relevant regional office but the AQIS officer in Canberra assists in resolving any difficulties that may arise.

2.78 Initially, the focus of the AQIS officer's work in BPC was on developing arrangements for the management of numerous apprehended FFVs from a quarantine perspective. As these arrangements were bedded down and the number of apprehended FFVs has declined, the focus has moved more to an ongoing education role in maintaining BPC's awareness of quarantine issues, and representing quarantine interests in policy development processes.

2.79 AQIS considers its liaison role in BPC to have continuing value and the ANAO concurs. While FFV incursions have declined, the overall threat remains and its character is changing, with increasing numbers of larger 'Type IV' steel-hulled trawlers being sighted operating just outside of the AEEZ boundary. In quarantine terms, the larger the vessel, the more risks it potentially carries, for example, in its larger and more complex structure, the increased area of hull that can be contaminated with biofouling, its larger crew

numbers and its larger amount of potentially contaminated catch, food and water supplies. In a dynamic threat environment, it is beneficial for BPC to continue to have direct and ready access to AQIS advice.

Formal coordination arrangements with stakeholder agencies

2.80 As noted in paragraph 2.6, the apprehension strategy for illegal foreign fishing relies on a number of interdependent activities managed by different agencies. As well as its relationship with AFMA and AQIS described above, Customs and Border Protection also has responsibility for receiving, processing, and medically checking apprehended foreign fishers and, if they are received in a port away from Darwin, transporting them to the Department of Immigration and Citizenship's (DIAC's) Northern Immigration Detention Centre in Darwin.

2.81 These activities are underpinned by a Memorandum of Understanding (MOU) between Customs and Border Protection, DIAC, AFMA, and DAFF concerning *Revised Management Arrangements for Illegal Foreign Fishers Apprehended in Australia's Northern Waters*. The MOU, signed on 2 August 2006, contains annexes setting out specific arrangements between Customs and Border Protection and, respectively, AFMA and DIAC.

2.82 During its visit to the Northern Territory in March 2009, the audit team visited relevant sites, including Customs and Border Protection's temporary processing facility in Gove, the Northern Immigration Detention facility in Darwin and the boat destruction facilities in Gove and Darwin. The audit team also interviewed senior regional representatives of the MOU agencies about their responsibilities and their relationships with the other agencies. The ANAO is satisfied that the arrangements for managing apprehended foreign fishers are well understood by all agencies and are generally working well.

2.83 The ANAO notes that differences in agency interests arise on occasion, but this is not beyond what would be expected in any whole of government program. Importantly, coordination mechanisms have proved adequate to identify and resolve such issues.

2.84 AFMA, AQIS, DIAC and other stakeholder agencies are represented on the JAMAG and contribute to the work of its subordinate Working Groups. The ORWG in particular provides a forum for client agencies to provide advice on their requirements and feedback to BPC, and to discuss improvements to procedures. These are Canberra based forums.

2.85 In the regions, BPC holds regular meetings of client agencies, on a formal and informal basis. In Darwin, a Maritime Advisory Liaison Committee (MALC) meeting is held every two months and includes in its membership both Australian Government agencies and local agencies such as the Northern Territory Police. MALC's aims and objectives include:

- engaging clients at a local level to ensure the efficient information flow from client meetings held in BPC in Canberra;
- providing an update of BPC operational activity both nationally and specifically in the Northern Territory environment;
- giving local clients a better understanding of tasking requirements of BPC assets;
- providing clients with examples of products that could be provided by BPC, such as sightings data and imagery; and
- receiving briefings on member agencies' activities.²²

2.86 On Thursday Island in the Torres Strait, there is no formally convened meeting but local representatives of Australian Government agencies involved in border protection activities, including Customs and Border Protection, AFMA, AQIS, DIAC and DFAT, meet informally on a monthly basis.

2.87 In both Darwin and Thursday Island, the relatively small size of the government community means that there is regular personal contact between agency representatives. Bringing those agencies together on a regular basis for meetings is beneficial in supporting those relationships. The ANAO considers that BPC is well-placed to lead and facilitate regional level meetings to promote cooperation, awareness and common understanding of issues among stakeholder agencies.

Conclusion on overall program coordination

2.88 Overall, the ANAO found that the implementation and ongoing operation of the whole of government enforcement program against illegal foreign fishing in northern waters has been effectively coordinated by Customs and Border Protection.

²² Functions as stated in the record of the MALC meeting held in Darwin on 6 August 2008.

2.89 In relation to leadership responsibility for the whole of government program, the ANAO found that:

- Customs and Border Protection, primarily through BPC, is the lead agency for the coordination and delivery of enforcement operations against illegal foreign fishing in northern waters and has performed that role effectively;
- Customs and Border Protection was designated as the lead agency for reporting on program implementation to the CIU in 2006 and 2007 and also performed that role effectively; and
- there is no formal designation of any specific department or agency as the lead agency for continuing policy development and administrative coordination for the program as a whole.

2.90 In relation to the last point, high-level leadership responsibilities for the program were carried out by the SMMC during its life from May 2006 to March 2009, and by PM&C as the chair and secretariat of that Committee.

2.91 Given that there is no designated lead agency, the cessation of the SMMC meant that the program lost its leadership body. While efforts are being made to provide for continuity, the HPCG as the committee which replaced SMMC has a different, more strategic focus. Filling the leadership gap for the program may therefore entail the key agencies in the program, including Customs and Border Protection, taking more responsibility for its coordination. A failure to address the leadership gap risks the program losing direction and coherence, with a consequent loss of assurance that its various components remain the appropriate response to the threat from illegal foreign fishing.

2.92 Customs and Border Protection has performed and continues to perform a number of important leadership roles for the whole of government program, including:

- coordination of the submission to government which proposed the 2006–07 Budget measures;
- reporting to CIU on implementation of the program;
- ongoing operational coordination of the surveillance and enforcement effort through BPC;
- chairing JAMAG, a primary inter-agency coordination committee, and leading JAMAG's Working Groups; and

- coordinating the review of the lapsing program in the context of the 2010–11 Budget process.

2.93 It is therefore appropriate that Customs and Border Protection initiate with PM&C and its whole of government partners, including DAFF and AFMA, consideration of the issue of leadership arrangements for the future direction and delivery of the whole of government program.

Recommendation No.1

2.94 ANAO recommends that, in order to adapt to changed governance arrangements, Customs and Border Protection initiate consultations with appropriate whole of government partners to clarify:

- (a) the leadership arrangements that should apply to the future direction and delivery of the whole of government program against illegal foreign fishing in northern waters; and
- (b) the role and functions of the Joint Agencies Maritime Advisory Group in providing whole of government policy coordination for civil maritime security issues, including the Group's reporting responsibilities to the Homeland and Border Security Policy Coordination Group.

Customs and Border Protection response: *Agreed*

2.95 Customs and Border Protection will take the lead in working with whole of government partners to develop and implement revised governance and leadership arrangements for the future direction and delivery of the whole of government program.

3. Intelligence support for operations, policy development and planning

The chapter examines BPC's role and performance in providing intelligence to support the program against illegal foreign fishing in Australia's northern waters, including support for operations, policy development, risk assessment and longer-term planning and strategy development.

Border Protection Command's intelligence role

3.1 Customs and Border Protection uses intelligence to provide insights in support of the whole continuum of decision-making, including policy development, resource planning, future operational strategies and specific operational interventions.²³ Within Customs and Border Protection, the Intelligence and Targeting Division provides tactical, operational and strategic intelligence.

3.2 Each year, Customs and Border Protection identifies specific topics requiring an intelligence focus and allocates each topic one of three priority ratings. Illegal foreign fishing is listed as a Priority 1 topic in Customs and Border Protection's intelligence priorities for 2009. This level of priority is stated as requiring continuous or active collection effort and analytical support and frequent assessment and advice to clients.²⁴

3.3 The responsibility within Customs and Border Protection for producing intelligence on illegal foreign fishing is held by BPC. The Intelligence and Targeting Division has no involvement in providing intelligence support for this topic. BPC maintains its own intelligence capability, the Border Protection Command Intelligence Centre (BPCIC).

3.4 The BPCIC was established on 1 September 2006. It evolved from the Coastwatch Analysis Unit, which was established in 2000 as a result of a recommendation from the Prime Minister's Task Force on Coastal Surveillance. The function of that unit was to obtain and synthesise information from a number of sources in order to generate intelligence for use by Coastwatch planning and operational staff and by Coastwatch clients.

²³ Australian Customs and Border Protection Service *Intelligence Priorities 2009*, p. 3.

²⁴ *ibid.*, p. 4–6.

3.5 One of the initiatives announced in 2006 in response to the Review of Australia's Fisheries and Maritime Surveillance, Compliance and Enforcement Arrangements (the 2005 Review) was the enhancement of the Joint Offshore Protection Command's (JOPC, now BPC's) analytical capability to collate and fuse intelligence about threats.²⁵ JOPC received funding for additional analytical and operational staff to support this enhancement. The analysis share of this commitment comprised funding for the Director Intelligence position and three analysts dedicated to the development of the Australian Maritime Security Risk Assessment (AMSRA, which is discussed at paragraphs 3.46–3.48 and in Chapter 4).

3.6 The commitment envisaged BPCIC as Australia's central repository for information and intelligence relating to offshore maritime areas, focusing on the eight agreed maritime security threats, including illegal foreign fishing.

3.7 The specific roles of the BPCIC are to:

- produce comprehensive and timely maritime security threat intelligence to inform and shape the planning and conduct of BPC maritime surveillance and response operations;
- serve as a clearing house/repository for all civil maritime security related intelligence; and
- produce maritime security threat intelligence reports and assessments to inform BPC, Defence, other government agencies and government.

3.8 An important qualifier placed by Customs and Border Protection on these roles is that the focus of the BPCIC's 'central repository' is on relevant information and intelligence to shape and inform BPC's surveillance and response operations only.

3.9 The BPCIC function is carried out in two locations—BPCIC-Canberra in BPC Headquarters, and BPCIC-Darwin in Headquarters Northern Command (HQNORCOM). BPCIC-Darwin is staffed by ADF personnel. Subject matter responsibilities are divided between the two locations.

²⁵ BPC website at <<http://www.bpc.gov.au/site/page.cfm?u=5797>> [accessed 14 January 2009].

3.10 With respect to the analysis and production of intelligence on the designated maritime security threats, BPCIC-Canberra has responsibility within BPC for:

- maritime terrorism;
- illegal foreign fishing in the Southern Ocean;
- prohibited imports and exports;
- piracy, robbery and violence at sea; and
- other maritime threats, including illegal activity in protected areas, bio-security and marine pollution.

3.11 BPCIC-Darwin is responsible within BPC for the analysis and production of intelligence concerning illegal foreign fishing in northern waters. Responsibility for unauthorised maritime arrivals was transferred from BPCIC-Darwin to BPCIC-Canberra during the first quarter of 2009.

BPCIC priorities

3.12 The BPCIC priority of effort endorsed by the Commander BPC is:

- (a) the production of tactical and operational intelligence to support the conduct of BPC surveillance and response operations in the Australian Maritime Domain;
- (b) as part of a BPC-coordinated, whole of government approach to maritime security in the Australian Maritime Domain, produce in its own right, and coordinate the efforts of other Government agencies in the production of longer-term threat assessments concerning each maritime security threat to inform whole of government policy and planning (including risk mitigation) considerations; and
- (c) to develop the necessary mechanisms to coordinate the exchange of intelligence products with appropriate maritime security agencies in regional countries to assist in developing their border and maritime security capabilities and facilitate coordinated surveillance and response activity.

3.13 As the third of these priorities relates more to international liaison and cooperation rather than intelligence production, it has not been examined in this audit.

Intelligence Requirements

3.14 In the intelligence cycle, intelligence requirements define the key questions decision-makers require answers to, and set out the information required to be collected and analysed in order to answer those questions. The Commander BPC sets priority intelligence requirements for each of the eight maritime security threat categories. For the illegal exploitation of natural resources category, the requirement is to understand the nature of the threat posed by illegal foreign fishing and the measures that may be taken to detect, classify, intercept and apprehend FFVs suspected of illegal fishing in the AEEZ.

Intelligence support for operations

3.15 As noted in paragraph 3.12, the highest priority in BPC's intelligence effort is servicing, through the production of timely tactical and operational intelligence, its own requirement for the optimal direction of its surveillance and response assets.

3.16 The BPCIC services this requirement through a range of regular operationally-focused intelligence products, including:

- a daily intelligence brief for operations staff in HQNORCOM;
- current intelligence briefs—short documents that capture the key points deriving from particular incidents;
- a weekly intelligence summary, which captures operational outcomes and any current intelligence briefs for the week;
- a weekly predictive brief, looking forward from one month ahead to several months ahead;
- an intelligence brief to the weekly 'Synch' meeting, reviewing the previous week's activities and recommending key focal areas for surveillance; and
- an intelligence brief to the quarterly Operations Planning Group (OPG) meeting analysing the operating environment for the forward period under planning consideration.

3.17 The BPCIC also provides intelligence briefings on an 'as required' basis, drawing on material from its intelligence products. Such briefings are presented to the regular meetings of the ORWG and the JAMAG. At a more operational level, BPCIC provides an intelligence briefing (called an 'in-chop'

briefing) to the command teams of patrol vessels prior to their deployment, combining relevant intelligence from the weekly intelligence summary and the weekly predictive brief.

Support for operational planning

3.18 Intelligence input to operational planning on illegal foreign fishing identifies geographic focal areas for BPC's surveillance and enforcement operations. This intelligence advice does not generally apply to individual FFVs but focuses on illegal foreign fishing as an activity likely to occur in a particular area, usually carried out by multiple FFVs. This advice is based on a variety of surveillance-derived data; information from other agencies; a detailed accumulated knowledge within BPCIC of patterns of illegal fishing activity; and the influence on fishing activity of variables such as weather, the behaviour of targeted species, and fuel price and availability.

3.19 Intelligence advice on focal areas is provided to the quarterly OPG meetings and continues to feed into the planning process through to the weekly 'Synch' meetings and daily video conferences between BPC Headquarters in Canberra and HQNORCOM.

3.20 These formal planning processes are supported by continuous interactions between BPCIC staff and BPC operations staff within AMSOC as operations are managed, new intelligence becomes available and FFV sightings data is received.

Client feedback on intelligence

3.21 Actual FFV activity and operational highlights for the previous time period are reviewed with BPCIC staff at the weekly 'Synch' meeting and the monthly Planning Advisory Working Group (PAWG) meeting.

3.22 The interaction between BPCIC staff, operations staff within AMSOC and the seconded AFMA officer within AMSOC provides a continuous informal feedback loop on the appropriateness of the identified focal areas and facilitates an ongoing conversation about the desirable location of BPC assets.

3.23 BPCIC does not include a feedback form with its products. This is because approximately 90 per cent of BPCIC's products are produced to support internal BPC operations, and BPC considers that opportunities for direct feedback orally or via email from those operations areas are sufficient.

3.24 In terms of feedback from external recipients of BPCIC products, the onus is on those recipients to communicate such feedback in writing or orally at multi-agency meetings. The ANAO considers that it is unsafe to assume that the lack of such feedback represents client satisfaction. It could equally be a sign of client indifference, or of dissatisfaction at a level insufficient to generate formal comment.

3.25 To ensure that there is a documentary evidence base for assessing client satisfaction, the ANAO suggests that BPC review the existing feedback processes for BPCIC intelligence products and examine options for applying a systematic process to periodically gathering and analysing feedback on the quality and usefulness of those products from internal and external clients.

BPCIC is improving its intelligence support for operations

3.26 Some areas for improvement in its operational intelligence service have been identified by BPC and are in the process of being addressed. For example, operational intelligence which draws on information from the same operational clients who are being serviced is vulnerable to a closed-loop effect, where the intelligence product does no more than report back to the client in another form the same information received from them.

3.27 This vulnerability is being addressed by BPCIC management's intention to enhance the analytical content of BPCIC's operational intelligence products, including by offering judgements on the significance of and outlook for the activity being reported upon, and the context and reasons for those judgements. Continuation of efforts to add analytical value to the BPCIC's operational intelligence products is appropriate.

Effect of the geographic division of BPCIC between Darwin and Canberra

3.28 The location of BPCIC's illegal foreign fishing intelligence team in Darwin benefits BPCIC's operational intelligence output because it:

- places the intelligence team close to the geographic area of surveillance and response operations;
- facilitates direct interaction with operational units and with the local offices of agencies such as AFMA; and
- enables the participation of BPCIC staff in relevant activities such as interviews conducted by AFMA of apprehended illegal foreign fishers.

3.29 However, the geographic division between BPCIC in Canberra and HQNORCOM in Darwin, and the staffing of the Darwin component by ADF personnel, also poses challenges for BPCIC.

3.30 The physical separation has been reflected in the designation of intelligence products and contact points as either BPCIC-Canberra or BPCIC-Darwin, which can foster perceptions that BPCIC is a divided rather than a unified entity.

3.31 The location of the BPCIC's northern waters illegal foreign fishing intelligence team in HQNORCOM, and its staffing by ADF personnel, has the effect of aligning that team with its Defence parent, both through operating practices and relationships.

3.32 A relevant example of operating practice in this context is the preparation of the weekly intelligence summary in defence message format required for transmission to ADF units over the Defence Secure Network. While this format is accessible to and understood by ADF elements, the weekly summaries were required to be reformatted in BPCIC-Canberra for distribution to non-Defence clients, which represented a duplication of effort. While all reporting is now disseminated centrally through an intelligence collections and requirements cell in BPCIC-Canberra, the requirement to duplicate formatting for specific messaging systems remains.

3.33 Furthermore, the Defence Secure Network routinely carries a national security classification, which can inhibit dissemination of material to agencies that do not have the capacity to receive national security classified information electronically.

3.34 In terms of relationships, BPCIC-Darwin provides intelligence directly to Headquarters Joint Operations Command (HQJOC) in Defence Canberra via the Defence Secure Network to assist in its planning and capability development. This direct reporting relationship to HQJOC is not conducted through BPC Headquarters. Any potential for BPCIC-Darwin to be tasked independently of BPC by the ADF would be an issue of concern. However, the ANAO was advised that any tasking by HQJOC outside the context of Operation RESOLUTE would not be directed to BPCIC-Darwin. Nevertheless, a by-product of the direct reporting relationship to HQJOC is the promotion of a distinct Defence identity in the Darwin-based element of BPCIC.

3.35 Progress towards unifying BPCIC in one location was made early in 2009 when the intelligence team responsible for unauthorised maritime arrivals, which was previously based in Darwin, was moved to Canberra as part of the implementation of Customs and Border Protection's new lead role in coordinating action against people smuggling, announced in the Prime Minister's National Security Statement on 4 December 2008.

3.36 The proposed move of the remaining BPCIC elements in Darwin to BPC Headquarters in Canberra under Plan Forge will assist in addressing any perceptions that BPCIC is a divided entity. In advance of this move, the BPCIC Director of Intelligence took steps early in 2009 to remove the separate badging of BPCIC products as either Darwin or Canberra.

