

**NORTHERN TERRITORY FISHERIES**

**JOINT AUTHORITY**

**REPORT FOR THE PERIOD**

**1 July 1995**

**to**

**30 June 1996**

Commonwealth of Australia 1997

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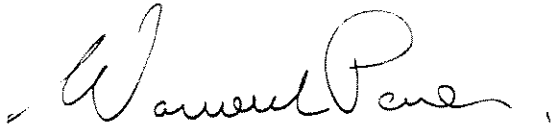
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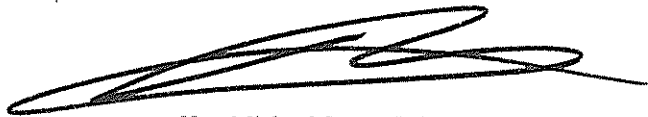
*FISHERIES MANAGEMENT ACT 1991*  
(COMMONWEALTH)

*FISHERIES ACT*  
(NORTHERN TERRITORY)

NORTHERN TERRITORY FISHERIES JOINT AUTHORITY  
REPORT OF THE NORTHERN TERRITORY FISHERIES JOINT AUTHORITY  
FOR THE PERIOD: 1 JULY 1995 TO 30 JUNE 1996



Senator The Hon Warwick Parer  
Commonwealth Minister for  
Resources and Energy  
Parliament House  
CANBERRA ACT 2600



Hon Michael James Palmer  
Northern Territory Minister  
for Primary Industry and  
Fisheries  
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## 1. Introduction

This, the ninth report of the Northern Territory Fisheries Joint Authority (NTFJA), outlines the functions and activities undertaken by the Authority throughout the period 1 July 1995 to 30 June 1996.

The *Fisheries Management Act 1991* provides for the Commonwealth and states including the Northern Territory to establish Joint Authority fisheries comprising the relevant Commonwealth and Territory Ministers. Part VI of the Northern Territory *Fisheries Act* envisaged the formation of such a Joint Authority.

On the 3 February 1995, the Northern Territory Fisheries Joint Authority, subject to the provisions of the *Fisheries Management Act 1991* and the *Fisheries Act*, assumed responsibility for the management of the Northern Demersal and Timor Reef Fishery (licensed separately as the Demersal Finfish Fishery and Timor Reef Fishery), the Shark Fishery and the Finfish Trawl Fishery, in those waters adjacent to the Northern Territory. Management is in accordance with the Northern Territory *Fisheries Act*.

These arrangements provide for the management of fisheries resources contained in the Arrangement between the Commonwealth of Australia and the Northern Territory, published in the Australian Government Gazette of 1 February 1995 and the Northern Territory Gazette of 1 February 1995 (No. S7, 1 February 1995). A copy of this Arrangement is provided at Appendix 1.

## 2. Members of the Joint Authority

The members of the Northern Territory Fisheries Joint Authority are:

Hon David Peter Beddall, MP  
Commonwealth Minister for Resources (1 July 1995 - 11 March 1996)

Hon Senator Warwick Parer  
Commonwealth Minister for Resources and Energy (11 March 1996 - 30 June 1996)

Hon Michael James Palmer  
Northern Territory Minister for Primary Industry and Fisheries

Deputies for the NTFJA are:

For the Commonwealth Minister -  
Mr Richard Stevens  
Managing Director  
Australian Fisheries Management Authority

The person occupying the position number 14345 in the Commonwealth  
Department of Primary Industries and Energy

For the Northern Territory Minister -

Mr Darryl Grey  
Director of Fisheries  
Northern Territory Department of Primary Industry and Fisheries

Secretariat services were provided by the Assistant Director Fisheries Management, or the person undertaking the duties of this position.

### **3. Functions and Powers of the Northern Territory Fisheries Joint Authority**

The Northern Territory *Fisheries Act* provides for the functions of Joint Authority's. Similar provisions are found in the Commonwealth *Fisheries Management Act 1991* (Section 78). In brief, the Joint Authority:

“has the function of keeping constantly under consideration the condition of the fishery, formulating policies and plans for the good management of the fishery, and for the purposes of the management of the fishery exercising the powers conferred on it by this Act (Northern Territory *Fisheries Act*) and co-operating and consulting with the other authorities including other Joint Authorities within the many of the Commonwealth Act, in matters of common concern.”

The NTFJA has the following objectives in the performance of its functions:

- (a) ensure through proper conservation, preservation and fisheries management measures, the living resources of the waters to which the Act applies are not endangered or over exploited; and
- (b) achieving the optimal utilisation and equitable distribution of those resources.

Management of the recreational component of these fisheries resides with the Northern Territory Department of Primary Industry and Fisheries.

### **4. Meetings of the Northern Territory Fisheries Joint Authority**

Meetings of the Northern Territory Fisheries Joint Authority were convened on 15 November 1995 and 29 May 1996. Decisions arising from the NTFJA meetings are provided in Appendix 2.

## 5. Advisory Committees

The Northern Territory *Fisheries Act* provides for the appointment of Fisheries Management Advisory Committees to assist in the preparation of management plans and to provide advice on any operational plans. Members to the Shark Fishery Management Advisory Committee were appointed in early 1993. Membership to the Demersal Fisheries Management Advisory Committee was confirmed in 1995. Expressions of interest were called for appointment of a Timor Reef Fisheries Management Advisory Committee throughout 1995. No meetings of Fishery Management Advisory Committees were convened throughout the reporting period, that is, 1 July 1995 to 30 June 1996.

## 6. Condition of the Fishery

### Timor Reef Fishery

Goldband snapper (*Pristipomoides multidentis*) accounts for approximately 75% of the catch of the Timor Reef fishery. Sharptooth snapper (*Pristipomoides typus*), saddle tail snapper (*Lutjanus malabaricus*), red snapper (*Lutjanus erythropterus*), red emperor (*Lutjanus sebae*), together with a variety of cods and emperors (*Lethrinus* spp.) are also taken.

The fishing grounds are located in an area known as the Timor Box. This area has been set aside for passive fishing methods, that is, other than trawling.

Analysis of daily logbook catch returns furnished by commercial fishermen, throughout the period 1987 to 1994, trawl surveys and biological knowledge of similar species, provide input for population modelling to assess the condition of the Fishery. Biomass modelling suggests an annual sustainable yield for goldband snapper, within the Timor Reef Fishery, of between 400 and 1000 tonnes.

The impact of fishing activities on straddling stocks, in adjacent jurisdictions, requires further investigation.

Details about production and management arrangements are provided in Appendix 3.

### Shark Fishery

The key target species are black-tip shark (*Carcharimus tilstoni* and *C. sorrah*). Other commonly caught species include hammerheads (*Sphyrna* sp.), milk sharks (*Rhizoprionodon acutus*), grey mackerel (*Scomberomorus semifasciatus*), school mackerel (*S. queenslandicus*) together with long-tail tunas (*Thunnus tongol*) and kawakawa tuna (*Euthynnus affinis*).

A joint research program between CSIRO and NT Fisheries, which began in 1982, estimated that the sustainable harvest of black-tip sharks was 3900 tonnes in waters throughout Northern Australia. This value is a preliminary estimate only. Such a value

simply provides an indicator of the likely scope for development of the Fishery rather than a quantitative determinant of precise yields.

A joint Australian-Indonesian Workshop on Arafura Sea Fisheries, held in Darwin 1992, developed an age-structure model to assess the status of the Shark Fishery. No definite assessments about potential yields could be made at that time due to inconsistencies in the procedures for reporting, and collation, of catch and effort details.

Research undertaken to date has focused on black-tip shark stocks. Little is known about the status of other sharks or other fish species taken as an incidental catch of shark fishing operations. Sharks are also landed as a by-catch of handline, setline, mesh and haul nets, bait nets and prawn trawling. By-catch restrictions, which limit the amount of sharks taken as part of the Northern Prawn Fishery catch and certain fisheries administered by the NTDPIF, have been introduced.

Worldwide experience has shown that shark stocks are particularly susceptible to overfishing due to their longevity (long lived) and low fecundity (few offspring). However, current landings of black-tip sharks in Northern Territory waters are considerably lower than historical catches and well below available sustainable yield indications.

Further details about fisheries production are provided in Appendix 3.