Conclusion

3.37 The ANAO considers that BPCIC is effective in meeting its highest stated intelligence priority of servicing the operational planning requirements of BPC, noting the suggestion above for a review of feedback processes, the desirability of continuing the progress towards improving the analytical content of operational intelligence products, and towards unifying BPCIC in BPC Headquarters in Canberra through the implementation of Plan Forge.

Intelligence support for policy development

3.38 As set out in paragraph 3.12, the second highest priority in BPC's intelligence effort is, as part of the whole of government approach to maritime security, producing in its own right and coordinating the efforts of other government agencies in the production of longer-term threat assessments concerning each maritime security threat to inform whole of government policy and planning (including risk mitigation) considerations.

3.39 BPCIC's formal intelligence products to support policy development and longer-term planning comprise:

- intelligence notes, which are papers on maritime security threats of topical interest produced on an ad hoc basis; and
- intelligence estimates, which are major summary and outlook documents.

3.40 As noted at the commencement of this chapter, Customs and Border Protection requires from its intelligence capability insights that can support policy development and future operational strategies. In the context of BPC's

intelligence priorities, intelligence support for policy and longer-term planning by BPCIC is a lower priority than support for operational planning.

3.41 Any organisational arrangement has its positives and negatives, and this is particularly so for national organisations with central and regional elements. In the case of BPC, the location of BPCIC's illegal foreign fishing intelligence team in Darwin benefits BPCIC's support for operations but is not ideal for supporting BPCIC's contribution to policy development.

3.42 The program to combat illegal foreign fishing in northern waters is a whole of government program with a high policy profile and a structure of Canberra-based policy coordination committees involving senior representatives of a number of agencies. The Darwin location of the BPCIC illegal foreign fishing team means that it is remote from this policy coordination and development activity. Some standing meetings are able to be serviced by video link with intelligence staff in Darwin, and BPC also flies Darwin staff to Canberra for key meetings. On occasion, BPCIC has up to two staff in Canberra meeting policy demands for information and intelligence on illegal foreign fishing in northern waters.

3.43 In addition to these administrative issues, the ANAO sighted evidence which indicates that BPCIC-Darwin does not always fully understand the Canberra policy environment and its requirements. For example, late in 2008, BPCIC-Darwin prepared for JAMAG consideration a proposal to change the naming conventions of FFVs. While BPCIC-Darwin consulted and gained the support of Darwin-based stakeholders, it did not ensure that the head offices of those agencies in Canberra were similarly in agreement, nor did it explore the significant implications and flow-on effects of such a change on surveillance reporting procedures for surveillance contractors and stakeholder agencies. As a result, the proposal was not endorsed by JAMAG and was withdrawn pending further examination of its implications.

3.44 The move to Canberra under Plan Forge of the BPCIC intelligence team responsible for illegal foreign fishing will enable the team to interact more closely with, and better understand the requirements of, higher level policy coordination and development processes. This has the potential to improve the policy relevance of BPCIC's intelligence product and the ability of Customs and Border Protection to utilize BPC intelligence in its contribution to the whole of government program against illegal foreign fishing.

Intelligence support for risk assessment

3.45 The objective of BPC's maritime domain awareness activities is stated in its Concept of Operations as identifying security threats, assessing their likelihood of occurring and estimating their potential consequences. The Concept of Operations further states that BPCIC coordinates the whole of government efforts to conduct all-source analysis of security threats and the effectiveness of Australian Government efforts to mitigate the risks posed by those threats.

3.46 A proportion of BPCIC's intelligence assessment efforts are firmly linked to the risk management concepts of likelihood, consequence and risk mitigation through the annual threat assessments and quarterly reviews it produces to support the preparation of the Australian Maritime Security Risk Assessment (AMSRA).²⁶ BPCIC managed the AMSRA process and chaired the Threat and Risk Assessment Working Group (TARAWG) and its component writing groups for each threat category. This is a Canberra-based activity which draws on information from within BPCIC and relevant stakeholder agencies.

3.47 The ANAO recognises the appropriateness of risk assessment and management as a central concept for the effective and efficient management of maritime security threats. However, the ANAO notes that the involvement of BPCIC staff in managing AMSRA detracts from its capacity to support BPC's policy development and planning needs beyond the risk management context. In particular, while the skill set of intelligence staff is relevant to the first two steps of the six-step process for developing the AMSRA—reviewing the strategic context and identifying and assessing the security threats—they are not essential for the remaining steps in the process. The process management function that BPCIC performed in relation to AMSRA is not core business for an intelligence centre and is a function that could be undertaken as effectively by another area of BPC, freeing BPCIC staff to focus on intelligence tasks.

3.48 During the course of the audit, BPC responded to the ANAO's observation in this respect by transferring responsibility for managing the AMSRA process from BPCIC to its Operations Planning section, restricting BPCIC's involvement appropriately to the threat assessment steps of the process.

²⁶ The AMSRA process is described and examined in detail in Chapter 4.

Intelligence support for longer-term planning and strategy development

Understanding the illegal foreign fishing threat in northern waters

3.49 The expected outcome from the whole of government program to combat illegal foreign fishing announced in the 2006–07 Budget, with its emphasis on enhanced enforcement, was to double apprehensions of illegal foreign fishing vessels to 717 in the first two years of the four-year program, and 650 per annum for the final two years.

3.50 No specific intelligence-based assessment was obtained or used to generate this target in the development of proposals for the 2006–07 Budget. Rather, agencies were requested to submit measures to support options involving a nominated number of apprehensions. Against the background of a world-wide trend of increased illegal fishing, the general assumption underpinning the nominated apprehension target was that illegal fishing incursions in Australia's northern waters were numerous and increasing, that demand for fish was unlimited and that the potential to supply that demand illegally was also unlimited. Accordingly, it was reasonably believed by some agencies that, against those constants, an enhanced enforcement effort would produce a commensurate increase in apprehensions.

3.51 In fact, as has been noted earlier in this Report, the original apprehension targets have never been approached. In itself this does not invalidate the underlying assumptions, particularly when the relative contributions to the outcome of all components of the whole of government program cannot be accurately determined. While Customs and Border Protection and AFMA share the view that the strategy focussing on the apprehension and destruction of illegal FFVs has proved an effective deterrent, by causing financial loss and reducing the profitability of the illegal activity, they acknowledge that education and outreach programs in Indonesia have also contributed. What was unexpected was the immediate impact of the program and its extent, which has seen FFVs retreat from the AEEZ and a substantial reduction in apprehensions, from 367 in 2005–06 to 27 in 2008–09.

3.52 This unexpected outcome indicates that the drivers of illegal foreign fishing in northern waters were not well understood by Australian agencies at the time the program was initiated in 2006. Three years on, considerably more is known by BPCIC, AFMA and other agencies about the make-up and extent of foreign fishing activity, and how this has changed over time.

3.53 Particular features include the presence of a greater proportion of larger foreign-flagged steel-hulled trawlers operating above the AEEZ boundary in contrast to the traditional preponderance of Indonesian wooden-hulled 'shark boats', and the presence of large 'mother ships' with the capacity to service multiple FFVs.

3.54 The nature of the threat from illegal foreign fishing in northern waters, and its potential future impact, has therefore changed. BPCIC has assessed as likely that the foreign fishing activity concentrated north of the AEEZ boundary in the Arafura Sea will over-exploit the fish stocks in that location in due course and that foreign fishers will need to move their operations elsewhere when their catch is no longer commercially viable. The direction of their next move is a key question. The over exploitation of waters north of the AEEZ is also assessed by BPCIC as likely to have a negative impact on the livelihood of smaller Indonesian fishers.

3.55 Understanding the forces driving illegal foreign fishing in northern waters therefore continues to be important in assessing future threats—which could involve a resumption of incursions into the AEEZ—and supporting planning and strategy development to meet them.

Has BPCIC a role in strategically assessing and forecasting the future threat?

3.56 Noting the importance of understanding the forces driving illegal foreign fishing in northern waters for assessing the future threat from this activity, this section examines the role of BPCIC in contributing to improved strategic understanding of the issue.

Strategic forecasting for the whole of government program

3.57 Customs and Border Protection's *Strategic Intelligence Guide*, published in 2007, defines strategic intelligence as being concerned with the 'big picture' and generally dealing with forecasting future threats, capabilities, vulnerabilities and opportunities for Customs and Border Protection.

3.58 As outlined in paragraph 3.12, the second highest priority for BPCIC, endorsed by the then BPC Commander in February 2008, refers to 'the production of longer-term threat assessments concerning each maritime security threat to inform whole of government policy and planning (including risk mitigation) considerations.'

3.59 While this statement clearly covers the threat assessments produced by BPCIC to support the AMSRA process, to which the additional funding for analytical resources received in the 2006–07 Budget was directed, the extent to which it supports BPCIC involvement in strategic intelligence work as defined in the *Strategic Intelligence Guide* is not clear.

3.60 Customs and Border Protection advised the ANAO that ‘the BPCIC does not have a role, and is not resourced, to provide or coordinate whole of government efforts in developing strategic intelligence assessments concerning maritime security threats.’²⁷ While accepting that there are constraints on the strategic contribution that Customs and Border Protection is able to make, it is the case that BPCIC possesses a range of intelligence capabilities and analytical expertise which is useful for longer-term operational planning products such as intelligence estimates and intelligence notes and AMSRA threat assessments. This means that, among the agencies involved in the whole of government program, BPC is well-placed to make a valuable contribution to the analysis and understanding of longer-term trends in illegal foreign fishing activity.

3.61 However, the ANAO notes in this context that the potential contribution of BPCIC’s intelligence capabilities to understanding longer-term trends is inhibited by the fact that no BPCIC intelligence product has a forecast horizon beyond one-year ahead.

3.62 For example, BPCIC’s annual assessment of illegal foreign fishing issued in April 2008 covers the 2008–09 financial year. While the assessment contains some early warning of potential developments, that outlook is limited both by the time horizon of the assessment product and by its basis in observed existing activity and known historical trends.

3.63 Credible longer-term forecasting of trends and emerging threats requires a broader analytical base than simple extrapolations from past and present experience, and needs to incorporate an understanding of the forces driving a particular activity. Limiting the forecast horizon on assessment products to one year ahead means that such an understanding is not currently attempted within BPCIC. The ANAO suggests that Customs and Border Protection give consideration to extending the time horizon for relevant BPCIC intelligence products to more than one year ahead.

²⁷ Customs and Border Protection letter to ANAO dated 7 October 2009.

3.64 There is also room for BPCIC to continue the steps referred to in paragraph 3.27 to improve the analytical quality of its intelligence products to increase their value to external clients and stakeholders as well as to BPCIC's internal clients.

Lack of an inter-agency forum on fisheries intelligence

3.65 As BPC's primary client agency for illegal foreign fishing, AFMA has specialist knowledge of the fisheries environment and access to unique information from its investigations, including the product from interviews with apprehended fishers. This product is distributed to BPCIC.

3.66 AFMA commented to the ANAO that it had expected, following on from the 2006 Government initiative referred to in paragraph 3.5 and 3.6, that BPCIC would take a leading role in coordinating intelligence analysis of illegal foreign fishing. AFMA further commented that this expectation has not been fulfilled. Against this background, AFMA moved early in 2009 to establish its own Intelligence Collection and Management Plan with the stated aim of supporting the whole of government approach to combating illegal fishing in the AEEZ. The Plan provides for the establishment of a formal Information Report system as a step towards AFMA analysing and synthesising its product for other agencies.

3.67 ANAO notes that there is no regular meeting of relevant staff from BPC, AFMA, DAFF and other interested agencies to discuss the developing intelligence picture in relation to illegal foreign fishing and the current and planned intelligence activities of each agency. In this respect, the kind of inter-agency arrangements described in Chapter 2, which have been effective in coordinating the administration of the whole of government program against illegal foreign fishing, do not exist for intelligence activities and relationships relevant to the program.

3.68 In view of this, and the fact that there is room for a clearer understanding among agencies of the nature and extent of BPCIC's intelligence responsibilities, the ANAO suggests that there would be benefit in Customs and Border Protection establishing such a forum.²⁸

²⁸ The existing TARAWG forum under JAMAG does not fill this gap.

Strategic forecasting for long-term capability planning

3.69 The Chief Executive Officer of Customs and Border Protection has stated that it is imperative for his agency to take time to reflect on the future and position itself as best it can to meet the challenges and to take the opportunities the future presents.²⁹ Customs and Border Protection addresses that imperative by producing its *Strategic Outlook 2015*—a review of the global drivers of change over that period and the broad implications for border management.

3.70 The *Strategic Outlook 2015* does not cover the activities of BPC, but notes that the requirement has been met by BPC developing its own Future Operating Concept (FOC) looking out to 2015.

3.71 The purpose of the FOC is to present a vision for BPC in 2015 and beyond. More specifically, it aims to:

- assist in the formulation of policy guidance and capability development by Customs and Border Protection and Defence, particularly through a formal Offshore Maritime Capability Plan;
- inform discussions around organisational and command processes and structures; and
- provide development pathways to improve the operational performance of BPC.

3.72 The FOC assesses the likely strategic challenges that Customs and Border Protection, Defence and other agencies can expect to face in the maritime security domain to 2015, and describes each of the primary capability components that BPC must continue to evolve to meet Government needs in a complex strategic environment.

3.73 BPCIC's Intelligence Support Plan directs that BPCIC facilitate the provision of intelligence support to a range of activities, one of which is the development of future operating concepts. However, there are limitations in the ability of BPCIC intelligence products, with their focus on current operational intelligence and a one-year-ahead time horizon at most, to appropriately support the FOC's outlook to 2015.

²⁹ Address by Customs and Border Protection CEO Mr Michael Carmody AO to the National Conference of the Customs Brokers and Forwarders Council of Australia on 13 September 2008, see <<http://www.customs.gov.au>>.

3.74 The FOC document itself observes that, as at January 2008, the BPCIC had not evolved much beyond the Coastwatch period and had little capacity to assess future threats. It also found that BPC intelligence processes were often reactive and not driving the planning cycle. The authors of the FOC therefore drew primarily on strategic assessment products derived from other agencies.

3.75 While such externally sourced products are relevant to BPC's operating environment at the highest level of strategic drivers, they become less so as the implications of those drivers for BPC are assessed and BPC's specific capability needs to meet particular threats within its environment are examined. For those purposes, it is desirable that Customs and Border Protection be able to draw on its own longer-term intelligence and assessment products to inform the FOC and the Offshore Maritime Capability Plan which derives from it.

Conclusion

3.76 The highest priority for BPC's intelligence activities is to support the optimal direction of its surveillance and response assets. Some 90 per cent of BPCIC intelligence products are directed to this priority and are effective in supporting BPC surveillance and response operations. However, as set out in Customs and Border Protection's Intelligence Priorities document, intelligence insights are necessary to support a range of organisational decision-making, including policy development, resource planning and future operational strategies.

3.77 Outside the support provided through threat assessments for the specific risk management context of the AMSRA, intelligence support for policy development and longer-term operational planning and strategy development is under-developed within BPC in comparison to intelligence support for operations. Given that BPCIC carries sole responsibility within Customs and Border Protection for intelligence in relation to illegal foreign fishing, this inhibits Customs and Border Protection's ability to:

- contribute to the whole of government understanding of future trends and threats in illegal foreign fishing activity;
- play a stronger role in the development of policy options to meet emerging illegal foreign fishing trends and threats; and
- define and plan for its long-term capability development needs through major internal strategic planning processes, including documents such as the FOC and the Offshore Maritime Capability Plan.

3.78 The ANAO considers that there is room for Customs and Border Protection to enhance BPCIC's intelligence services to improve support for policy development and longer-term forecasting. The proposed unification of BPC and BPCIC in Canberra under Plan Forge will benefit BPCIC's efficiency and its interaction with policy development processes. Existing BPCIC products with a longer-term focus, such as threat assessments, intelligence estimates and intelligence notes, provide a sound basis for further developing BPCIC's longer-term forecasting capacity. That capacity would be assisted if Customs and Border Protection gave consideration to extending the time horizon for relevant BPCIC intelligence products to more than one year ahead.

Recommendation No.2

3.79 The ANAO recommends that, in order to improve the understanding of the illegal foreign fishing threat within the whole of government program, and improve planning to address that and other threats in the maritime domain, Customs and Border Protection review the capacity of BPC's intelligence services to support the longer-term forecasting of trends in illegal foreign fishing, and to support its requirements for policy development and longer-term operational and capability planning.

Customs and Border Protection response: *Agreed*

3.80 Customs and Border Protection will review the capacity of Border Protection Command's intelligence services to extend the time horizon for its intelligence products to improve longer-term forecasting.

4. Planning, prioritisation and administration of operations

This chapter examines the planning process supporting the effective delivery of surveillance and enforcement operations against illegal foreign fishing in northern waters, including the risk assessment tools used by BPC to support the allocation of its resources, and how competing priorities are managed. The chapter also examines administrative issues relating to the delivery of operations by BPC.

The operations planning process

4.1 The Commander BPC's Statement of Intent states that his overall intent for both the aerial and surface assets available to BPC is, within the constraints, limitations and capabilities of available assets, to provide a flexible and coordinated surveillance and response program that best mitigates the extant maritime security threats, including illegal foreign fishing.³⁰

4.2 Surveillance assets available to Border Protection Command (BPC) comprise:

- 10 DASH 8 and two Reims F406³¹ fixed-wing aircraft provided under contract by Surveillance Australia Pty Ltd (SAPL);
- two rotary-wing aircraft provided under contract by Australian Helicopters Pty Ltd and one rotary-wing aircraft provided under contract by Helicopters Australia Pty Ltd;
- one assigned Royal Australian Air Force (RAAF) Orion AP-3C fixed-wing aircraft, with up to two additional P3's able to be requested by Commander BPC; and
- Dornier fixed-wing aircraft operated by the Australian Maritime Safety Authority (AMSA) and used by BPC by agreement on a fee-for-service basis.

³⁰ Border Protection Command plans and delivers operations against illegal foreign fishing within the context of eight recognised maritime threats. As a consequence, this Chapter considers the prioritisation process applying to that broader civil maritime context, rather than only the prioritisation of foreign fishing related requests.

³¹ Additional funding to provide for the REIMS aircraft was announced in the 2009–10 Budget.

4.3 Response assets available to BPC comprise:

- eight Customs and Border Protection Bay class patrol vessels (ACV);
- one Customs and Border Protection contracted northern patrol vessel (*ACV Triton*);
- one Customs contracted southern ocean patrol vessel (*Oceanic Viking*);³²
- one Customs contracted vessel (*MV Ashmore Guardian*);
- seven RAN Armidale Class Patrol Boats (ACPBs), with up to two additional ACPBs able to be requested by Commander BPC; and
- additional ADF assets as required and assigned.

4.4 In order to achieve the optimal usage of these assets to meet the Commander's Statement of Intent, and to ensure that the asset providers are aware of its requirements with sufficient notice to service them, BPC maintains a structured operations planning process.