### **Demersal Finfish Fishery**

Sustainable yield estimates for this Fishery have been derived from commercial logbook data, observations of foreign fishing activities and trawl surveys.

The fish resources of the Arafura, Timor and Gulf of Carpentaria have been the subject of considerable interest from Taiwanese (1972-90) Thai (1985-90) and mainland Chinese (1989) fleets. Domestic fishermen have maintained an interest since 1990. A review of scientific modelling of past catch and effort trends and population (yield per recruit) estimates (1990) was instigated in 1992, following further research by NTDPIF and CSIRO.

The most recent 'yield per recruit' model estimates indicates potential sustainable landings of red snappers for the AFZ component of the Arafura Sea and Gulf of Carpentaria of 3,700 to 6,800 tonnes and 2,900 to 9000 tonnes respectively. Recorded landings of demersal finfish by domestic operators are significantly lower than these estimates.

It is not considered that the stocks are subject to risk of over exploitation, given the total ceiling on the level of commercial participation provided by the limited entry licensing regime now in place. Significant opportunities exist for authorised operators to further develop this Fishery. However, the implications of fishing activities undertaken in adjacent jurisdictions, given the likelihood of straddling fisheries stocks, requires further investigation



Available information about the Demersal Finfish Fishery, other than the Timor Box sector, is limited due in the most part to the low level of activity undertaken within this Fishery throughout this reporting period. The Fisheries Division of the Department of Primary Industry and Fisheries, on behalf of the NTFJA, has established a facility for collation of any available catch and effort information from commercial operators. It is from this information, and further research, that the condition of the Fishery will be kept under constant consideration.

Saddle tail snapper (*Lutjanus malabaricus*), and red snapper (*Lutjanus erythropterus*) are the key species landed within NTFJA Finfish Trawl Fishery. Confidentiality considerations preclude the publishing of production levels for the single entitlement holder. However, on the basis of available information, current harvest levels are not considered to represent a threat to the sustainability of the fisheries resources of this region.

Catch details for the Timor Reef and Demersal Fisheries are provided in Appendix 3.

## 7. Management Arrangements

Inherent with the introduction of OCS arrangements is the recognition of pre-existing access entitlements. Specifically, the NTFJA has recognised, in legislation, that a pre-existing access entitlement is the key prerequisite for the issue of a licence entitling its holder to participate in the JA fisheries.

The NTFJA, in implementing management arrangements under NT law, has determined to issue either fully transferable "unrestricted" licences, or "restricted" licences for specific fisheries. The holders of "restricted" licences are generally required to satisfy or attain some fishery specific criteria prior to undertaking the transfer of such an entitlement. This approach addresses concerns about excess fishing capacity provided by the pre-existing controls.

A complete overview of the management arrangements implemented for NTFJA fisheries is provided. The information detailed below is current for the duration of this reporting period only.

Management of the Shark Fishery is achieved by effort controls that limit the maximum number of commercial participants together with the type of fishing apparatus that may be used. The number of Shark Fishery licences issued to participate in the commercial Shark Fishery is limited, by legislation, to a maximum of thirty-eight "restricted" licences. This recognised the number of valid access entitlements issued immediately prior to negotiations about the Offshore Constitutional Settlement, in early 1995.

The NTFJA determined to issue restricted Shark Fishery licences that recognise the three pre-existing regions of the Fishery. Such an approach acknowledges the zonal management interventions in force immediately prior to the implementation of the OCS. Details about the number of "restricted" licences issued is outlined below. It should be noted that a number of Shark fishermen hold multiple licences, thereby ensuring access to a number of regions of the Shark Fishery.

<b>Region</b>	<b>No of Licences Issued</b>
Arafura	13
Gulf of Carpentaria (GOC)	9
Coastal	17

The NT Minister for Primary Industry and Fisheries, a member of the Northern Territory Fisheries Joint Authority (NTFJA), has resolved to introduce a temporary prohibition on the transfer of any restricted Shark fishing licences pending the resolution of a number of matters including; the prerequisites for structural adjustment, its associated implications for adjacent regulatory management agencies and further consultation with existing commercial access entitlement holders.

Authorised commercial Shark Fishery licensees may use a maximum of 2500 metres of pelagic gill net constructed of twine not less than 0.9 mm in diameter and with a mesh size between 150 mm and 250 mm. Pelagic longline may be used in all regions (restrictions apply to the coastal region) of the Shark Fishery, or demersal longline in the Arafura or GOC region, providing the total length of all lines used does not exceed 20 nautical miles at any time. No restrictions apply to hook numbers.

### **Timor Reef Fishery**

This Fishery is managed by a variety of regulatory input controls which set limits on the total number of commercial operators and prescribe the fishing apparatus that may be used. In brief these arrangements include:

- limited licensing regime with "restricted" licences issued;
- legislated fishing apparatus including vertical lines with up to 5 hooks attached; droplines with 6-40 hooks and fish traps;
- a licence transfer policy providing for reduction in effort which requires a new entrant to the Fishery to purchase of two restricted Timor Reef licences for surrender to the Government for the issue of a (transferable) unrestricted Timor Reef Fishery licence; and
- the holder of a Timor Reef Fishery licence must also hold a Demersal Fishery licence to participate in the (Timor Reef) Fishery.

Restrictions on the possession of a range of managed species, including spanish mackerel and sharks, apply to licensees participating in the Timor Reef Fishery.

### **Demersal Fishery - Other Than Timor Reef**

Management arrangements set limits on the number of commercial fishers, these being restricted to sixty (60), and the fishing gear that may be used. Licensees may use vertical lines with up to 5 hooks attached; droplines with 6-40 hooks; and fish traps. By-catch restrictions apply.

## **Finfish Trawl Fishery**

A restricted licence to provide continued access to the NTFJA Finfish Trawl Fishery was issued to a pre-existing operator. Management arrangements for this Fishery mirror the pre-existing permit conditions in force prior to the introduction of OCS arrangements, in early 1995. Such arrangement effective cap the level of capacity within this Fishery. Additionally, area and fishing gear restrictions are in force.

Management controls include:

- a single Finfish Trawl licence has been issued;
- the use of finfish trawl gear by way of a net with a mesh size greater than 110 mm;
- a "cod end" (bag or pocket of net in which catch is retained) not covered by a double cod end liner;
- total weight on the footline which does not exceed 4 kg net weight in the air per linear metre; and
- twine size in the forward half which does not exceed 90 ply by 400 denier (or its equivalent).

## **8. Fisheries Monitoring, Research, Surveillance and Enforcement**

A range of duties and functions are coordinated by the Northern Territory Department of Primary Industry and Fisheries (NTDPIF) on behalf of the Northern Territory Fisheries Joint Authority (NTFJA). Specifically, the NTDPIF has established, and continues to maintain, catch and effort information from licensees operating in NTFJA fisheries. It is from such information, together with available research data, that the condition of the Fishery is kept under constant consideration.

Research projects are ongoing, including:

- "Long-term abundance index for goldband snapper in the Timor Sea - A pilot study", funded by Fisheries Research Development Corporation;
- Ageing of goldband snapper to assist in a predictive age structure population model, and
- In situ monitoring of length data for goldband snapper.

Surveillance and Enforcement functions for NTFJA fisheries are conducted by the Marine and Fisheries Unit of the Northern Territory Police, Fire and Emergency Services, as part of their ongoing tasks in fisheries matters. Operationally, surveillance activities for NTFJA fisheries have been by way of in port inspections of fishing gear to ensure compliance with effort controls.

## 9. Financial Arrangements

Revenue received by the NTDPIF, on behalf of the NTFJA, for licences amounted to \$55,900 in the 1995/96 financial year.

## Appendix 1:

### ARRANGEMENT BETWEEN THE COMMONWEALTH AND THE NORTHERN TERRITORY IN RELATION TO THE NORTHERN SHARK FISHERY

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the Northern Territory (the Territory) of the other part.