4.5 Central to this process is a Civil Maritime Surveillance and Response Plan (CMSRP). The Director of Operations Planning in BPC describes the CMSRP as 'what we intend to do with boats and planes each day of the coming quarterly period.'³³ The development of a new CMSRP commences three months in advance of operations at the quarterly meeting of the Operations Planning Group (OPG). The OPG is designated as the prime planning forum for BPC and brings together planning, operations, client liaison, intelligence and contract management staff from BPC with representatives of Customs and Border Protection and the ADF as the surface asset providers.

4.6 At its meetings, OPG applies a number of high-level requirements to broadly shape the three-month operations program. Those inputs include:

- the BPC Commander's Statement of Intent, framed with reference to risk levels assessed for the eight identified maritime security threats in the AMSRA;
- an intelligence analysis of the operating environment looking up to six months ahead;

³² While primarily contracted for Southern Ocean patrols, the 2009–10 Budget funded 80 patrol days per year for two years by the *Oceanic Viking* in northern waters.

³³ Email to ANAO from Director of Operations Planning, BPC dated 29 June 2009.

- geographic area risk assessment scores derived from the Common Risk Assessment Methodology (CRAM) tool;
- client agency taskings;
- operational support requirements; and
- asset availability and capability limitations.

4.7 The outcomes of the OPG meeting constitute the first cut of the CMSRP and become the basis for the preparation of, for surface assets, detailed Long Term Sailing Plans and assigned ADF vessel programs, and, for air assets, Quarterly Indicative Demand Plans and Monthly Deployment Plans, which are provided to the aerial surveillance contractors for guidance and feedback. The content of these plans is ultimately translated into individual Mission Briefs for air assets and Patrol Briefs for surface assets.

4.8 The Operations Planning section hands over responsibility for the control of air assets to the AMSOC 48 hours before a mission, and control of surface assets at the commencement of a patrol.

4.9 Subsequent to the OPG meeting, plans are regularly reviewed for concurrence with the latest information on priorities, threats and conditions in the operational environment, and fine-tuned accordingly. This occurs monthly, at Planning Advisory Working Group (PAWG) meetings; weekly, at the Coordination (or 'Synch') meetings; and daily, through video conferencing between AMSOC and HQNORCOM in Darwin. As part of this fine-tuning process, planners also take into account any practical limitations on asset availability and their expert knowledge of the operating environment, including established patterns of activity.

4.10 BPC policy is clear that all planning effort is subject to change to suit operational requirements on a daily basis. As the planning horizon shortens, plans are more able to be influenced by specific intelligence advice, event contingencies and immediate Government priorities.

Risk assessment processes

4.11 This section examines the two risk assessment processes—CRAM and AMSRA—used by BPC, and how effectively these processes are performing in providing a risk-based approach to the planning and delivery of BPC operations.

4.12 The assessment and management of risk is a key guiding principle for BPC. The Commander BPC is subject to a Joint Directive from the CEO of Customs and Border Protection and the Chief of Defence Force (CDF). The first Joint Directive was issued on 31 January 2005. An updated draft Directive under consideration at the time of the audit states that BPC is to coordinate periodic multi-agency risk assessment of the security threats to enable efficient and effective employment of available assets, and to identify asset deficiencies where the residual risk is unacceptably high.

4.13 Consistent with this, the Commander BPC's Statement of Vision and Intent³⁴ states that, in order to achieve the best possible maritime security outcomes, it is imperative that BPC Headquarters be positioned to make good risk-based decisions. The BPC Fact Sheet on illegal foreign fishing states that the management of illegal foreign fishing is based on a risk assessment process ensuring that resources are allocated appropriately, and that resources are concentrated in those areas and on those incidents that represent the highest risk to maritime security.³⁵

Common Risk Assessment Methodology (CRAM)

4.14 The ANAO previously noted that, as the then Coastwatch organisation had a limited number of assets to cover a large coastal and offshore maritime area, the use of a risk management methodology to classify and rank operational objectives, and therefore determine optimal use of assets, was integral to effective service delivery.³⁶

4.15 The two key advantages identified by the ANAO in moving to a risk based methodology for client tasking were increased transparency for client agencies, and a better basis for Coastwatch to justify its operational decision-making.³⁷ The ANAO recommended that Coastwatch, in consultation with key client agencies, develop a common risk assessment process as a basis for ranking and treating client taskings for maximum effectiveness.³⁸

³⁴ Issued in September 2008, this document sets out the Commander's vision for BPC. This is a different document to the Commander's Statement of Intent setting out priorities for the planning and conduct of BPC surveillance and response operations, which is issued quarterly.

³⁵ BPC Fact Sheet *Illegal Foreign Fishing*, February 2009.

³⁶ Australian National Audit Office, ANAO Audit Report No.38 1999–2000, *Coastwatch*, Canberra, 2000, p. 90.

³⁷ *ibid.*, p. 91–92.

³⁸ *ibid.*, p. 23.

4.16 In response to the ANAO's recommendation, Coastwatch introduced CRAM, a process which permits the risks of its six principal client agencies to be assessed against a common unit of measurement. The client agencies which participate in CRAM are Customs and Border Protection, AFMA, DIAC, AQIS, the Department of Environment, Water, Heritage and the Arts (DEWHA), and the Great Barrier Reef Marine Park Authority (GBRMPA).

4.17 Under CRAM, the AEEZ is broken up geographically into 78 areas, starting with the seven established Coastwatch surveillance areas, each of which is then further broken down into sub-areas, some of which contain smaller sectors. For each of these 78 geographic areas for a given month, each client agency identifies specific risks against a threat from the common set of seven threats. A severity assessment is undertaken of these risks using three weighted factors (economic, environmental and social) to generate a consequence value. The likelihood of the risk occurring is then assessed and the numeric value of that likelihood is applied to the consequence value to produce a risk score for that agency in that geographic area. When all agencies' risks for an area have been similarly assessed and scored, the scores are added to produce an overall risk score, or CRAM score, for that area.

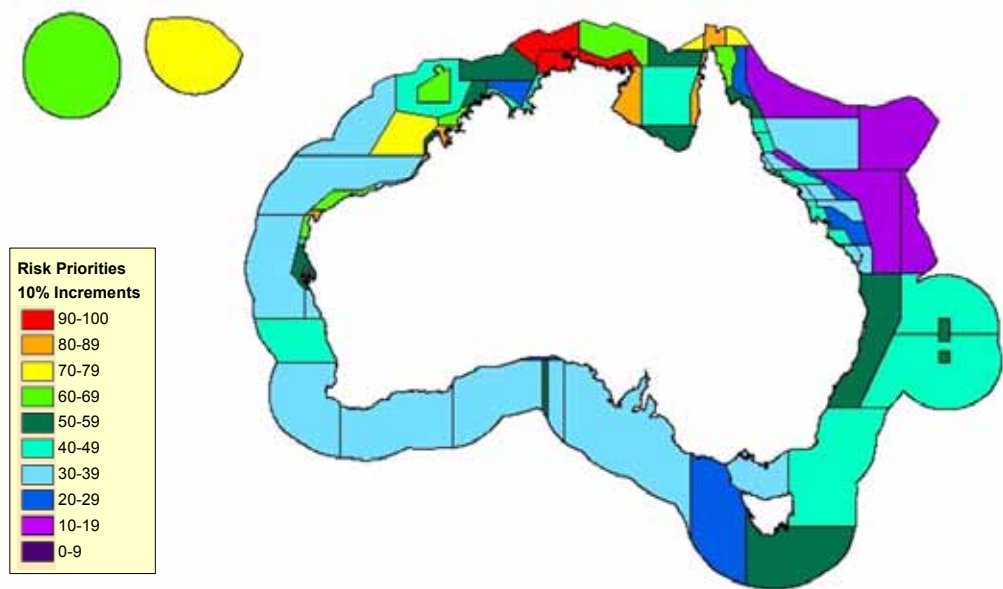
4.18 Once all CRAM scores have been calculated, a CRAM picture, also known as a 'heat map', is generated which colour codes the scores in 10 per cent increments and provides an easily appreciated visual representation of the highest to lowest risk areas. The examples at Figures 4.1 and 4.2 show the colour-coding of areas and how this can change. These risk areas are then used by BPC to assist in the planning and prioritisation of aerial surveillance deployments.

Performance of CRAM

4.19 CRAM has provided transparency for client agencies, at the level of client specific taskings, and accountability for operational decision-making envisaged by the ANAO in 2000. The CRAM heat map for the month ahead is distributed to client agencies at the monthly Operational Response Working Group (ORWG) meetings. The monthly PAWG meeting is held immediately after the ORWG meeting so that any client agency views can be fed into planning considerations.

Figure 4.1

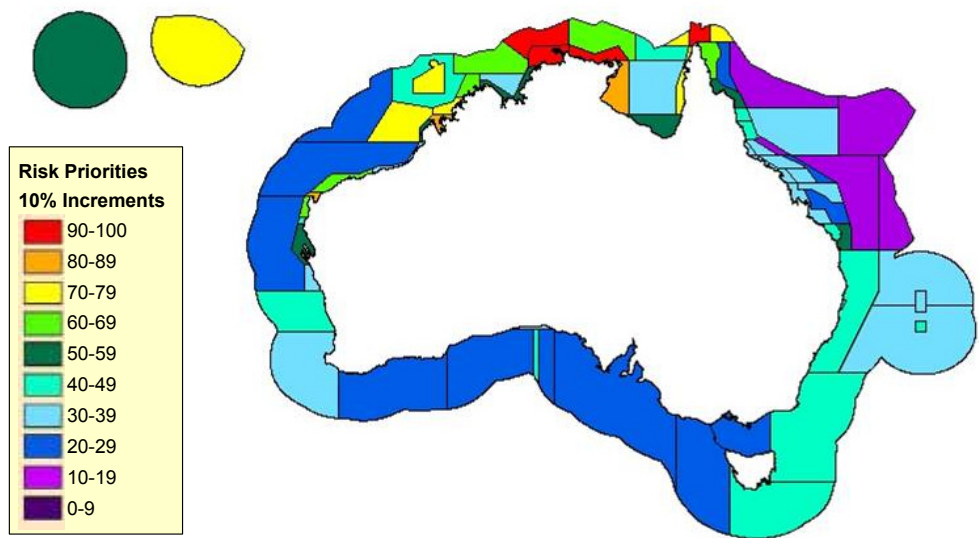
Extract from CRAM assessment picture February 2007



Source: Customs and Border Protection

Figure 4.2

Extract from CRAM assessment picture April 2007



Source: Customs and Border Protection

4.20 CRAM continues to be a useful tool for operational planning. However, with the passage of time and changes in the operational and organisational environment, CRAM has developed a number of limitations and deficiencies.

4.21 For example, CRAM was established by BPC's predecessor organisation, Coastwatch, for aerial surveillance planning purposes. While BPC now has full operational control over RAN and Customs and Border Protection surface assets assigned to it, CRAM cannot directly service planning requirements for those surface assets. There is only an indirect influence on surface asset planning insofar as surface asset positioning is linked to aerial surveillance routes.

4.22 Furthermore, the nature of BPC's aerial surveillance capability has also changed. Under the new contract with SAPL which commenced on 1 January 2008, the previous mixture of wide-area offshore surveillance provided by DASH 8 aircraft and in-shore surveillance provided by smaller aircraft was replaced with a capability comprising DASH 8 aircraft only. This change was appropriate, taking into account the trend which has seen FFV activity retreating to the AEEZ boundary. However, it also means that offshore DASH 8 surveillance flights traverse multiple CRAM areas carrying a variety of risk profiles. Accordingly, allocating flights to cover the monthly risk-based CRAM picture inevitably raises issues of overservicing lower risk areas and underservicing higher risk areas with the available surveillance assets.

4.23 BPC acknowledges that CRAM has limitations and has noted ongoing issues with scoring aggregation for the risk areas and how the scores relate to the level of surveillance effort required for each area. CRAM outputs cannot be applied to generate an aerial surveillance program without a significant level of human intervention.

The CSIRO review of AMSRA and CRAM

4.24 In 2006–07, BPC commissioned the CSIRO to assist it in developing the new AMSRA process. At that time, BPC had concerns about the limitations of CRAM and took the opportunity to have CSIRO examine CRAM during the review. The final CSIRO report, presented in August 2008, identified deficiencies in CRAM including:

- the definitions of 'likelihood' were too simply defined;
- the numerical values ascribed to each 'likelihood' category had no basis other than convenience for calculation purposes and did not represent any actual probability;

- the weightings for the ‘consequence’ factors were arbitrary; and
- when ‘consequence’ scores were combined, the calculation in some circumstances could undervalue the severity of a high-risk situation.

4.25 BPC has not taken action to remedy these identified deficiencies within the CRAM process, pending the development of a new risk-based planning tool to replace CRAM. In the meantime, CRAM continues to be used with the deficiencies identified by the CSIRO review.

Suspension of CRAM quarterly reviews

4.26 The CRAM process includes a quarterly program of consultation and review with the six client agencies, including consultations at regional level to access agency expertise on local conditions and patterns of behavior. For example, the risk of illegal foreign fishing in a particular geographic area can be affected by well understood seasonal factors such as weather conditions and variations in the location and availability of targeted marine species.

4.27 Throughout CRAM’s existence, there have been pressures on the resources required to service the quarterly review cycle. It was only in 2006 that this activity was fully resourced. From the first quarter review in 2008, BPC elected to suspend agency consultations.³⁹ This was in response to the additional workload created for operational planning staff with the introduction of the new surveillance contract from 1 January 2008 with its larger DASH 8 fleet, and in recognition of the review work being undertaken by the CSIRO.

4.28 Client agencies were advised at the ORWG meeting in July 2008 that a review was underway of the relationship between CRAM and AMSRA. The fact that this meant that information collection from agencies for CRAM was not taking place and that only minor amendments were being made to CRAM by the BPC operations planning area, was formally advised to client agencies at the ORWG meeting in August 2008

4.29 Throughout the period of suspension of agency reviews of CRAM, the monthly CRAM picture continued to be prepared by BPC, used for the purposes of surveillance planning and provided to agencies at the monthly ORWG meetings. BPC used data held from previous reviews to continue to

³⁹ Collection of CRAM data continued with one client agency, the Great Barrier Reef Marine Park Authority, following the suspension, due to the advantage of proximity in that relationship being managed from the Cairns regional office of Customs and Border Protection.

generate CRAM pictures, based on its experience that the data tended not to vary greatly from review to review, and its accumulated knowledge of established seasonal variations. BPC advised ANAO that it was 'confident that base data remained accurate and reliable' during this period.⁴⁰

4.30 After a year's hiatus, CRAM reviews with client agencies resumed in February 2009, commencing with AFMA. This resumption reflected a recognition by BPC that the historic data being used to generate CRAM pictures had a finite life, creating concerns about data integrity. It was also clear by this time that the prospect of any immediate reform to CRAM was remote, given a decision within BPC not to implement the recommendation of the CSIRO review pending consideration of a new Integrated Operations Planning Process (IOPP).

Conclusion

4.31 Consistent with the intent of the ANAO's previous recommendation, CRAM provides a viable risk-based approach to responding in common to the identified requirements of BPC's principal client agencies. As such, it continues to provide benefits for transparency and accountability in BPC operational decision-making.

4.32 That said, the effectiveness of CRAM is being affected by a number of issues, including:

- CRAM is a planning tool developed by Coastwatch to service planning for aerial surveillance assets and involving six client agencies. This does not reflect the reality of BPC's responsibilities, capabilities and stakeholder network in 2009, yet the original CRAM process continues to apply;
- the quarterly review process with client agencies is both time consuming and resource intensive, given that it is directed to 78 individual geographic sectors, and has only been fully serviced periodically; and
- technical deficiencies in the CRAM methodology identified by the CSIRO which have not been addressed.

⁴⁰ Email to ANAO from Director of Operations Planning, BPC dated 29 June 2009.

4.33 In addition, the fact that CRAM was maintained for a year without quarterly reviews taking place with five of the six client agencies was a significant departure from the CRAM process, and effectively substituted BPC decisions for client agency input for that period. It also raises questions about the relevance and utility of maintaining a full quarterly review cycle.

4.34 BPC advised the ANAO that the objective is to maintain CRAM until a replacement process is developed.⁴¹ The candidate for that replacement is the IOPP, which is discussed at paragraphs 4.56–4.61. The ANAO notes that this objective, which has been in place for more than two years, precludes enhancements to the CRAM methodology pending a replacement planning tool which has not yet been fully defined, for which no timetable has been set and no project plan yet exists.

4.35 The ANAO considers that continuing to delay addressing the deficiencies in CRAM is not a sound approach, in the absence of:

- certainty with regard to the time-frame for the introduction of a new risk-based planning process to replace CRAM;
- an analysis of the risks in continuing to use CRAM in its current state; and
- an assessment of the costs and benefits of modifying CRAM in the interim.

Recommendation No.3

4.36 In order to ensure that deficiencies in the Common Risk Assessment Methodology do not compromise the effectiveness of Border Protection Command's risk-based operational planning, the ANAO recommends that Customs and Border Protection review the approach of maintaining the Common Risk Assessment Methodology in its present state until a replacement planning process is developed.

Customs and Border Protection response: *Agreed*

4.37 The Integrated Operational Planning Process model will continue to be evaluated as the potential longer term risk process for Border Protection Command. In the interim, a revised risk process that extends the utility of the Australian Maritime Security Risk Assessment process for operational

⁴¹ *ibid.*

planning is under development for anticipated implementation in early 2010. It is expected that the revised risk process will replace the Common Risk Assessment Methodology process.

The Australian Maritime Security Risk Assessment (AMSRA)

4.38 The 2005 Review of Australia's Fisheries and Maritime Surveillance, Compliance and Enforcement Arrangements found that threats in the maritime environment had generally been dealt with individually as they emerged and that holistic consideration and assessment of all maritime threats and subsequent setting of response priorities was rare.

4.39 Accordingly, the development of a strategic risk assessment setting out the range of potential maritime threats, their likelihood and consequence, and their priority, was an initial task for the SMMC following its establishment in May 2006. The initial deadline for finalisation of the strategic risk assessment was agreed by SMMC as June 2007. In the event, a draft AMSRA document dated 11 October 2007 was presented to the SMMC meeting in December 2007 for noting. It was acknowledged that the document was not sufficiently mature at this point for consideration. The AMSRA document was subsequently finalised and presented to the SMMC meeting in March 2008 and thenceforth to every quarterly SMMC meeting.

The AMSRA process

4.40 The AMSRA document is a list of the eight agreed security threats in Australia's maritime domain prioritised according to their assessed level of risk. Detailed threat briefs for each threat are produced annually. A quarterly cycle of threat review, risk analysis and risk ranking is conducted by TARAWG, resulting in a summary document presented to JAMAG and SMMC which shows the likelihood and consequence scores and resulting risk level for each threat, and ranks them in order from highest to lowest. Changes from the previous quarter's risk assessment are highlighted for comparison purposes.

4.41 Consistent with the Australian Risk Management Standard,⁴² the risk analysis for each threat is based on an assessment of consequence and likelihood. Seven consequence categories are scored on a scale of zero to six according to impact, representing a range from a negligible impact at the low end to a catastrophic impact at the high end. The consequence categories are

⁴² Australia/New Zealand Standard 4360:2004 at <<http://www.standards.org.au>>

death, injury or illness to humans; economic and business impact; social impact; environmental impact; symbolic impact; external relationships and sovereignty impact; and government business reputation impact.

4.42 There are seven likelihood descriptors - Rare, Unlikely, Possible, Likely, Very Likely, Highly Likely and Almost Certain - based on the frequency of an event occurring, for example, a Rare likelihood represents one event in a hundred years. Each descriptor carries a fixed score ranging from 1 for Rare to 4.5 for Almost Certain.

4.43 The AMSRA process includes, in its assessment of consequence and likelihood, the effect of current risk management and risk mitigation strategies being applied by both public and private sector agencies. This means that the AMSRA assesses residual risk, rather than the risk of an untreated threat.

4.44 The level of risk is determined by adding the likelihood score and the overall consequence score, to produce a score which equates to an overall risk classification in a range comprising Negligible, Low, Medium, High and Extreme.

The application of the AMSRA to operational decision-making is problematic

4.45 As noted above, one of the features of the AMSRA process is that it is an assessment of residual risk. From a strategic perspective, the inclusion of residual risk is useful in highlighting to high-level decision makers those threats where risk mitigation is being effective in reducing risk, and those threats where risk mitigation options are either less available or less effective. However, the inclusion of residual risk in the AMSRA can result in risk levels that appear incongruous from the perspective of current operational priorities.

4.46 For example, the risk level for the threat category 'Illegal Exploitation of Natural Resources' continued to be assessed by AMSRA into 2009 as High, notwithstanding the significant decline in apprehensions and incursions of FFVs in northern waters. Similarly, notwithstanding renewed Suspect Irregular Entry Vessel (SIEV) activity in November–December 2008 and from March 2009, the risk level for the 'Unauthorised Maritime Arrivals' threat over this period continued to be assessed as Low, ranking seventh of the eight threats.

4.47 This apparent incongruity has caused interpretation problems and a degree of confusion among stakeholder agencies and within JAMAG. BPC has responded by explaining to stakeholders in meetings and briefings how residual risk works, and by emphasising the strategic nature of the AMSRA.

However, the ANAO notes that documentation underpinning the AMSRA process states that AMSRA also applies to operational decision-making.

4.48 For example, the Australian Maritime Security Risk Assessment Process (AMSRAP) document of June 2008 states that 'AMSRAP is intended to inform operational planning and coordination of Australian Government effort in the maritime domain.'⁴³ The AMSRAP document also states that the prioritised maritime security threats in AMSRA will be one of the inputs considered by the PAWG to determine the apportionment of aerial surveillance and surface response effort. The document further states that, in broad terms, aerial surveillance and surface response effort will be applied to higher priority risks where those assets are capable of reducing either the likelihood or consequence of that security threat.⁴⁴

4.49 In reality, AMSRA does not have direct application to planning and tasking decisions about the deployment of BPC assets. Amending the AMSRAP document to remove statements that it does have such application would assist in reducing confusion about the relationship of strategic risk levels to operational priorities and deployments.

Application of AMSRA to strategic decision-making

4.50 AMSRA has filled the gap identified by the 2005 Review by giving high-level decision makers an understanding of the relative risks across the eight maritime threat categories, and thereby supporting more holistic decision-making.

4.51 What is less clear is how AMSRA is directly used by high-level decision makers. The ANAO notes that it was originally envisaged that the strategic risk assessment document would be presented to government. To date, AMSRA has not proceeded beyond SMMC and the SMMC response to it was never more detailed than noting it. Consequently, there has been no opportunity for the Government and Ministers to comment directly on the utility of AMSRA, nor to take a decision to accept the level of risk identified in AMSRA. Consequently, the decision to accept that level of risk has been taken to date by senior agency officials.

⁴³ Border Protection Command, *Australian Maritime Security Risk Assessment Process*, version 4.0, 20 June 2008, p. 2.

⁴⁴ *ibid.*, p. 7.

Conclusion

4.52 CRAM and AMSRA co-exist within BPC as centralised risk assessment processes servicing requirements, respectively, for operational planning and strategic risk management. The desirability of moving to a single risk assessment process to service both requirements has been canvassed periodically within BPC, and is a feature of the new IOPP concept. However, it is not possible to combine CRAM and AMSRA in a unified risk assessment process in their current configuration due to the following fundamental differences between them:

- CRAM is a geographic based tool assessing risk against seven threats, whereas AMSRA considers the likelihood and consequence measures for eight threats on a national basis;
- CRAM is an assessment of untreated risk in each geographic sector, whereas AMSRA is an assessment of residual risk;
- CRAM explicitly excludes political consideration from its risk assessments, whereas political impacts can be part the consequence calculations within the AMSRA process;
- CRAM is informed by information provided by six client agencies whereas AMSRA is supported by input from all relevant Australian government agencies with maritime security interests represented on TARAWG, including the six CRAM agencies; and
- CRAM directly supports operational planning and decision-making whereas AMSRA is directed to strategic level consideration by senior policy makers but also incorporates an intention to inform operational planning.

4.53 The use of AMSRA both for strategic level consideration and at operational level has not been satisfactorily resolved. Customs and Border Protection accordingly has an AMSRA document pitched at a strategic level for government consideration, but which has never been submitted to the Government, and which also implies a direct relationship with operational planning and decision-making which is problematic. Furthermore, as noted above, the risk assessment process—CRAM—which is used for operational planning and decision-making is outdated and deficient.

4.54 The ANAO suggests that Customs and Border Protection review all documents containing material pertaining to the purpose of AMSRA and clarify how and at what level AMSRA should appropriately inform operational

planning. It would be desirable if this review process amended or qualified statements which currently imply a more direct connection with operational decision-making than actually exists or can be supported by AMSRA as a strategic level document assessing levels of residual risk.

4.55 The ANAO further suggests that Customs and Border Protection seek an early opportunity to confirm the purpose and utility of AMSRA with the HPCG, including clarification of the need to submit AMSRA to the Government for consideration.

The proposed Integrated Operations Planning Process (IOPP)

4.56 In 2007, the Strategic Planning area of BPC commenced theoretical work on the IOPP, conceived as replacing CRAM and AMSRA with a single geo-referenced risk assessment system that includes the development of threat models and control measures, considers both risk and residual risk and is capable of providing detailed information to inform tactical planning, as well as summary information to inform government and high-level policy advising fora.

4.57 The IOPP concept has a number of features which potentially address the shortcomings of CRAM and AMSRA, including the ability to service tactical, operational and strategic interests through a hierarchy of risk assessments conducted at each of these levels, and which also provides for assessments of both untreated and residual risk.

4.58 The IOPP risk assessment methodology would replace the 78 geographic area boxes into which the AEEZ is divided under CRAM with geographic zones radiating outwards from the coast and reflecting assessed avenues of approach and the mission capabilities of surveillance and response assets.

4.59 The ANAO notes that the IOPP concept, while supported by a detailed and coherent concept paper, remains essentially a theoretical proposal.⁴⁵ The concept paper for the IOPP was presented to BPC management in September 2008. Early in 2009, Customs and Border Protection engaged the Defence Science and Technology Organisation (DSTO) to review the IOPP concept and

⁴⁵ For example, the calculations supporting the definition of geographic zones and avenues of approach in the IOPP proposal were based on the threat posed by SIEVs and were not tested for validity against the other categories of threat.

the earlier CSIRO study with the aim of progressing the concept to a workable design. In parallel with that review, it is intended that key operational stakeholders will be surveyed to determine their requirements for any future process and to ensure that all operational limitations are captured.

4.60 The ANAO supports the moves taken by Customs and Border Protection to review the IOPP concept and notes that, if the IOPP concept is found to be sound, its implementation may take up to a further two years.

4.61 In considering the IOPP (or an equivalent process), the ANAO suggests that care will need to be taken in the following areas.

- (a) **Client agency relationships.** In replacing CRAM with IOPP, the involvement of client agencies and the transparency of the risk assessment and planning process to client agencies should be maintained. Given that CRAM involves only six client agencies, the ANAO notes that the introduction of IOPP potentially broadens the involvement of client agencies.
- (b) **Government endorsement.** The ANAO notes that AMSRA represents the response to the need identified by government in 2006 for a strategic risk assessment product for maritime security, and that the AMSRA document has been endorsed by the SMMC. Accordingly, the replacement of AMSRA with IOPP should be subject to endorsement by the HPCG and appropriate advice to government.
- (c) **Internal ownership.** The IOPP concept paper states that its successful introduction will require a cultural shift within BPC. In this respect, an appropriate degree of ownership of the model by BPC operational planning staff will be important for its effective implementation. Any project implementation plan for IOPP should clearly articulate the benefits of IOPP compared to the processes which it will replace; be developed in close consultation with the staff who will manage the IOPP and use its products; and incorporate a detailed training needs analysis and a robust strategy for meeting those needs.

Other planning inputs

4.62 This section examines the inputs to BPC's operational planning process, outside the formal CRAM and AMSRA risk assessment processes, comprising:

- (a) tasks submitted by client agencies;
- (b) the Commander's Statement of Intent; and
- (c) intelligence advice (addressed in Chapter 3).

Client agency tasking

4.63 BPC's surveillance and response services to its client agencies can be divided into three categories of tasking: client specific requirements, strategic tasks and tactical tasks.

Client specific requirements

4.64 Client specific requirements are expressions of the abiding functions and interests of client agencies, for example AFMA's interests in relation to illegal fishing and DEWHA's in relation to marine pollution. They are not specific to any particular patrol or task, but are actioned on an opportunity basis. Once established, the requirements are not subject to significant variation and are written into documents such as the *Coastwatch Contractor Operating Instructions*. BPC reviews the Client Specific Requirements periodically in consultation with client agencies. The last review took place in March 2009.

Strategic tasks

4.65 Strategic tasks are tasks which are specific to a particular patrol, flight or series of patrols and flights. They are generally set against a particular threat and can be requested in response to intelligence. Examples of strategic task requests include conducting surveillance of particular foreign fishing activities during a specific timeframe on behalf of AFMA, and transporting scientists in support of scientific research projects.

4.66 All agencies, including Customs and Border Protection, must submit their strategic taskings to BPC for consideration. Strategic taskings may be proposed at any time, however, the longer the lead time, the more likely that the task will be accommodated.

4.67 When prioritising tasks, BPC does not assess taskings against any specific documented criteria. Consideration is given to risk profiles outlined in CRAM and AMSRA, the availability of assets that have already been allocated to particular locations through the Commander's Statement of Intent and previously accepted tactical tasks, as well as factors such as crew and vessel maintenance and training requirements, seasonal trends, weather patterns and the timeframes in which the task can be completed.

4.68 The ANAO observed that there is clearly a culture within BPC that endeavours to support the needs and requirements of client agencies as best it can. Since June 2005, Customs and Border Protection has been able to accommodate 95 per cent of client strategic taskings assigned to its vessels.

4.69 The ANAO has discussed this process with a number of client agencies who have indicated that they are generally happy with the level of service provided by BPC. Submitting agencies are generally accepting of the outcome in cases where BPC's judgement was that their task was of a 'lower strategic priority' than others. The ANAO considers, however, that it would be more transparent if the agencies affected were better informed about the prioritisation process.

4.70 In addition to a more transparent prioritisation process, the ANAO suggests that BPC consider introducing a trends analysis of the tasks to monitor its service and to create a greater awareness of client priorities. Customs and Border Protection noted that this trends analysis, especially using historic data, was hampered by the paper format of these records.

Tactical tasks

4.71 Tactical tasks are tasks requested in real time in response to intelligence or surveillance information, such as a request from AFMA to board and apprehend an FFV, or a request from DIAC to respond to the sighting of a SIEV.

4.72 Control over assets is transferred from the Operations Planning section of BPC to AMSOC 48 hours before the scheduled departure of an aerial surveillance asset and at the commencement of a patrol by a surface asset. From that point, all decisions about which tactical tasks to respond to, what asset(s) should be involved and how the response should be managed are made by AMSOC, in consultation with the requesting agency. There are no documented policies or procedures for this decision-making process.

4.73 In the absence of a documented prioritisation process, the ANAO observed that there is a general understanding within BPC that tactical tasks are given the highest priority over strategic tasks and client specific requests. However, even within tactical tasks there is a process of prioritisation. It is generally understood that a search and rescue request is likely to receive the highest priority for response. Further prioritisation of threats will take into account AMSRA and CRAM, as well as weather, asset position, the likelihood of an outcome and other tasks.

4.74 Prioritisation of tactical tasks in AMSOC is undertaken by knowledgeable officers who have generally had a number of years experience in the area. Many have on-water experience from the RAN or have served on Customs and Border Protection vessels.

4.75 Staff receive initial training when they begin work in AMSOC. Further formal and informal training is provided through:

- (a) periodic desktop exercises and post exercise reviews;
- (b) post-operation reviews;
- (c) information about asset capacity provided by MOSD; and
- (d) discussions with other staff.

4.76 For decision makers, training and experience is complemented by a number of checks and balances. These include discussion between AMSOC and HQNORCOM about the relative merits of allocating different assets to respond to a task; consultation with a vessel's Commanding Officer or an aircraft's pilot, who are able to provide on-the-spot information (including safety or capacity checks); and referring more complex cases up through the command hierarchy.

4.77 While it is appropriate that operational decision-makers draw on their knowledge and experience, especially in a dynamic operating environment, the ANAO noted some risks arising from the lack of succession planning and formal training opportunities for AMSOC staff. While the workforce in AMSOC is currently very stable, with a low staff turnover that allows appropriate experience to be accumulated, this situation could change unexpectedly. The ANAO suggests that BPC consider ways of formalising some of the knowledge and experience of its staff, as part of its broader succession planning, so that this knowledge is not lost with the departure of key employees.

BPC Commander's Statement of Intent

4.78 As previously noted, the BPC Commander's Statement of Intent is the document which outlines the Commander's broad priorities for planning and conduct of maritime surveillance and response using both Customs and Border Protection and ADF assets. This section examines the impact of the Statement of Intent on BPC's operational deployments and on BPC's organisational culture as a service provider.

4.79 The Statement of Intent directs the allocation of a certain number of surveillance flights and the positioning of surface assets to particular

geographic areas to best mitigate extant maritime security threats.⁴⁶ As BPC is required to maintain the flexibility to respond to changing intelligence and threats in its operating environment, BPC accepts that circumstances may arise where the Statement cannot be fulfilled, and there is a requirement to inform the BPC Commander in such cases.

4.80 The introduction of the Statement of Intent early in 2008 represented a modification to the traditional Coastwatch model of service provision to client agencies. The primary document setting out policies and procedures for BPC operations—the *Coastwatch Manual for Surveillance Units*—states that service provision to clients is a key principle underlying BPC’s concept of operations. It states that Coastwatch (now BPC) is a service provider, responsive to client needs and requirements. It further states that Coastwatch (BPC) does not determine threat areas, nor does it determine clients’ surveillance interests, and that it is the role of Coastwatch (BPC) to translate identified client surveillance needs into timely surveillance outcomes. In terms of a client agency’s request for a response, Coastwatch (BPC) coordinates all activities for that response until the client agency is able to assume control of the situation.⁴⁷

4.81 The organisational identity of BPC as a service provider was regularly referred to by its staff in interviews during the audit. The Commander BPC stated during his interview with the ANAO that BPC is not conducting operations for itself, but is delivering a service to agencies on a priority basis. Nonetheless, the ANAO observed that the introduction of the Commander’s Statement of Intent raises uncertainties in relation to the nature of BPC’s role as a service provider and for the primacy of its client agencies.

4.82 BPC is increasingly accountable directly to the Government for civil maritime security outcomes. This reflects the additional responsibility given to BPC by the Government in 2006 to control and coordinate all operational responses to civil maritime threats, and the additional capabilities provided to BPC to carry out this responsibility. Given this trend, it is reasonable for the BPC Commander to set out in the Statement of Intent his judgement of the priority areas for deployment of BPC assets that he considers need to be

⁴⁶ While the Statement of Intent dictates the position of an asset (to within a broad geographical area) and the threat against which it is positioned, it does not prevent the asset from servicing other requirements. BPC surveillance and response assets will report on activity relevant to any of the eight maritime security threats regardless of the original reason for their positioning.

⁴⁷ Border Protection Command, *Coastwatch Manual for Surveillance Units*, p. 14-15.

served in order to meet the Government's expectations, and for which he will be held accountable.

4.83 The Statement of Intent directs that it be used as the key input for the planning and conduct of BPC operations, and BPC planners accordingly take its guidance into account first before considering other planning inputs. The ANAO's analysis of the application of the Statement of Intent to actual deployments for a sample period indicates that the Statement of Intent directed the allocation of approximately 27 per cent of surveillance flights and 28 per cent of marine asset patrol days for that period.⁴⁸ These represent significant proportions of the available asset time for both surveillance flights and on-water patrols allocated without formal client agency input.

4.84 Customs and Border Protection advised the ANAO that the Statement of Intent is informed by other planning inputs that incorporate the interests of client agencies reflected in CRAM and in client taskings. Customs and Border Protection also advised that BPC remains accountable through HPCG and JAMAG to its client agencies for its performance in meeting their requirements.⁴⁹

4.85 However, the ANAO found that BPC's client agencies were not consulted directly in the preparation of the Commander's Statement of Intent and the process by which their interests inform the Statement is not transparent. As discussed, an increasing proportion of BPC deployments are determined by BPC outside formal and direct client-sourced planning inputs. The ANAO considers that, to the extent that such a development is not reflected in BPC's internal governance documents and external publications, this has the potential to lead to misunderstandings and unrealistic expectations among BPC's client agencies.

4.86 The ANAO suggests that Customs and Border Protection monitor any such development closely, and that BPC regularly review its relevant internal and external publications to ensure that the description of BPC's interactions with its client agencies contained therein accurately represents those interactions.

⁴⁸ This analysis applied the Statement of Intent released in November 2008 to the last available deployment data for a full year, which was 2007–08. BPC subsequently confirmed to ANAO the accuracy of these calculations.

⁴⁹ Customs and Border Protection letter to ANAO dated 7 October 2009.

The prioritisation process

4.87 At the level of day-to-day BPC operations, the ANAO acknowledges that it is appropriate that there be room for the Commander BPC to exercise operational discretion in the direction of the resources under his command, and that this will include his understanding of the expectations of his superior officers and the Government to whom he is accountable. This section examines whether a clear framework of priorities exists within BPC to guide and provide an accountability reference for both operational planning and day-to-day operational decision-making, including for operations against illegal foreign fishing.

4.88 Insofar as the planning of operations for a limited number of assets necessarily includes consideration of competing priorities, this chapter has already touched on prioritisation on several occasions, including in the context of:

- CRAM's prioritisation of threats by geographic area;
- AMSRA's risk ranking of maritime security threats in priority order;
- the lack of a documented prioritisation process for strategic and tactical tasks; and
- the BPC Commander's priorities expressed in his Statement of Intent.