#### WHEREAS-

- (a) paragraph 4(1)(a) of the *Acts Interpretation Act 1901* of the Commonwealth provides that where an Act is enacted on or after the date of commencement of this section that is not to come into operation immediately upon its enactment, is expressed to confer power, *inter alia*, to make an instrument of a legislative or administrative character, then, unless the contrary intention appears, the power may be exercised, and anything may be done for the purpose of enabling the exercise of the power, before the Act concerned comes into operation as if it had come into operation;
- (b) subsection 2(2) of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act) provides that Part 5 of the Management Act, which provides for co-operation with the States and Northern Territory in the management of fisheries, commences upon the repeal or the ceasing to have effect (as the case may be) of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (c) by subsection 7(3) of the *Fisheries Legislation (Consequential Provisions) Act 1991* of the Commonwealth (the Consequential Provisions Act) as amended by section 24 of the *Primary Industries and Energy Legislation Amendment Act 1993* Part IVA of the *Fisheries Act 1952*, unless sooner repealed, ceases to have effect at the end of the period of 3 years beginning 3 February 1992, the day on which section 7 of the Consequential Provisions Act commenced;
- (d) paragraph 7(4)(a) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, the Northern Territory Fisheries Joint Authority, established by subsection 12D(1) of the *Fisheries Act 1952*, continues in existence as if it had been established under Part 5 of the Management Act;
- (e) Arrangements were entered into under section 12H(4) of the *Fisheries Act 1952* between the Commonwealth and the Territory in relation to the:
  - (i) Pelagic Fishery, published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;
  - (ii) Pelagic Fishery except with pelagic gillnets in waters within 12 nautical miles seaward of the baseline or by trolling, published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;

- (f) paragraph 7(4)(b) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, any arrangement made with a State or Territory under subsection 12H(1) or (4) of the *Fisheries Act 1952* that was in force immediately before that commencement continues in force as if it had been made under Part 5 of the Management Act;
- (g) the Arrangements referred to in paragraph (e) of this Arrangement were made under Division 3 of Part IVA of the *Fisheries Act 1952*;
- (h) subsection 75(1) of the Management Act provides that an Arrangement under Division 3 of Part 5 of the Management Act may be terminated by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (i) section 59 of the Management Act provides:
- (i) that Part 5 of the Management Act has effect as if the Northern Territory was a State;
  - (ii) that a reference in that Part to the Governor of a State shall be read, in relation to the Northern Territory, as a reference to the Administrator of the Territory;
- (j) subsection 33(3) of the *Acts Interpretation Act 1901* provides *inter alia* that where an Act confers a power to make any instrument, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal any such instrument;
- (k) subsection 8(1) of the *Interpretation Act 1978* of the Territory provides that where a provision of an Act is expressed to confer power, or to amend a provision of another Act in such a manner that the other Act, as amended, will confer power, to take any action, including power to make an appointment or to make an instrument of a legislative or administrative character then, before the first-mentioned provision or the second-mentioned provision as amended, as the case may be, comes into operation, that power may be exercised and anything may be done for the purposes of enabling the exercise of that power or of bringing the appointment or instrument into effect;
- (l) subsection 64(2) of the *Fisheries Act 1988* of the Territory (the Territory Act) empowers the Territory to terminate an arrangement under Part 5 of the Management Act;
- (m) subsection 71(1) of the Management Act provides that the Commonwealth may make an arrangement with a State or States represented on a Joint Authority that the Joint Authority is to have the management of a particular fishery in waters relevant to that State or any of those States;

- (n) subsection 74(1) of the Management Act provides that an arrangement under, *inter alia*, section 71 is to be made by an instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (o) subsection 64(1) of the Territory Act as amended by section 37 of the *Fisheries Amendment Act 1994* of the Territory empowers the Territory to make an arrangement under Part 5 of the Management Act;
- (p) both the Commonwealth and the Territory are desirous of exercising their powers to make a further Arrangement in relation to the fishery referred to in clause 2 of this Arrangement.