4.89 There is an order of importance and weighting which BPC planners give to the consideration of the individual planning inputs listed in paragraph 4.6. As previously noted, the Commander's Statement of Intent is the key input for the planning and conduct of operations. Once the operational planners have accounted for the level of surveillance required in the Statement of Intent, intelligence advice provided by the BPCIC indicating particular focal areas for attention is considered. Planners then use the monthly risk picture for defined geographic sectors provided by CRAM, and then consider specific client taskings. Within this broad hierarchy of weighting, the variety and complexity of inputs makes it difficult to clearly show on what basis one task against a particular threat is prioritised over another.

Statements of priority for BPC

Operation Maritime Protector Operations Order

4.90 Operation Maritime Protector is the formal title given to BPC's operations. The Operations Order for Operation Maritime Protector, issued in April 2008, states the BPC Commander's priorities as follows:

- (a) deter and, if necessary, respond to maritime terrorism;
- (b) deter and interdict illegal immigration;
- (c) deter and interdict illegal fishing; and
- (d) respond to other maritime security threats.

4.91 The frequency with which, and by what process, the priorities listed in the Operations Order might be reconsidered and adjusted has not been specified.

4.92 In terms of operational priorities, the ANAO was advised consistently in its interviews with BPC officials that a maritime search and rescue contingency would automatically receive the highest priority for attention. However, this is not stated anywhere in BPC documents relating to operational priorities, as it is an assumed priority consistent with Australia's international obligations regarding Safety Of Life At Sea. It would be desirable for this requirement to be confirmed in formal documentation.

AMSRA priorities

4.93 The Operation Maritime Protector Operations Order states that the Commander BPC is guided by AMSRA in setting priorities. As noted earlier in this chapter, the fact that the risk ranking in the AMSRA document is based on an assessment of residual risk can create difficulties for translating that ranking into operational priorities. Given the rarity of maritime terrorism threats, illegal immigration, as an ongoing actual threat, is effectively the highest priority for BPC in accordance with the list at paragraph 4.90. However, the risk of unauthorized maritime arrivals continued to be assessed as 'Low' for the first half of 2009 in the AMSRA and ranked seventh of the eight threat categories.

4.94 AMSRA is re-assessed every three months, so there is a time lag in calculating and adjusting a risk assessment and ranking as new information is received and processed. This is another factor contributing to AMSRA's limitations as a guidance document for operational priorities. In due course, an

increased number of events in a threat category may flow through to raise the AMSRA risk level.

4.95 On the other hand, an increased operational response to a threat in the intervening period may be assessed in the AMSRA process as constituting increased risk mitigation. Because AMSRA assesses residual risk, this could have a dampening effect on the overall risk ranking determined by AMSRA. As BPC is a major provider of the operational response, it is potentially in a position to influence risk rankings itself through the risk mitigation effect of its own operations.

4.96 Noting the limitations of AMSRA, the Commander's Statement of Intent is potentially available as a vehicle for more direct and timely guidance on priorities. While the Statement of Intent does have direct operational impact, it is treated as strategic guidance and is subject to a three month review cycle supported by the OPG. The ANAO notes, however, that this cycle can be interrupted by factors such as an increased operational tempo and the availability of key staff.

4.97 For example, the Commander's Statement of Intent issued in November 2008 was reviewed in February 2009 but not formally reissued due to BPC's preoccupation with dealing with increased SIEV arrivals from March 2009 and the Commander's absence overseas. The reviewed document in its draft form was referenced in planning for March to May 2009 deployments.

4.98 During this period, the response to the renewed threat of SIEV incursions became the highest priority for BPC from March 2009 onwards, with a significant impact on the deployment of its assets. One outcome of this was several instances where tactical responses requested by AFMA to illegal foreign fishing issues were not accepted due to the higher priority given to the SIEV threat.

4.99 The movement in priorities within BPC—both up and down—and the specific implications of such movements for servicing particular threat categories and responding to taskings, is not transparent to BPC's client agencies nor available for their input. This has potentially negative and undesirable implications for those agencies' expectations, plans and performance measures.

Conclusion

4.100 There is no single, clear framework of priorities in place within BPC. The Operation Maritime Protector Operations Order gives a list of priorities, but without context or clarity as to how these are established and reviewed. The AMSRA risk-based priorities are set at the strategic level, lag behind the real-time operational environment, and are problematic in terms of their application to operational decision-making. The Commander's Statement of Intent is the best vehicle for setting priorities on a quarterly basis, but is not a transparent process for client agencies, and there is no process for capturing adjustments to priorities within its quarterly time-frame.

4.101 The ANAO suggests that Customs and Border Protection review the priority-setting processes and guidance documents for BPC with a view to confirming the Commander's quarterly Statement of Intent as the appropriate document to consolidate guidance on strategic priorities for BPC.

4.102 In order to improve clarity and accountability, the ANAO suggests that BPC issue a monthly statement/summary of priorities to take account of any adjustments occurring within the three-month timeframe of the Statement of Intent.

4.103 In order to improve transparency, the ANAO suggests that BPC make such documents available to the monthly meetings of the ORWG to better inform client agencies of movements in BPC priorities and the impact of these on operations.

Administration of operations

Previous ANAO reports

4.104 The ANAO previously audited the Customs and Border Protection National Marine Unit (NMU) in 2003–04, and conducted a follow-up to this audit in 2008–09. The NMU was incorporated within the new Maritime Operations Support Division (MOSD) from February 2008. MOSD maintains, trains and sustains the on-water assets provided by Customs and Border Protection to BPC.⁵⁰ The original audit of NMU in 2003–04 made recommendations relating to:

⁵⁰ The Customs and Border Protection owned or contracted patrol vessels and their crews.

- (a) strategic and tactical taskings;
- (b) dissemination of intelligence;
- (c) the rostering system;
- (d) analysis and evaluation of staffing data;
- (e) maintenance of marine crew qualifications;
- (f) management of training resources and commitments;
- (g) quality assurance for maintenance contractors;
- (h) asset management strategy for the acquisition, operation and disposal of marine assets; and
- (i) financial management.⁵¹

These issues make up a significant part of the delivery of operations by BPC. Given that the recent follow-up audit reported on Customs and Border Protection's response to the recommendations covered by topics (c) to (i) above,⁵² these areas have not been re-examined in this chapter.

4.105 The *Financial Management and Accountability Act 1997* requires that Chief Executives must manage the affairs of their Agency in a way that promotes the efficient and effective use of Commonwealth resources. To ensure this in an operational context, there should be clear lines of communication to ensure that operational experience is incorporated in planning and administrative arrangements should not create an unnecessary burden on staff. This section examines particular administrative issues within BPC that came to the attention of the audit team during its examination of BPC's operations.

BPC administration

4.106 BPC is a unique entity. Rather than creating a new agency to manage its maritime threats, in 2004 the Australian Government chose to construct a multi-agency organisation comprising elements of Customs and Border protection and the ADF under a Commander with joint accountability to both organisations.

⁵¹ Australian National Audit Office, ANAO Audit Report No.27 2003–04, *National Marine Unit*, Canberra, 2004.

⁵² Australian National Audit Office, ANAO Audit Report No.8 2008–09, *National Marine Unit*, ANAO, Canberra, 2008.

4.107 Establishing a multi-agency organisation from existing agencies, rather than creating a new agency with a dedicated corporate infrastructure, inevitably creates issues deriving from the continuing reliance of the organisation on different corporate/support structures. BPC is generally aware of the inefficiencies caused by these issues and is making an effort to address many of these through Plan Forge. These issues include:

- (a) there is a duplication of some functions, such as an operations room which is manned 24 hours a day all year both in Darwin and Canberra;⁵³
- (b) Customs and Border Protection and Defence maintain and report through two distinct financial and output reporting systems. Customs and Border Protection stated to the ANAO that there is no point at which a single financial overview of BPC is created. However, it is noted that due to Portfolio Budget Statement reporting requirements, the need for separate systems will not change in the foreseeable future; and
- (c) all BPC staff require access to the Customs LAN (local area network), however ADF staff also need to access the Defence Restricted Network (DRN) (which they use for routine personnel administration and for accessing Defence corporate information). This is not provided at the desktop for all staff, however there are communal terminals with this access.

Internal communications

4.108 The ANAO examined the effectiveness of communications within BPC, particularly between on-water, operational staff. The ANAO notes the lack of opportunities for formal contact between Customs and Border Protection and RAN vessel Commanding Officers (COs). RAN CO's have a monthly meeting at which they are able to discuss on-water incidents and to share experiences which may help them work better in the maritime domain. Customs and Border Protection vessel COs and Chief Engineers are provided with regular briefings as well as a six monthly conference which includes information on vessel capabilities, procedures and administration.

⁵³ In relation to HQNORCOM, it is difficult to determine what level of support is directed towards Joint Task Force 639 functions as opposed to ADF HQNORCOM functions.

4.109 These arrangements demonstrate that both Customs and Border Protection and the ADF, separately, see the need for communication between staff who undertake similar duties, but there are no formal opportunities for such communication across organisational boundaries for on-water officers. The ANAO considers that information exchange between these staff could provide beneficial insights and enhance the consistency and effectiveness of BPC's on-water operations, and suggests that BPC provide more opportunities to increase this exchange.

4.110 In terms of operational communications systems, Customs and Border Protection manages its communication with assets through the Coastwatch Command and Support System (CWCSS), while the ADF uses an operational log called the WYVERN Log.

4.111 While the WYVERN Log is available to both Customs and Border Protection and ADF staff, and becomes the primary communication tool during a complex operation (such as a response to a SIEV incursion), in normal day-to-day activities both agencies use their own systems. In cases where information needs to be shared across both organisations, it becomes the responsibility of relevant staff to manually cut and paste information from one system to the other.

4.112 The ANAO suggests that BPC take the opportunity of the internal systems review which was in progress during the audit to look to either integrate communications into a single system, or alternatively to automate appropriate elements of the manual processes currently resulting from the use of two separate communications systems.

Information systems

Recordkeeping

4.113 Effective and accountable program administration requires transparent and repeatable decision making processes which are appropriately documented. Robust records, which are managed in a way that supports the needs of the organisation (including the need to analyse data in such records for trends and service quality), are the basis of sound corporate management performance.

4.114 In the 2004 audit of the NMU, the ANAO made the general comment that ‘NMU’s administration could be more effective if its systems and processes were better integrated and automated.’⁵⁴ The National Archives of Australia, as the Australian Government’s lead agency on information and records management, endorses the principle that administrative and recordkeeping systems should be fully integrated into workflows and that where possible the creation of records should be automated.

4.115 Records in BPC, particularly those documenting the apprehension of illegal foreign fishers, are fragmentary, the result of:

- (a) two contributing agencies managing their records on different systems; and
- (b) the creation of a hybrid (digital/physical) recordkeeping system within BPC, only half of which has been endorsed as an official recordkeeping system.

4.116 Customs and Border Protection uses paper-based (physical) records as its recordkeeping system. Information may be collected and managed on computer systems, but it is subsequently printed out and put on ‘official’ paper files. In other situations handwritten notes are appended to the physical file.

4.117 An example of the fragmentary and incomplete nature of Customs and Border Protection files maintained by BPC are the files on individual FFV apprehensions. A standard apprehension file might include:

- a record of the original sighting, printed out from the CWCSS database;
- a handwritten note, usually undated and without a timestamp, which notes which agencies were alerted to the sighting;
- a FISHREP⁵⁵—depending on how this information was communicated to AMSOC (either by email from ACVs or by secure communication from RAN assets), this may need a key for further interpretation; and
- advice from AFMA as to what should happen to the vessel and crew. This could be in the form of another handwritten note, or be included within the final FISHREP.

⁵⁴ Australian National Audit Office, ANAO Audit Report No.37 2003–04, *National Marine Unit*, Canberra, 2004, p. 22.

⁵⁵ A report created by the CO of the vessel—or AFMA staff member if on board—documenting what has been found on a boarded suspected illegal foreign fishing vessel.

4.118 If the vessel is destroyed, it is unlikely that the file will have either the authorisation for destruction from the Commander BPC (however this is sometimes included) or a copy of the notification of the destruction which is required by DEWHA.

4.119 Finally, there may be later communication from AFMA as to which of the FFVs crew are going to be charged, either as master of the vessel or as recidivist crew, however, this is not always noted.

4.120 An agency's recordkeeping obligations can be fulfilled using paper-based recordkeeping systems, so long as records are created, are appropriately detailed and are managed. If relevant records are held on multiple files, these files should be cross referenced so the entire history of an apprehension can be followed.

4.121 Were the official paper files the only records available to BPC, the gaps in records identified by the ANAO would represent significant gaps in information. Such gaps could be potentially damaging, for example, were BPC's actions in relation to an apprehension or the destruction of an apprehended vessel to be challenged in court. However, it is rare for a foreign fisher to contest an apprehension in court and to this point, these records have not been fully tested in that context.

4.122 BPC's physical records are supplemented, to a limited extent, by a number of digital systems which duplicate the paper system, but which are considered to be unofficial recordkeeping systems. For example, CWCSS collects information relating to the communication flow between BPC and client agencies, such as the request from AFMA to investigate a sighting. It is able to automatically add additional metadata, such as time date stamps for this communication, and is subject to some data quality review.

4.123 The ANAO was advised that it is likely that BPC will include recordkeeping requirements in its new technology suite which includes the Australian Maritime Identification System (AMIS) and the Surveillance Information Management (SIM) system. This would address ANAO's 2004 comment that administration could be more effective if its systems and processes were better integrated and automated.⁵⁶ If BPC decides to manage its records within a business system, it will need to ensure that the system has the

⁵⁶ Australian National Audit Office, ANAO Audit Report No.37 2003–04, *National Marine Unit*, Canberra, 2004, p. 22.

appropriate functionality to do so. The relevant requirements are available from the National Archives of Australia.

4.124 Regardless of whether Customs and Border Protection chooses to move to digital recordkeeping, the ANAO suggests that it assess its current workflow and create a records template detailing what records it needs to collect in the apprehension process, and the minimum standard and content of these records. If it plans to collect different records on different physical files, or different digital recordkeeping systems, this analysis should clearly define what records are to be kept where, and place in a clear and accessible way a delineation of where each part of the apprehension history is held.

Coastwatch Command and Support System (CWCSS)

4.125 In its 2003–04 Performance Audit of Customs NMU, the ANAO recommended:

To improve the effectiveness of the tasking process, the ANAO recommends that Customs undertake a feasibility study to determine the costs and benefits associated with developing the existing NMU module within the Coastwatch Command Support System to:

- provide access to the NMU and ACV crews; and
- automate existing NMU tasking and reporting processes.⁵⁷

4.126 In its 2003–04 response, Customs and Border Protection agreed to this recommendation, and commenced an evaluation of the practicalities of providing NMU and ACV crews with access to CWCSS and incorporating NMU tasking and reporting systems into the CWCSS development environment.

4.127 When this issue was revisited in 2009, it had been overtaken by two significant changes in Customs and Border Protection’s operating environment.

4.128 Firstly, in the 2009–10 Budget Customs and Border Protection obtained first pass endorsement from the Government for replacement of its Bay Class ACVs. Assuming that second stage endorsement is received, Customs and Border Protection advised the ANAO that the replacement vessels will address the 2004 recommendation through interactive telecommunications systems

⁵⁷ *ibid.*, p. 24.

which provide direct communication between vessels and the organisation's headquarters, allowing for the streamlined exchange of tasking and reporting information. It is expected that the first replacement vessel will be operational in 2012–13.

4.129 Secondly, the ANAO referred directly to CWCSS in its recommendation. Customs and Border Protection advised the ANAO that CWCSS is no longer able to meet operational requirements or government and stakeholder expectations. Customs and Border Protection is currently reviewing its information management infrastructure and investigating the feasibility of alternative solutions, including transferring current CWCSS functionality to other systems such as SIM and AMIS.

4.130 The ANAO acknowledges that its 2003–04 recommendation has been overtaken by these developments. However, by focusing on the intent of the recommendation, regardless of the systems or vessels which are named, Customs and Border Protection can still gain the efficiencies intended in the recommendation, that is, better communication between assets and headquarters and more efficient tasking of assets.

The Coastwatch Manual for Surveillance Units

4.131 BPC's on-water actions are based on a comprehensive internal guidance document, the *Coastwatch Manual for Surveillance Units*. The purpose of the Manual is to provide information and guidance to all clients (including officers in surveillance units (military or civil)) in operations 'in-the-field'. The Manual incorporates the relevant provisions of applicable MOUs, extracts from applicable Commonwealth legislation (powers, authority, offences, penalties etc), law enforcement procedures, operational guidelines and consultative arrangements.

4.132 The ANAO notes that the Manual has good coverage of important information. However it is now four years old, and in the dynamic maritime security environment, it does not fully reflect BPC's current operating environment.

4.133 The Manual has been 'under revision' since October 2007 and despite the need for urgent action to complete the revision which was highlighted by BPC in July 2008, this revision has still not been completed. The ANAO was advised that this was due to other priorities and uncertainty over the allocation of responsibility within BPC for the task. The ANAO understands that this work has now been taken up by AMSOC.

4.134 The revision of the *Coastwatch Manual for Surveillance Units* is likely to include input from other relevant agencies. The ANAO supports this coordinated approach.

4.135 The ANAO suggests that BPC give high priority to the early completion of the revision of the *Coastwatch Manual for Surveillance Units*. Once the Manual has been revised and re-issued, the single authoritative document that is created will require a process for ongoing review and revision, appropriate version control and will need to be managed in a way that reflects the dynamic environment which it documents.

Conclusion

4.136 Overall, the ANAO found that, while BPC delivers operational activities effectively, administrative and management systems relating to internal communications, recordkeeping and internal guidance—which are an essential supporting framework to this delivery—require remedial attention and ongoing monitoring to ensure that they are appropriate to BPC's requirements in a dynamic operating environment.

5. Program performance measurement and reporting

This chapter examines Customs and Border Protection's performance in measuring the effectiveness of the program against illegal foreign fishing in northern waters, the nature of the performance data used and reporting arrangements for the program.

Measuring the effectiveness of the program

5.1 In order to assess the success of a program, a clear definition of what constitutes success is required, supported by appropriate indicators of effectiveness and a performance information framework to measure those indicators. In whole of government programs, such definitions should be agreed by all relevant agencies and set out at the start of the program.

Definition of program success and effectiveness indicators

5.2 In the 2006–07 Budget overview, the context for the program titled 'Securing borders against illegal foreign fishing' was expressed in terms of a number of risks to Australia's interests posed by illegal foreign fishing, including 'reducing our fish stocks as well as creating quarantine, illegal immigration, and national security risks.' It was also noted that the package would protect the environmental and economic value of Australia's fisheries.⁵⁸ These interests were not further developed into specific outcomes for the program, but remained as underlying concepts.

5.3 The objective for the program's funding of \$388.9 million stated in 2006–07 Budget Paper No.2 was to 'strengthen the prevention and response capacity of Government agencies in relation to illegal foreign fishing in Australian Northern Waters.'⁵⁹ That objective was broken down into four areas:

- strengthened prevention and response capabilities;

⁵⁸ Budget Overview 2006–07, *Securing borders against illegal foreign fishing*, accessed from <www.budget.gov.au/2006-07/overview/html/overview_18.htm> [accessed 5 March 2009].