NOW THEREFORE, in pursuance of the Management Act and the Territory Act and of all other powers so enabling, it is mutually arranged as follows:

1. The Arrangements entered into between the Commonwealth and the Northern Territory as referred to in paragraph (e) of the recitals to this Arrangement are, pursuant to subsection 75 (1) of the Management Act and subsection 64(2) of the Territory Act, terminated.
2. The Commonwealth and the Territory hereby arrange that the fishery, being for any purpose other than recreation, in waters relevant to Northern Territory, being coastal waters and waters of the Australian fishing zone that lie within the area described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* under the heading "Area that includes the Adjacent Area in respect of the Northern Territory", for:
  - (a) all fish of the Class Chondrichthyes (cartilaginous fishes) using any fishing method;  
  
but excluding fish to which this paragraph otherwise would apply taken in the exercise of a right conferred in relation to another fishery by a fishing concession granted by the Australian Fisheries Management Authority under the Management Act;
  - (b) all fish of the Class Osteichthyes (bony fishes) taken in the exercise of a right conferred by a licence or other authority granted by the Territory on behalf of the Northern Territory Fisheries Joint Authority for the fish to which paragraph (a) applies;is to be managed by the Northern Territory Fisheries Joint Authority in accordance with the law of the Territory.
3. The Minister responsible for administering the Management Act and the Minister responsible for administering the Territory Act may agree in writing to the maximum quantity of other fish the subject of paragraph 2(b) that may be taken from time to time under a licence or other authority referred to in that paragraph and on matters of mutual interest in relation to the fishery.

4. This Arrangement shall, upon being executed on behalf of the Commonwealth and of the Territory and upon being approved by the Governor-General of the Commonwealth and the Administrator of the Northern Territory, take effect on 3 February 1995.
5. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.

Dated 19th December, 1994

Signed for and on behalf of the  
Commonwealth of Australia by the  
Honourable DAVID PETER BEDDALL,  
Minister for Resources

Signed for and on behalf of the  
Northern Territory by the  
Honourable MICHAEL JAMES PALMER  
Minister for Primary Industry and Fisheries

in the presence of  
P. STEVEN

in the presence of  
A. R. SPRIGG



I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsections 74(1) and 75(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated 24th January 1995.

By His Excellency's command  
D. P. BEDDALL  
Minister for Resources

B. HAYDEN  
Governor-General

I, KEITH JOHN AUSTIN ASCHE , the Administrator of the Northern Territory of Australia, acting by and with the advice of the Executive Council in pursuance of the provisions of the *Fisheries Act 1988*, hereby approve this instrument.

Given under my hand this 12th day of January, 1995.

By his Honour's command  
M. J. PALMER  
Minister for Primary Industry and Fisheries

K. J. A. ASCHE  
Administrator

ARRANGEMENT BETWEEN THE COMMONWEALTH AND THE NORTHERN TERRITORY IN RELATION TO THE DEMERSAL AND TIMOR REEF FISHERY

An ARRANGEMENT entered into between the Commonwealth of Australia (the Commonwealth) of the one part and the Northern Territory (the Territory) of the other part.

WHEREAS-

- (a) paragraph 4(1)(a) of the *Acts Interpretation Act 1901* of the Commonwealth provides that where an Act is enacted on or after the date of commencement of this section that is not to come into operation immediately upon its enactment, is expressed to confer power, *inter alia*, to make an instrument of a legislative or administrative character, then, unless the contrary intention appears, the power may be exercised, and anything may be done for the purpose of enabling the exercise of the power, before the Act concerned comes into operation as if it had come into operation;
- (b) subsection 2(2) of the *Fisheries Management Act 1991* of the Commonwealth (the Management Act) provides that Part 5 of the Management Act, which provides for co-operation with the States and Northern Territory in the management of fisheries, commences upon the repeal or the ceasing to have effect (as the case may be) of Part IVA of the *Fisheries Act 1952* of the Commonwealth;
- (c) by subsection 7(3) of the *Fisheries Legislation (Consequential Provisions) Act 1991* of the Commonwealth (the Consequential Provisions Act) as amended by section 24 of the *Primary Industries and Energy Legislation Amendment Act 1993* Part IVA of the *Fisheries Act 1952*, unless sooner repealed, ceases to have effect at the end of the period of 3 years beginning 3 February 1992, the day on which section 7 of the Consequential Provisions Act commenced;
- (d) paragraph 7(4)(a) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, the Northern Territory Fisheries Joint Authority, established by subsection 12D(1) of the *Fisheries Act 1952*, continues in existence as if it had been established under Part 5 of the Management Act;
- (e) an Arrangement was entered into under section 12H(4) between the Commonwealth and the Territory in relation to the Demersal Fishery except with the use of trawl nets and demersal longlines, published in the Commonwealth of Australia Gazette No. S109 on 14 April 1988;
- (f) paragraph 7(4)(b) of the Consequential Provisions Act provides that upon the commencement of Part 5 of the Act, any arrangement made with a State or Territory under subsection 12H(1) or (4) of the *Fisheries Act 1952* that was in force immediately before that commencement continues in force as if it had been made under Part 5 of the Management Act;
- (g) the Arrangement referred to in paragraph (e) of this Arrangement was made under Division 3 of Part IVA of the *Fisheries Act 1952*;

- (h) subsection 75(1) of the Management Act provides that an Arrangement under Division 3 of Part 5 of the Management Act may be terminated by instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (i) section 59 of the Management Act provides:
  - (i) that Part 5 of the Management Act has effect as if the Northern Territory was a State;
  - (ii) that a reference in that Part to the Governor of a State shall be read, in relation to the Northern Territory, as a reference to the Administrator of the Territory;
- (j) subsection 33(3) of the *Acts Interpretation Act 1901* provides, *inter alia*, that where an Act confers a power to make any instrument, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal any such instrument;
- (k) subsection 8(1) of the *Interpretation Act 1978* of the Territory provides that where a provision of an Act is expressed to confer power, or to amend a provision of another Act in such a manner that the other Act, as amended, will confer power, to take any action, including power to make an appointment or to make an instrument of a legislative or administrative character then, before the first-mentioned provision or the second-mentioned provision as amended, as the case may be, comes into operation, that power may be exercised and anything may be done for the purposes of enabling the exercise of that power or of bringing the appointment or instrument into effect;
- (l) subsection 64(2) of the *Fisheries Act 1988* of the Territory (the Territory Act) empowers the Territory to terminate an arrangement under Part 5 of the Management Act;
- (m) subsection 71(1) of the Management Act provides that the Commonwealth may make an arrangement with a State or States represented on a Joint Authority that the Joint Authority is to have the management of a particular fishery in waters relevant to that State or any of those States;
- (n) subsection 74(1) of the Management Act provides that an arrangement under, *inter alia*, section 71 is to be made by an instrument approved by the Governor-General and the Governor or Governors of the State or States concerned;
- (o) subsection 64(1) of the Territory Act as amended by section 37 of the *Fisheries Amendment Act 1994* of the Territory empowers the Territory to make an arrangement under Part 5 of the Management Act;
- (p) both the Commonwealth and the Territory are desirous of exercising their powers to make a further Arrangement in relation to the fishery referred to in clause 2 of this Arrangement.

NOW THEREFORE, in pursuance of the Management Act and the Territory Act and of all other powers so enabling, it is mutually arranged as follows:

1. The Arrangement entered into between the Commonwealth and the Territory as referred to in paragraph (e) of the recitals to this Arrangement is, pursuant to subsection 75(1) of the Management Act and subsection 64(2) of the Territory Act, terminated.
2. The Commonwealth and the Territory hereby arrange that the fishery, being for any purpose other than recreation, in waters relevant to the Territory, being coastal waters and waters of the Australian fishing zone that lie within the area described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* under the heading "Area that includes the Adjacent Area in respect of the Northern Territory", on the seaward side of a line measured 15 nm from low water mark for:

(a) all fish of the Class Osteichthyes (bony fishes) using any fishing method, excluding tuna and tuna-like fish of the following species-

- (i) *Thunnus albacares* (Yellowfin tuna)  
*Thunnus maccoyii* (Southern bluefin tuna)  
*Thunnus obesus* (Bigeye tuna)  
*Thunnus tonggol* (Longtail tuna)  
*Thunnus alalunga* (Albacore tuna)  
*Thunnus thynnus* (Northern bluefin tuna)  
*Katsuwonus pelamis* (Skipjack tuna);

(ii) fish of the families Istiophoridae and Xiphiidae (billfish);

(iii) fish taken as bait (dead or alive) by a person for his or her own use in the exercise of a fishing concession granted by the Australian Fisheries Management Authority under the Management Act to take tuna and tuna like fish of those species;

but excluding fish to which this paragraph otherwise would apply taken in the exercise of a right in relation to another fishery conferred by a fishing concession granted by the Australian Fisheries Management Authority under the Management Act;

(b) all fish of the Class Chondrichthyes (cartilaginous fishes) taken in the exercise of a right conferred by a licence or other authority granted by the Territory on behalf of the Northern Territory Fisheries Joint Authority for the fish to which paragraph (a) applies;

is to be managed by the Northern Territory Fisheries Joint Authority in accordance with the law of Northern Territory.