⁵⁹ Budget Measures 2006–07, Budget paper No. 2, Part 2: Expense Measures, Agriculture, Fisheries and Forestry, accessed from <http://www.budget.gov.au/2006-07/bp2/html/bp2_expense-01.htm>, p. 75, [accessed 5 May 2009].

- significantly expanded surveillance capacity, including through additional patrol boats, increased aerial surveillance and improved ocean surveying and charting;
- improved quarantine risk management through faster investigation of quarantine breaches, new purpose-built boat destruction facilities and the employment of extra indigenous rangers; and
- more coordinated whole of government response to illegal foreign fishing incursions and engagement in the region on illegal foreign fishing issues.

5.4 The ANAO notes that the first two of these areas are essentially descriptions of the activities funded by the program. The latter two possess more of the character of an overall outcome resulting from program activities. However, the only effectiveness indicator stated for the program as a whole was to 'more than double the number of illegal foreign fishing boats that are apprehended each year.'⁶⁰ The original target for FFV apprehensions was set at 717 for the first two years of the program and 650 thereafter.

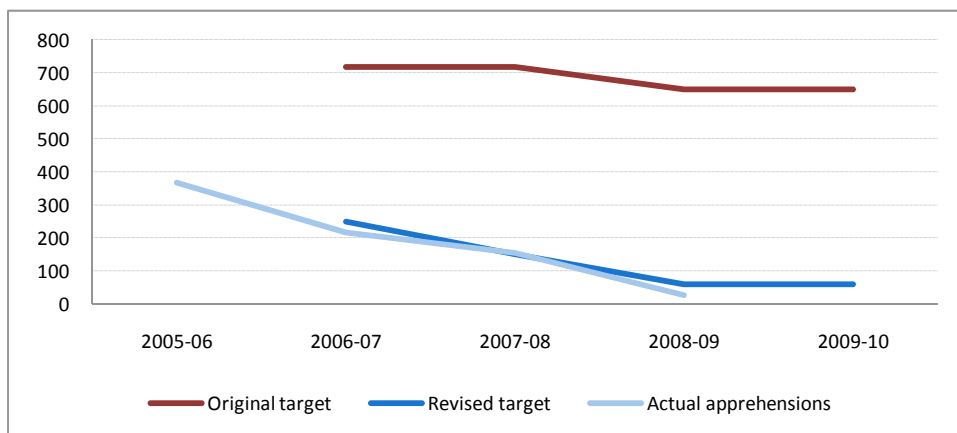
5.5 Clearly, an apprehension target as a sole effectiveness indicator has limitations for a program encompassing a number of interests. For example, it says nothing directly about the effect of the program on quarantine outcomes. Moreover, the apprehension target has never been achieved due to the substantial reduction in FFV incursions into Australian waters, the extent of which was unexpected (see Figure 5.1). The projected number of illegal FFVs that were to be apprehended has had to be revised downwards each year during the life of the program, and was most recently set at 60 vessels for 2008–09 and 2009–10.

5.6 Notwithstanding the regular downward revision in the FFV apprehension target, at no stage in the life of the program did this prompt reconsideration of an apprehension target as an appropriate indicator of effectiveness, or the development of more robust and meaningful effectiveness indicators.

⁶⁰ Senator The Hon Chris Ellison (Minister for Justice and Customs), The Hon Dr Bendan Nelson (Minister for Defence) and Senator The Hon Eric Abetz (Minister for Fisheries, Forestry and Conservation), 2006, *\$388.9m budget boost in fight against illegal foreign fishing in Australian waters*, joint media release, Parliament House, Canberra, 9 May.

Figure 5.1

Target, revised target and actual foreign fishing vessel apprehensions



Source: ANAO from PM&C and AFMA data

5.7 The significant decline in deep incursions into the AEEZ by FFVs shown in sightings data (see Figure 1.2), and the associated downward trend in FFV apprehensions, have been interpreted by Customs and Border Protection and other agencies participating in the program as an indication of the success of the program in deterring illegal foreign fishing activity in northern waters. This has also been acknowledged at Ministerial level.

5.8 In particular, agencies point to the deterrence impact of changing from the relatively ineffective pre-2006 approach based on legislative forfeitures—where illegal catch and fishing equipment were confiscated and FFVs released—to the new strategy under the program to seize and destroy FFVs illegally fishing within the AEEZ. While there is anecdotal evidence to support this conclusion, a clear cause and effect connection between the program and the decline in FFV incursions into the AEEZ cannot be reliably demonstrated by the formal performance measurement framework applying to the program.

5.9 A review of the ongoing appropriateness of a specific apprehension target as an indicator of effectiveness for the program, and consideration of what might constitute more suitable measures moving forward, is overdue. In this context, the ANAO notes that the effectiveness of the program against illegal foreign fishing in northern waters can be measured at two different levels:

- whole of government; and
- Customs and Border Protection.

These are discussed in turn below.

Whole of government performance measurement

5.10 As noted in Chapter 2 at paragraph 2.6, the make-up and distribution to agencies of the \$388.9 million 2006–07 Budget initiative against illegal foreign fishing was based on five interdependent success factors governing the number of apprehensions of FFVs that are able to be undertaken. In summary, the ability of BPC’s on-the-water response assets to apprehend foreign fishing vessels is directly dependent on the capability to transport and manage those seized vessels and transport, process, detain and prosecute or repatriate their crew.

5.11 Reflecting this interdependence, it would be reasonable to expect the existence of indicators to enable reporting on how the implementation of various initiatives within the program had been executed, and their contribution to the program as a whole. However, while each agency has reported independently on their own aspects of the program, there has been no regular reporting of the effectiveness of the program as a whole. The ANAO identified the following examples of this issue.

Example 1: The effectiveness of regional engagement activities

5.12 The absence of a consolidated whole of government performance framework makes it difficult to assess the relative contribution of different aspects of the program to the overall outcome. For example, in the area of regional engagement, Customs and Border Protection was allocated \$2.7 million in the 2006–07 Budget to ‘enhance its regional engagement’. This funding was designated to support a ministerial-level regional illegal fishing initiative and an overseas information campaign to educate foreign fishers on the impacts and consequences of fishing illegally in Australian waters. DAFF and the Australian Federal Police also received funding against this aspect of the initiative.

5.13 While Customs and Border Protection delivers its services under the ‘enhanced regional engagement’ component of the 2006–07 Budget initiative within the whole of government context, there is no joint measurement or reporting across agencies of outcomes in this area.

5.14 Customs and Border Protection reports on some of these measures from its own agency perspective, such as joint patrols with the Indonesian fisheries management agency, and Australia’s involvement with the Working Group on Marine Affairs and Fisheries under the Australia-Indonesia Ministerial Forum. However, this reporting does not include qualitative

measures of the effectiveness of these activities in preventing illegal foreign fishing activity.

5.15 The ANAO acknowledges the difficulty of measuring the prevention effect of programs delivered in a third country such as Indonesia, where there are many factors outside the control of Australian Government agencies influencing decisions by fishers to conduct illegal fishing incursions in the AEEZ. Such factors include weather conditions, the availability and price of fuel, the price of fish, and the economic circumstances and need for sustenance by individual fishers and their families.

5.16 Notwithstanding this difficulty, the fact that no attempt has been made to assess the prevention effects of education and alternative livelihood programs funded by Australia in Indonesia, and particularly the contribution to prevention of those programs relative to the deterrent effect of the enforcement components of the overall program, is a significant gap in the evidence base available to the Government to inform any future consideration of the size and composition of the whole of government program. This gap will become increasingly relevant to decision-making as engagement with Indonesian authorities becomes more important and extensive, building on the initial foundations of cooperation established through the program.

Example 2: Rapid response helicopter and the Horn Island processing facility

5.17 The examination of program implementation oversight in Chapter 2 highlighted two examples—the rapid response helicopter stationed at Gove and the processing facility built on Horn Island—where components of the whole of government program have been affected by changes to the operating environment during the course of the program.

5.18 The lack of whole of program reporting constrains the Government's ability to review the impact of such changes on the efficiency of the affected components. In the case of the rapid response helicopter, this means that no analysis has been undertaken of the efficiency of using an asset established for the primary function of rapid response for the secondary function of in-shore surveillance, particularly when the changes in foreign fishing activity have reduced the likelihood of landings within the helicopter's operating range.

5.19 In the case of the Horn Island processing facility, measuring the efficiency of maintaining this facility while it remains empty against its continuing value to the overall outcome of the program, especially should the environment change, would help inform any decision about its continued funding.

5.20 As the lead agency for coordinating the program, it is appropriate that Customs and Border Protection take responsibility for leading a process of better defining what constitutes success for the program, as well as creating indicators which can determine the program's effectiveness against this definition.

Performance measurement by Customs and Border Protection

5.21 In addition to whole of government measures of effectiveness, individual agencies are responsible for developing effectiveness indicators which can be used to assess their degree of success in achieving an outcome.

5.22 When the announced target of a doubling of apprehension numbers clearly became unattainable and lost its usefulness as an effectiveness indicator of the program, the de facto indicator that Customs and Border Protection adopted was the decrease in the number of FFVs sighted in the AEEZ while the level of surveillance coverage was maintained.⁶¹

5.23 The ANAO notes that this effectiveness indicator has limitations to the extent that it reflects the actual outcome in the operating environment, and was essentially created after the event. It therefore loses utility as an objective standard, set in advance, against which agency performance can be measured. While it is reasonable for definitions and indicators of effectiveness to evolve as circumstances change over time, such an evolution is best supported by a considered evaluation of the program.

5.24 It is important that performance indicators are articulated in a way that enables success to be demonstrated (for example, by way of comparison to a target) and trends to be monitored. The annually revised forecast for illegal FFV apprehensions continues to be recorded as a key performance indicator for Customs and Border Protection's 'Output 4: Civil maritime surveillance response' in its annual Portfolio Budget Statement (PBS). For the 2008–09 PBS, an additional key performance indicator was added: 'trends in sightings of potentially illegal foreign vessels in Australia's northern waters (including illegal foreign fishing vessels).'

⁶¹ This substitution was not in formal reporting such as the Annual Report, but was used in a range of discussions about the effectiveness of the program including at Senate Estimates hearings. Senate Estimates hearing, Legislation and Constitutional Committee, 26 May 2009, <<http://www.aph.gov.au/hansard/senate/commtee/S12040.pdf>> [accessed 1 June 2009].

5.25 This has limitations as a key performance indicator. No target or forecast for the indicator is included in the PBS because ‘the number of sightings cannot be forecast through any reliable statistical or other method’. Actual sightings and historical trends in sightings from year to year are reported in Customs and Border Protection’s Annual Report. A further limitation is that the indicator does not provide an indication of whether the apprehension number should be high or low, or what the desired trend should be. Also, the indicator does not detail what level of effectiveness or efficiency the outcome might reflect.

Options for improved performance measurement

5.26 Customs and Border Protection, and BPC as the multi-agency organisation which delivers much of the effort against illegal foreign fishing, are operationally focused organisations. They collect and report on a range of measures which quantify the level of effort or activity they deliver (examined in the Reporting Data and Topics section below). However, according to analysis of data collection and reporting in BPC undertaken by the Director Science and Technology Support, Defence Science and Technology Organisation, an interpretation of the value of this effort has not been attempted.

5.27 During the audit, the Commander BPC advised the ANAO that he believed that the success of BPC could be measured by:

- (a) how few incursions in Australian waters there have been due to both enforcement and educational effort;
- (b) when an incursion occurs, the appropriateness and speed of the response;
- (c) the ongoing routine and regular boardings of boats in the MOU box and north of the PFSEL (Provisional Fisheries Surveillance and Enforcement Line) to ensure compliance with fishing regulations; and
- (d) the number of sightings, not as a quantum but as a measure of domain awareness and as an indicator to predict a shift in fishing behaviour.⁶²

⁶² ANAO interview with Commander and Deputy Commander BPC on 28 May 2009.

5.28 The ANAO agrees that a definition of effectiveness, accompanied by indicators of success, set against these themes could provide better measurement of the performance of the illegal foreign fishing program than currently exists. However, the definition of what these indicators would mean, and what the targets against these indicators are, will require further development and consideration.

5.29 In addition, given that Customs and Border Protection considers that BPC is a service provider to client agencies, it would be appropriate to frame program effectiveness, from Customs and Border Protection's agency perspective, in terms of service. Consultation with client agencies would enable those agencies to provide their own analysis and advice of what 'effective' means, and what would indicate to them that the service they are receiving from BPC is effective. This process would also connect the performance of the program more strongly to the range of national interests it was identified as serving at the time of its announcement, and which are represented by those client agencies.

Conclusion

5.30 The whole of government program against illegal foreign fishing in northern waters is considered to be a success by participating agencies, given the significant reduction in FFV incursions into the AEEZ and in apprehensions. However, at whole of government level, there is a lack of a clear and agreed definition of program effectiveness, and this is compounded by the fact that the only stated effectiveness indicator—the doubling of apprehensions—became redundant early in the life of the program.

5.31 There is no regular reporting of the effectiveness of the program as a whole. Participating agencies report on their own activities independently. It is therefore not possible to assess the relative contribution to the overall performance of the program of its various components. Furthermore, as the operating environment changes with the decline in FFV incursions, the impact of resultant changes to particular components cannot be assessed in the context of the program as a whole.

5.32 The ANAO considers that government would be assisted in its monitoring of the cost-effectiveness of the whole of government program, and in its decision-making on the maintenance of or adjustment to the program, if there was:

- (a) a clearer and more robust definition of what constitutes effectiveness for the program, rather than continuing to use a legacy definition based on an apprehension target which is no longer applicable; and
- (b) regular reporting of the effectiveness and efficiency of the program on a consolidated, whole of government basis.

5.33 Customs and Border Protection's measurement and reporting of the program to secure Australia's border against illegal foreign fishing is focused on operational activities and lacks a clear definition of effectiveness which is appropriate to the current environment. As a service provider through BPC to a range of client agencies, the development by Customs and Border Protection of a more robust framework for measuring the value (including the effectiveness and efficiency) of its activities against illegal foreign fishing should appropriately include consultation with relevant client agencies.

Recommendation No.4

5.34 The ANAO recommends that Customs and Border Protection develop, in consultation with appropriate whole of government partners, a definition of effectiveness and robust effectiveness indicators for the program against illegal foreign fishing in Australia's northern waters in relation to both:

- (a) Customs and Border Protection's agency contribution (including Border Protection Command) to the whole of government program; and
- (b) the overall whole of government program.

Customs and Border Protection response: *Agreed*

5.35 Customs and Border Protection, in consultation with the Australian Fisheries Management Authority, has conceptualised new measures that will provide a more accurate picture of the effectiveness of the program. Work will be carried out in the first half of 2010 in order to assess the viability of the concepts when applied to historical data.

Reporting data and topics

5.36 In order to be accountable for their actions, to provide services efficiently, and to quantify their performance against effectiveness indicators, agencies should measure and evaluate their effort. This section examines what measurements BPC makes, concentrating specifically on their coverage and

quality, in order to assess their accuracy and whether they adequately cover the program.

5.37 The ANAO examined the following data sources as the primary reporting data sets:

- sightings of FFVs;
- boardings of FFVs;
- legislative forfeitures of FFVs;
- apprehensions of FFVs; and
- surveillance coverage of Australia's northern waters.

Measurements relating to the speed and availability of response to agency requests were also examined.

5.38 Sightings, boardings, legislative forfeitures and apprehensions of FFVs are some of the most common sets of data used by Customs and Border Protection to demonstrate their effort in securing Australia's borders against illegal foreign fishing. This information is presented either as a straight dataset, or visually represented in maps.

FFV boardings, apprehensions and legislative forfeitures

5.39 Boardings, legislative forfeitures, and apprehensions have unambiguous meanings. Therefore, what is represented in these datasets is generally straightforward.⁶³ Boardings and apprehension numbers indicate a decline in illegal foreign fishing activity since 2005–06. Their location (see Figure 5.2) shows a trend over time for this activity—which had previously penetrated Australian waters to the coastline—to retreat to the edge of the AEEZ.

⁶³ Boarding may be understood under the *Fisheries Management Act 1991*, as an act where an AFMA officer or an officer appointed by AFMA may board, without a warrant:

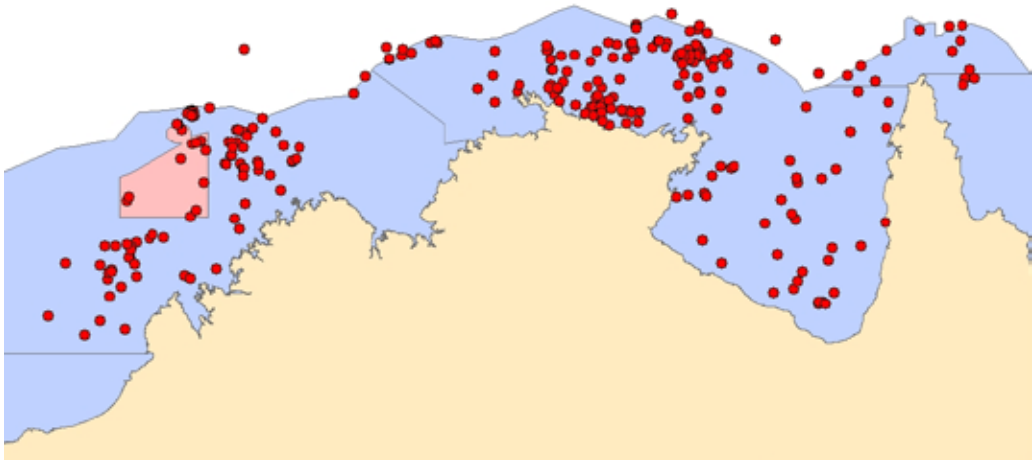
a boat in the AFZ or in Australia or an external Territory or a boat that the officer has reasonable grounds to believe has been used, is being used, or is intended to be used, for fishing in the AFZ [Australian Fishing Zone]. (*Fisheries Management Act 1991*, section 84)

If a boat is boarded and it is found to have been in contravention of section 106A of the *Fisheries Management Act 1991* – most commonly by being either a foreign boat fishing in AFZ or being equipped with nets and fishing equipment in the AFZ – then the boat, nets and fish found on board are forfeited to the Commonwealth. (*Fisheries Management Act 1991*, section 84). AFMA may at this point either confiscate the boat, fish and nets and arrest the master and crew of the boat (apprehension) or confiscate the fish and nets and educate the crew (legislative forfeiture).

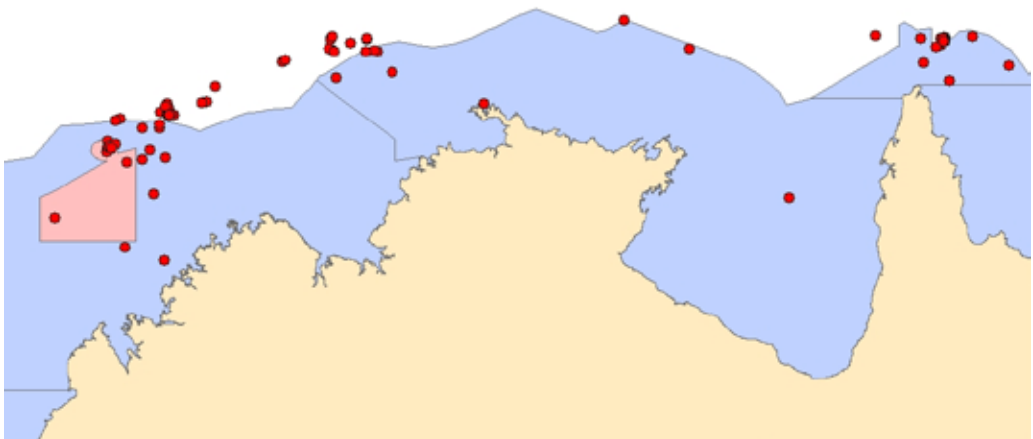
Figure 5.2

FFV apprehension locations in 2005 and 2008

January-December 2005



January-December 2008

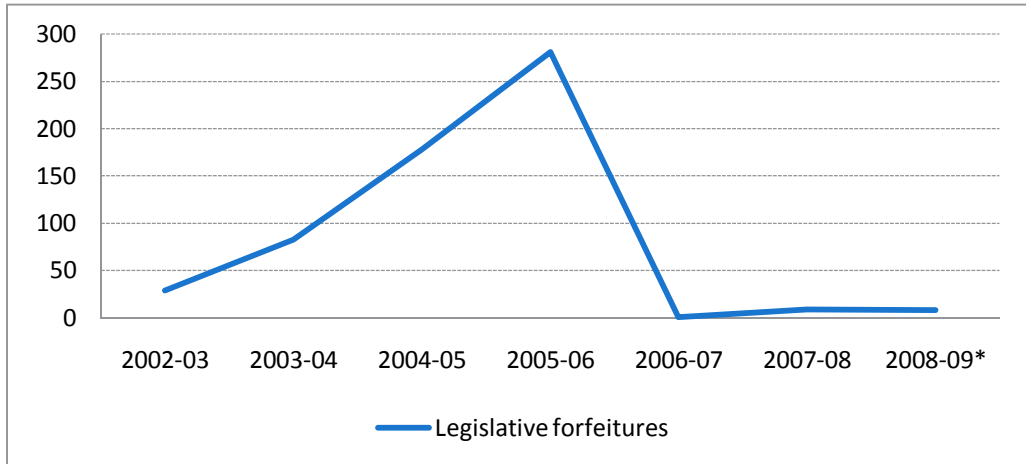


Source: Customs and Border Protection from AFMA information

5.40 A graph of legislative forfeitures over time (Figure 5.3) shows a dramatic drop in legislative forfeitures since 2005–06, concurrent with the change in the enforcement strategy to focus on apprehending illegal foreign fishers and destroying their vessels.

Figure 5.3

Trend in number of legislative forfeitures



Source: ANAO from data supplied by AFMA

Reliability of FFV sightings data

5.41 The sightings data, such as presented in Figure 1.2, allows BPC to make some assumptions about the changing behavior of illegal foreign fishers. The proximity of most fishing vessels to the AEEZ line in the 2008 map would suggest that FFV incursions into Australian waters are of a short duration, possibly opportunity ventures occurring in gaps between surveillance flights, or occurring while a BPC surface asset is either unavailable or not positioned to respond in sufficient time to a reported sighting.

5.42 However, this data is problematic. The sightings dataset contains a significant amount of low quality data that needs to be taken into account each time these numbers are used to illustrate a point. As discussed in detail below, these data lose their quality for several reasons:

- (a) there is no differentiation between legal and illegal FFVs and FFVs which are not fishing;
- (b) vessels can be sighted several times;

- (c) the major data collection tool, CWCSS, is heavily biased towards information collected from surveillance aircraft; and
- (d) quality control measures completed by CWCSS database operators is carried out inconsistently.

Furthermore, the database which manages this information is not currently in good working order, and has not been since December 2008. Since then, complete data has been inaccessible, and some errors have been unable to be resolved.

Differentiation between fishing vessels

5.43 It is generally easy for BPC's contracted surveillance operators to distinguish between Australian fishing vessels and FFVs. Australian vessels are usually in good condition and built to a higher standard than FFVs, particularly those originating from Indonesia.

5.44 However, within the FFV subset it is difficult to distinguish between legal and illegal foreign vessels. Under relevant treaties and MOUs,⁶⁴ there are circumstances where FFVs can operate legally within Australian waters. FFVs may also transit Australian waters under the innocent passage provisions of the *United Nations Convention on the Law of the Sea*.⁶⁵ There is currently no licensing or identification required on these vessels and they are rarely marked and are often similar in size, colouring and manufacture.

5.45 Even where the origin of the vessel may be correctly identified, BPC surveillance assets may log sightings of FFVs which may not actually be fishing, such as vessels which:

- were destroyed at sea but which were incompletely sunk;
- are being held offshore by AFMA due to quarantine concerns; or
- are being held offshore for processing pending destruction.

⁶⁴ For example, the *Torres Strait Treaty* and the *Australia-Indonesia Memorandum of Understanding regarding the Operations of Indonesian Traditional Fishermen in Areas of the Australian Fishing Zone and Continental Shelf* (MoU or MOU74).

⁶⁵ *The United Nations Convention on the Law of the Sea* states that ships of all states should enjoy the right of innocent passage through the territorial sea. Therefore, so long as a ship is transiting and not fishing in Australian waters (usually evidenced by the lack of fishing equipment or having fishing equipment properly stowed) it may transit in Australia's territorial waters. United Nations (1982), *United Nations Convention on the Law of the Sea*, available from <http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf> [accessed 1 June 2009].

There is currently no facility in CWCCS to identify that the sighting is of a non-fishing vessel. Such a determination requires specific examination of the CWCCS data.

5.46 While in some circumstances the location and activity of an FFV observed by an aircraft is sufficient to consider that an offence has occurred, generally the only way that the activity or intent of the vessel can be established is to board it to ascertain whether illegal activities have taken place. This means that the true significance of most sightings cannot be substantiated unless the vessel is subsequently boarded.

Duplicate sightings of vessels

5.47 It is common for a BPC surveillance aircraft to sight a vessel on its outward flight path and then sight it again, in the same or a different position, on its return. Vessels may also be sighted multiple times when sailing from one surveillance area to another and being seen by two flights either on the same day or over several days. On one occasion, BPC reported 10 sightings in the Gulf of Carpentaria area which was later proven to include nine reported sightings of two vessels.

5.48 Multiple sightings of the same vessel may also occur due to the automatic nature of the data collection system. On one occasion during 2008, 15 sightings of the same vessel were recorded in the Gulf of Carpentaria before the surveillance was ended due to the boarding and apprehension of the vessel.

Bias of reporting system towards aerial surveillance

5.49 CWCCS was originally designed as a planning tool for surveillance flights. Its expansion over time to be the primary data collection tool has not included a facility for on-water assets to automatically or directly input data into the system. Data collected by marine assets is sent to BPC as a part of the daily activity report. If the vessel was involved in a boarding, and the boarding resulted in an apprehension or legislative forfeiture, or if it was the result of a request to respond, the sighting/boarding is likely to be entered manually into the system. However, if the sighting or boarding did not result in further action, or the action was educational only, it is unlikely to be entered into the system.

5.50 This results in significant requirements for the manual entry of data. This is an administrative burden on which the ANAO previously commented in its 2004 audit of the then business owner of the system, the National Marine

Unit.⁶⁶ It also suggests that there are a number of sightings and some boardings which are not entered into the system, although the extent of this shortfall is unknown.

Inconsistent data cleansing

5.51 BPC does some cleansing of the data as a part of its quality control and data analysis role. Where a sighting which is inconsistent with expectations is noted it might be investigated to determine, for example, whether it is a sighting of a vessel known to be moored close to shore after an apprehension, or is a previously identified scuttled vessel. If this is the case it will be removed from the database. However, BPC staff advised that this data clean-up is completed only on an ad hoc basis, without formal procedures or consistent practice.

Implications of low quality sightings data

5.52 BPC is aware of the shortcomings of its data in the area of sightings. It does mark data with some provisos, however the ANAO notes that the disclaimer is not consistently included on each occasion when conclusions are cited which draw on these data. Examples include the 2007–08 Customs and Border Protection Annual Report and evidence given to Senate Estimates hearings regarding the ratio of sightings to apprehensions.⁶⁷

5.53 The Deputy Commander BPC commented to the ANAO that sightings data should be used to demonstrate the breadth of domain awareness in Australia's north only, rather than being interpreted as a precise indicator of the number of incursions into Australia's waters.⁶⁸

5.54 Over time, BPC has improved the interpretability of its sightings data by increasing the granularity of its maps. In 2006, BPC started to differentiate sightings data to inside and outside the AEEZ. In December 2008, the SMMC

⁶⁶ Australian National Audit Office, ANAO Audit Report No.37 2003–04, *National Marine Unit*, Canberra, 2004.

⁶⁷ The proviso is included in Australian Customs Service *Annual Report 2007–08*, in a footnote to Figure 3 on page 14 but not included when sightings are mentioned on pages 45–47 of the Report.

⁶⁸ ANAO interview with BPC Commander and Deputy Commander on 28 May 2009.

requested that BPC differentiate sightings within the AEEZ to above and below the Provisional Fisheries Surveillance and Enforcement Line.⁶⁹

5.55 Further improvements to the interpretation of these data could be implemented through the application of research commissioned by AFMA and BPC from CSIRO.⁷⁰ CSIRO provided a method to estimate, given surveillance, boarding and apprehension data, the number of unique visits from foreign fishing vessels into Australian waters. However, BPC has not implemented this method in view of the decreased numbers of sightings and apprehensions.

Conclusion

5.56 Sightings, boardings, apprehensions and legislative forfeiture data provide a picture of trends in the behaviour of foreign fishers and of BPC activities in response. It is important therefore that the system which manages this information is functioning effectively in order to support the organisation's reporting requirements. Customs and Border Protection will need to assure itself that CWCSS, or any subsequent business information system which undertakes this role, is sufficiently robust and suitably supported for this task.

5.57 While sightings data provide an important contribution to general trends information, they are less reliable than other statistics such as the number of boardings, legislative forfeitures and apprehensions. Because of this, they cannot be reliably used to provide information about the number of unique incursions into Australian waters by foreign fishers. While CSIRO has provided advice on a method by which this information may be calculated, the necessary algorithms have not been applied by BPC. The ANAO suggests that BPC extend its use of explanatory text to ensure that it accompanies all occasions where the data is used and considers implementing the results of the CSIRO study.

5.58 These suggestions do not address the continuing impact on the quality of sightings data from deficiencies in their collection mechanisms. If BPC

⁶⁹ Under the Provisional Fisheries Surveillance and Enforcement Arrangement signed by Australia and Indonesia in 1981, Australia undertook not to exercise jurisdiction for fisheries surveillance and enforcement purposes against Indonesia licensed vessels with respect to swimming fish species north of the line agreed to in the Arrangement, but does retain the right to exercise jurisdiction over FFVs fishing for sedentary (seabed) species north of the PFSEL to the seabed limit.

⁷⁰ CSIRO report *Calculating recent foreign fishing vessel numbers using established estimators based on Coastwatch surveillance and apprehension data*. CSIRO, 2008.

continues to use these data as a forecasting and reporting tool, the ANAO suggests that it looks to address these issues at the collection source rather than continuing to qualify the data with provisos, which can too easily be omitted from oral reporting or overlooked in written reports.

Surveillance coverage

5.59 While boardings, legislative forfeitures, apprehensions and sightings provide an activity measure that can directly correlate to illegal foreign fishing activity, BPC's surveillance program is designed to provide information against all eight maritime threats. While on surveillance, aircraft are expected to search for and report on all threats defined in the Coastwatch manual. Accordingly, BPC reports only on the geographic coverage of its surveillance operations and does not differentiate this service against any specific threat.

5.60 In its review of these data, the ANAO noted that BPC had made a number of significant changes in how it measured its surveillance effort. In its 2005–06 Annual Report, Customs and Border Protection included sorties and flying hours as well as square miles coverage. By 2007–08 this was reduced to a single measure, coverage of surveillance (square nautical miles). The methodology for this calculation had also changed.⁷¹

5.61 Changes in calculation methods make it difficult to analyse data over time. BPC advised the ANAO during the audit that the implementation of the Australian Maritime Identification System and the Surveillance Information Management system, which is scheduled within the next 12 months, will provide another new calculation method. Once this method has been bedded down, BPC has advised that there will be greater consistency and accuracy in the measurement of surveillance effort.

Speed and availability of response to agency requests

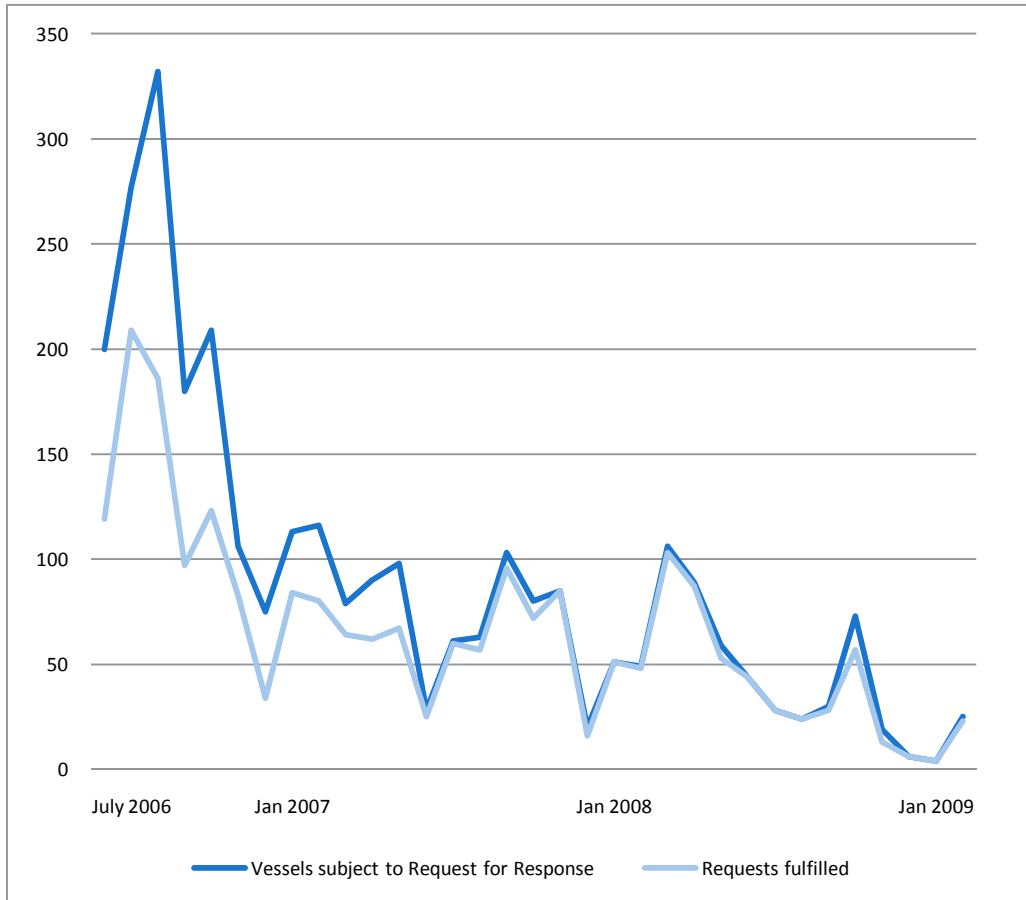
5.62 Further to the operational data of how many vessels were sighted, boarded, apprehended and forfeited, which is widely circulated, Customs and Border Protection also completes service quality analysis on the number of response requests which are actioned and their outcomes.

⁷¹ Australian Customs Service, *Annual Report 2005–06*, Canberra, 2006, p.115. BPC considers that measuring the surveillance effort in square nautical miles covered rather than flying hours or number of sorties is a more 'effective surveillance measure'.

5.63 Figures 5.4 and 5.5 show that performance in these two respects has improved over time, albeit in relation to a declining number of requests.

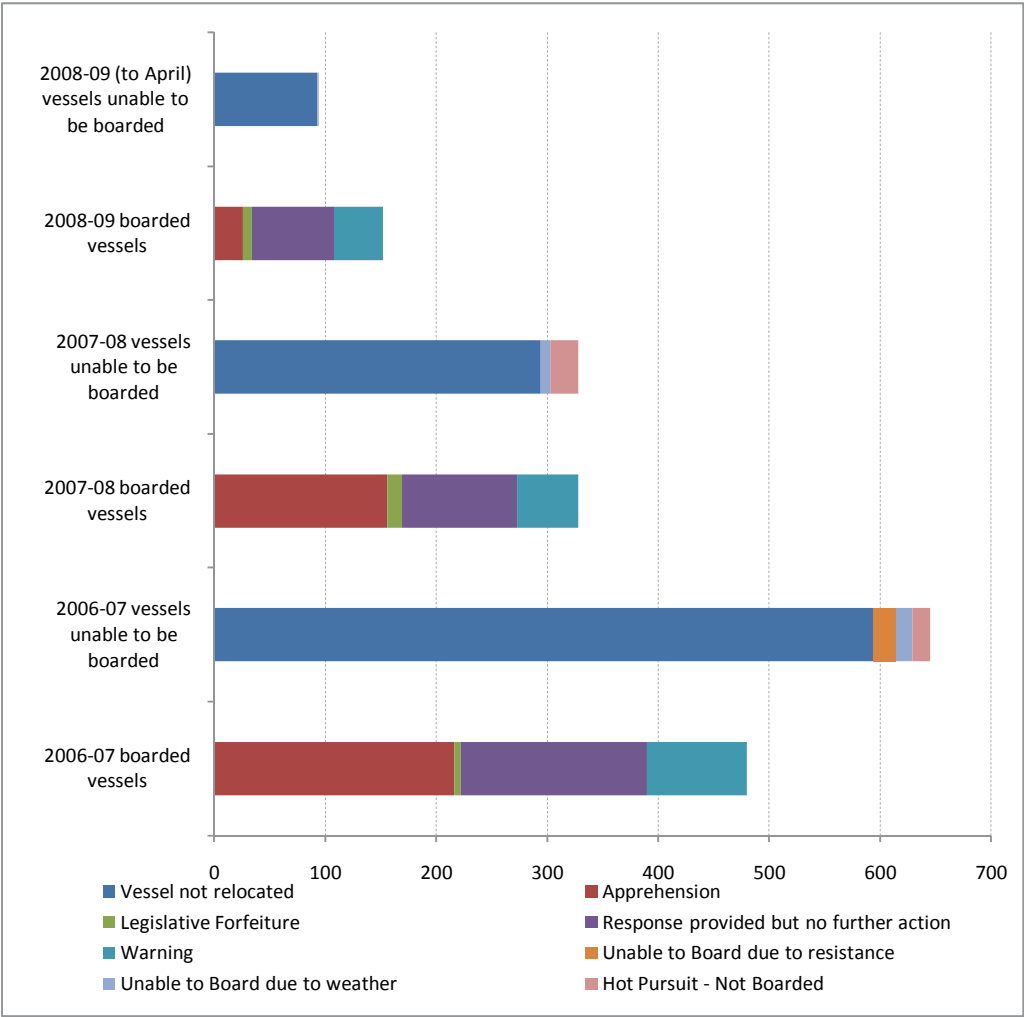
Figure 5.4

Comparison of the number of requests for response to suspected illegal FFVs made and fulfilled



Source: ANAO from Customs and Border Protection and BPC data

Figure 5.5
Outcomes of response requests



Source: ANAO from Customs and Border Protection and Border Protection data

5.64 BPC statistics on the outcomes of response requests are only circulated internally. Consistent with the observation in paragraph 5.29 that an important aspect of measuring program effectiveness is service to client agencies, the ANAO suggests that BPC develop an appropriate service standard, in consultation with its client agencies, as a basis for measuring the quality and quantity of the services it provides to agencies. The ANAO suggests that such measurements be made available to all client agencies which receive services from BPC, as well as coordinating groups such as JAMAG.

5.65 BPC expends significant time and energy in positioning its on-water assets where they can most successfully respond to tactical tasks.⁷² However there is currently no measurement undertaken of how well this task is being performed.

5.66 The usefulness of a measure such as this has previously been suggested in Senate Estimates hearings. At that time, the Commander BPC pointed to weekly meetings where responses were analysed for effectiveness.⁷³ However, the ANAO notes that these analyses are not based on any objective measurement nor are the outcomes of these discussions available to non-participants, two aspects of reporting that the ANAO considers important for a useful measurement.

5.67 The ANAO suggests that Customs and Border Protection consider measuring and reporting the time between a request to respond and the boarding of the suspected FFV, including instances where the target was not re-acquired or where the response asset was unavailable. This information would require a degree of qualitative interpretation to take into account factors such as the variance in the location of sighted FFVs and limitations on asset capabilities, and the reasonableness of response times in light of such factors. Nevertheless, such information would provide a basis for BPC to measure the quality of its asset positioning, and is a measurement of one of the definitions of effectiveness canvassed by the Commander BPC noted at paragraph 5.27(b).

Performance reporting

5.68 Agency annual reports are the primary vehicle for reporting program performance, particularly effectiveness, to the Parliament and the public. Annual reports are also a key reference document for stakeholder agencies and for an agency's internal management. This section examines how the program against illegal foreign fishing in Australia's northern waters is reported in Customs and Border Protection's annual reporting.

5.69 The structure of maritime surveillance and response arrangements, and of the program against illegal foreign fishing, present difficulties for Customs

⁷² A tactical task is a request to respond to something that has been sighted, generally by aerial surveillance but sightings may also be reported by patrol boats themselves or by the public (see Chapter 4, paragraph 4.71).

⁷³ Senate Hansard, Standing Committee on Legal and Constitutional Affairs (2007) *Budget Estimates*, 23 May 2007.

and Border Protection in providing comprehensive annual reporting of the program. Firstly, the effort Customs and Border Protection supplies to the program comprises two components: the surveillance and response operations conducted by BPC as a multi-agency organisation, which is the majority of the effort, and a small number of activities conducted by Customs and Border Protection itself, such as the on-shore processing of apprehended fishers. Secondly, very little of Customs and Border Protection's effort can be readily isolated and ascribed to a discrete initiative or single threat, since the capacity managed by BPC addresses multiple concurrent threats.

5.70 These characteristics of the program mean that it is difficult for Parliament and the public to reconcile the \$197.4 million allocated to Customs and Border Protection under the 2006–07 Budget initiative 'Securing Borders against Illegal Foreign Fishing' directly to the outcomes presented in its annual report.

Lack of a consolidated BPC report

5.71 As previously noted, BPC is a multi-agency organisation primarily supported by Customs and Border Protection and the ADF, with liaison officers from AFMA and AQIS.

5.72 For the purposes of reporting by Customs and Border Protection to a variety of inter-government and intra-government fora,⁷⁴ BPC's activities such as boardings, apprehensions, legislative forfeitures and surveillance are combined to provide an overall picture of maritime domain awareness and BPC's ability to respond. However, in Customs and Border Protection's annual reports, much of this information, such as on-water patrol days and number of boardings, is only consistently presented for its own contribution to BPC.⁷⁵

5.73 The separation of Customs and Border Protection's contribution to BPC from that of the ADF provides an incomplete, and therefore a potentially misleading, picture of the Australian Government's maritime awareness and

⁷⁴ Such fora include SMMC, JAMAG and regular annual meetings of Commonwealth and State Fisheries Ministers.

⁷⁵ In its 2005–06 Annual Report, p. 116, Customs and Border Protection reported on the number of sea days provided by the Royal Australian Navy for Operation Cranberry and Relex II which were JOPC (BPC) operations. This reporting parameter was discontinued in 2006–07.

response, particularly as this information is not reported or is difficult to find in the Defence annual report.⁷⁶

5.74 The ANAO considers that a consolidated report of activities under BPC's operational control would better capture the full range of surveillance and response activity against the eight maritime threats, including the program against illegal foreign fishing. While each agency would continue to report on its specific contribution to BPC through its own annual report, the inclusion of joint statistics in a consolidated BPC report would provide a more accurate picture of different agency contributions.⁷⁷

5.75 As noted in paragraph 5.72, BPC collates such information for the purposes of internally prepared briefings. The ANAO notes that there is a dedicated BPC website, within the Customs and Border Protection website, that publishes information and facts sheets about how BPC operates.⁷⁸ The BPC website would be an appropriate vehicle for making a consolidated BPC report publicly available.

5.76 The ANAO suggests that Customs and Border Protection consider introducing and publishing a consolidated report of BPC activities, and consult with Defence on incorporating ADF activities under Operation RESOLUTE into such a report.

Consistency of information presented in the annual report

5.77 Within the restrictions on Customs and Border Protection's ability to comprehensively report against the illegal foreign fishing program, it is still possible to comment on the consistency of information which is presented in its annual report.

⁷⁶ The Defence Annual Report reports on the capability and provision of service by Armidale Class patrol boats. It does not differentiate what operation the boat was on during this time. Nor does it record the number of taskings, responses or boardings it completed under Operation RESOLUTE, the operation which provides these assets to BPC. Australian Defence Force, (2008) *Annual Report*, p.58.

⁷⁷ By looking separately at the statistics of how many apprehensions and legislative forfeitures were undertaken by Australian Customs Vessels (ACVs) and ADF assets individually, it might seem that ADF assets were disproportionately apprehending fishers, while ACVs complete more legislative forfeitures. However, this difference is more likely to be attributed to the different capabilities of the assets involved. The Bay Class ACVs are significantly smaller than the Navy's Armidale class vessels, and are not as well equipped to handle the higher sea states or distance sailing required to patrol the furthestmost areas of the AEEZ, where most illegal fishing activity now occurs. In contrast, due to their smaller size and shallower draught, the ACVs are better suited to patrolling the Torres Strait.

⁷⁸ See <<http://www.bpc.gov.au/>>

5.78 The ANAO's Better Practice Guide, *Better Practice in Annual Performance Reporting*, states that 'stability in reporting regimes from year to year is central to the reliability of a performance management system.'⁷⁹

5.79 Since the 2005–06 Budget, the numerical measures which have remained stable are the:

- number of apprehensions and legislative forfeitures of foreign fishing vessels by BPC;
- number of apprehensions, boardings, legislative forfeitures and patrol days by Customs and Border Protection vessels only; and
- surveillance coverage (million square nautical miles) provided by contracted satellite.

5.80 As noted above, there has been a significant change during this period in the method applied to the calculation of geographic surveillance coverage by contracted aircraft, as well as the addition of trends in sightings. There was insufficient explanation in annual reports as to why previous measures of ongoing activities were no longer considered appropriate.

5.81 In addition to numerical measures, Customs and Border Protection offers a narrative to provide contextual information. While it is appropriate to use narrative to provide interpretive information, these parameters should be chosen with rigour and should be reported consistently.

5.82 To illustrate the point, in its 2006–07 Annual Report, Customs and Border Protection noted that sightings of motorised FFVs in northern waters decreased by 58 per cent from 2005–06 and that apprehensions fell from 367 to 216. It went on to state that:

While there was a significant reduction in the number of apprehensions, the ratio of apprehensions to sightings increased by more than 40 per cent in 2006–07 over the previous year.⁸⁰

5.83 The inclusion in performance reporting of the ratio of apprehensions to sightings is problematic. Its purpose is not stated but it is reasonable to conclude that it was included to indicate increased performance by BPC in that

⁷⁹ Australian National Audit Office, *ANAO Better Practice Guide—Better Practice in Annual Performance Reporting*, ANAO, Canberra, 2004, p. 5.

⁸⁰ Australian Customs Service *Annual Report 2006–07*, p.119.

particular year, notwithstanding a decrease in FFV apprehensions. It is problematic both because of the unreliability of sightings data (see paragraph 5.42) and the absence of any context for interpreting the meaning of the ratio in terms of effectiveness. Such interpretation would have become more complex in subsequent years had the measure been continued—it would have shown a 226 per cent increase from 2006–07 to 2007–08, followed by a decrease of 95 per cent from 2007–08 to 2008–09.⁸¹

Conclusion

5.84 There are structural barriers to comprehensive and effective reporting of Customs and Border Protection's performance in managing and coordinating the program against illegal foreign fishing in Australia's northern waters. These stem from the multi-agency nature of BPC and its multi-tasked operations against eight maritime security threats. The ANAO considers that there is an opportunity to improve reporting by developing a consolidated report of BPC's surveillance and response operations, including those relating to illegal foreign fishing, and making that report publicly available through BPC's website.

5.85 To further improve its annual reporting, the ANAO suggests that Customs and Border Protection stabilise its reporting outputs to create specific, measurable, achievable, relevant and timed performance parameters. Data collected and used in internal management reporting are available to be drawn on for this purpose.



Ian McPhee
Auditor-General

Canberra ACT
23 February 2010

⁸¹ Calculations provided to ANAO by BPC via email dated 9 November 2009.

Appendices

Appendix 1: Terms of reference of key inter-departmental committees

Strategic Maritime Management Committee (SMMC)

Role

The SMMC is to provide high level whole of government policy and strategic direction with regard to Australia's civil maritime security.

Scope

The SMMC will:

- a. oversee civil maritime domain awareness;
- b. promote whole of government consideration of civil maritime security issues;
- c. regularly assess threats to civil maritime security relative to one another through a strategic risk assessment;
- d. provide high-level oversight of the implementation of government commitments to strengthen and enhance civil maritime security;
- e. advise the Secretaries Committee on National Security on appropriate response arrangements to threats to civil maritime security;
- f. work to align the structure and focus of existing government committees so that they best support the development and implementation of government policy and the SMMC; and
- g. review the effectiveness of fisheries compliance and civil maritime enforcement programmes by September 2007.

Governance

The SMMC will:

- a. meet every four months, and as required on an ad hoc basis, and
- b. be informed by the range of existing government committees with responsibility for specific civil maritime security issues.

Membership

The SMMC comprises senior representation with the following members (typically at Deputy Secretary level): Department of the Prime Minister and Cabinet (Chair); Attorney-General's Department; Australian Customs Service;

Australian Federal Police; Australian Fisheries Management Authority; Australian Maritime Safety Authority; Australian Secret Intelligence Service; Australian Security Intelligence Organisation; Department of Agriculture, Fisheries and Forestry (including AQIS); Department of Defence; Department of the Environment and Heritage; Department of Finance and Administration; Department of Foreign Affairs and Trade; Department of Immigration and Multicultural Affairs; Department of Transport and Regional Services; Joint Offshore Protection Command; Office of National assessments; Treasury and additional agencies with related interests, such as the Department of Industry, Tourism and Resources, which has responsibility for offshore oil and gas facilities, which may also be invited to support the work of SMMC as required.

Joint Agencies Maritime Advisory Group (JAMAG)

Terms of Reference

Provide Commander JOPC (now Commander Border Protection Command) with policy guidance and direction in sensitive or difficult situations;

Review and endorse the national civil maritime asset deployment plan;

Review and, where appropriate, advise on Government directed civil maritime security projects;

Support and advise the SMMC in the development of whole of government policy for civil maritime security surveillance and response. This includes:

- management of civil maritime strategic risk identification and assessment;
- development of whole of government policy on maritime domain awareness;
- development of whole of government public information on civil maritime surveillance and response;
- alignment of legislation relating to civil maritime security enforcement; and
- assessment of future resource requirements for civil maritime security surveillance and response.

Membership

Commander JOPC (now Border Protection Command) (Chair)

Assistant Secretary level representation from:

PM&C, Customs, Defence, DEH, GBRMPA, DAFF, AQIS, AFMA, DoTARS, AMSA, DIMA, DFAT, AFP, AGD, ONA, Finance and DITR.

Note: Extraordinary meetings comprising relevant agencies only may be called to advise in sensitive or difficult emergent situations.

Secretariat

Provided by JOPC (now Border Protection Command)

Cycle

Quarterly – one month before each SMMC meeting.

Inter-departmental Committee on Illegal, Unreported and Unregulated Fishing

Terms of Reference

The Inter-Departmental Committee on Illegal, Unreported and Unregulated Fishing (the IDCIUU) provides strategic analysis and advice on illegal, unreported and unregulated (IUU) fishing issues.

The IDC will also provide a forum for information exchange between Australian Government agencies involved in activities to combat illegal foreign fishing.

The IDC will consider all issues as they relate to illegal foreign fishing in the Australian Fishing Zone and the High Seas, including;

- Foreign IUU fishing impacts on the AFZ marine resources and the Australian fishing industry;
- Measures to address foreign IUU fishing, and domestic IUU fishing in so far as it relates to foreign IUU fishing;
- Domestic cooperative measures, including liaison meeting processes with state/territory governments; and

- International cooperative/treaty arrangements and initiatives, including for the development of Australian negotiating positions for Regional Fisheries Management Organisations (RFMO) meetings and Asia-Pacific Economic Cooperation (APEC) fisheries initiatives.

The Customs led Implementation Working Group and the DIMA led Post Apprehension Review Working Group working groups will provide reports to the IDC, highlighting progress on actions and raising areas that might require the future attention of the IDC. Working groups may be established on an as needs basis through agreement by the IDC.

The IDC will provide reports to the Joint Agencies Maritime Advisory Committee (JAMAG), the Strategic Maritime Management Committee (SMMC) and other relevant fora as appropriate.

Membership

- The Department of Agriculture, Fisheries and Forestry (Chair).
- The Australian Customs Service (now the Australian Customs and Border Protection Service)
- The Australian Fisheries Management Authority
- The Australian Quarantine and Inspection Service
- The Department of Defence
- The Department of Immigration and Multicultural Affairs (now the Department of Immigration and Citizenship)
- The Department of Prime Minister and Cabinet
- The Australian Federal Police
- The Attorney-General's Department
- The Department of the Environment and Heritage (now the Department of the Environment, Water, Heritage and the Arts)
- The Department of Foreign Affairs and Trade
- AusAID
- The Office of National Assessments
- The Department of Finance and Administration (now the Department of Finance and Deregulation)

Observers

- Australian Secret Intelligence Service
- Defence Signals Directorate
- Defence Imagery and Geospatial Organisation
- Customs analysis

Schedule

Meetings will normally be scheduled quarterly, two weeks prior to JAMAG meetings to allow the IDC to provide current, timely advice to that meeting.

Additional meetings may be held as required.

Appendix 2: Formal comments from Customs and Border Protection

Summary Comments

The Australian Customs and Border Protection Service welcomes the ANAO's report on Illegal Foreign Fishing in Australia's Northern Waters, which concludes that, overall, Customs and Border Protection has effectively managed and coordinated enforcement operations against illegal foreign fishing in northern waters.

The report provides a very useful perspective on the performance of the program to combat illegal foreign fishing and will assist with the further refinement of the program to ensure the best possible approach to meeting its objectives.

The recommendations made in the report are of particular use in clarifying the immediate priorities for improvement of the program in the areas of program governance, ongoing performance evaluation, intelligence support and risk assessment. Work is already underway to address the recommendations.

Response to Recommendations

Recommendation No. 1
Para. 2.94 The ANAO recommends that, in order to adapt to changed governance arrangements, Customs and Border Protection initiate consultations with appropriate whole of government partners to clarify:

- the leadership arrangements that should apply to the future direction and delivery of the whole of government program against illegal foreign fishing in northern waters; and
- the role and functions of the Joint Agencies Maritime Advisory Group in providing whole of government policy coordination for civil maritime security issues, including the Group's reporting responsibilities to the Homeland and Border Security Policy Coordination Group.

Customs and Border Protection response: *Agreed.* Customs and Border Protection will take the lead in working with whole of government partners to

develop and implement revised governance and leadership arrangements for the future direction and delivery of the whole of government program.

Recommendation No. 2
Para. 3.79 The ANAO recommends that, in order to improve the understanding of the illegal foreign fishing threat within the whole of government program, and improve planning to address that and other threats in the maritime domain, Customs and Border Protection review the capacity of BPC's intelligence services to support the longer-term forecasting of trends in illegal foreign fishing, and to support its requirements for policy development and longer-term operational and capability planning.

Customs and Border Protection response: *Agreed.* Customs and Border Protection will review the capacity of Border Protection Command's intelligence services to extend the time horizon for its intelligence products to improve longer-term forecasting.

Recommendation No. 3
Para. 4.36 In order to ensure that deficiencies in the Common Risk Assessment Methodology do not compromise the effectiveness of Border Protection Command's risk-based operational planning, the ANAO recommends that Customs and Border Protection review the approach of maintaining the Common Risk Assessment Methodology in its present state until a replacement planning process is developed.

Customs and Border Protection response: *Agreed.* The Integrated Operational Planning Process model will continue to be evaluated as the potential longer term risk process for Border Protection Command. In the interim, a revised risk process that extends the utility of the Australian Maritime Security Risk Assessment process for operational planning is under development for anticipated implementation in early 2010. It is expected that the revised risk process will replace the Common Risk Assessment Methodology process.

**Recommendation
No. 4
Para. 5.34**

The ANAO recommends that Customs and Border Protection develop, in consultation with appropriate whole of government partners, a definition of effectiveness and robust effectiveness indicators for the program against illegal foreign fishing in Australia's northern waters in relation to both:

- Customs and Border Protection's agency contribution (including Border Protection Command) to the whole of government program; and
- the overall whole of government program.

Customs and Border Protection response:

Agreed. Customs and Border Protection, in consultation with the Australian Fisheries Management Authority, has conceptualised new measures that will provide a more accurate picture of the effectiveness of the program. Work will be carried out in the first half of 2010 in order to assess the viability of the concepts when applied to historical data.

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