3. The Minister responsible for administering the Management Act and the Minister responsible for administering the Territory Act may agree in writing to the maximum

quantity of other fish the subject of paragraph 2(b) that may be taken from time to time under a licence or other authority referred to in that paragraph and on matters of mutual interest in relation to the fishery.

4. This Arrangement shall, upon being executed on behalf of the Commonwealth and of the Territory and upon being approved by the Governor-General of the Commonwealth and the Administrator of the Northern Territory, take effect on 3 February 1995.
5. Without affecting the construction which this Arrangement would have if no provision of this Arrangement or part thereof is invalid, it is the intention of this Arrangement that if any provision of this Arrangement or part thereof is invalid, the remainder of that provision and of this Arrangement shall be construed as if that provision or part thereof was not included in this Arrangement even if the result is to extend the fishery described by this Arrangement.

Dated 19th December, 1994.

Signed for and on behalf of the  
Commonwealth of Australia by the  
Honourable DAVID PETER BEDDALL,  
Minister for Resources

Signed for and on behalf of the  
Northern Territory by the  
Honourable MICHAEL JAMES PALMER  
Minister for Primary Industry and Fisheries

in the presence of  
P. STEVEN

in the presence of  
A. R. SPRIGG

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of subsections 74(1) and 75(1) of the *Fisheries Management Act 1991*, hereby approve this instrument.

Dated 24th January, 1995.

By His Excellency's command  
D. P. BEDDALL  
Minister for Resources

B. HAYDEN  
Governor-General

I, KEITH JOHN AUSTIN ASCHE , the Administrator of the Northern Territory of Australia, acting by and with the advice of the Executive Council in pursuance of the provisions of the *Fisheries Act 1988*, hereby approve this instrument.

Given under my hand this 12thday of January, 1995.

By His Honour's command  
M. J. PALMER  
Minister for Primary Industries and Fisheries

K. J. A. ASCHE  
Administrator

## Appendix 2:

### **RECORD OF DECISIONS OF THE NORTHERN TERRITORY FISHERIES JOINT AUTHORITY**

18 July 1995

Noted the

#### 2. Confirmation of Agenda

The Northern Territory Fisheries Joint Authority (NTFJA) adopted the Agenda.

#### 3. Purpose of Meeting

This meeting was the first since the NTFJA assumed responsibility for the Northern Shark Fishery and the Demersal and Timor Reef Fishery in waters relevant to the Northern Territory, under new OCS arrangements gazetted in February 1995. The purpose of this meeting was to outline procedural requirements for the NTFJA with respect to these three Fisheries, and to commence discussions on their management.

#### 4. Powers and Functions

The NTFJA noted its statutory powers and functions.

#### 5. Description of Jurisdiction

The NTFJA noted the scope of its jurisdiction.

#### 6. Appointment of Deputies

The NTFJA noted that the Commonwealth and Northern Territory Minister, comprising the NTFJA had each provided for and appointed persons as their deputies on the NTFJA, as follows:

Deputy for Commonwealth Minister -

1. The person occupying the position of Managing Director of the Australian Fisheries Management Authority,
2. The person occupying the position number 14345 in the Commonwealth Department of Primary Industries and Energy.

Deputy for Northern Territory Minister -

1. The Director of Fisheries.

2. The person, who for the time being, is occupying, acting in, or discharging the duties of the Director of Fisheries.

## 7 Appointment of Secretary and Provision of Appropriate Services

The NTFJA agreed to recommend to the Commonwealth Minister that he appoint the Assistant Director Fisheries Management, or the person, who for time being, is occupying, acting in, or discharging the duties of Assistant Director Fisheries Management, Fisheries Division, Department of Primary Industry and Fisheries (DPIF), as Secretary to the NTFJA pursuant to sub-section 69(1) of the *Fisheries Management Act 1991*.

The NTFJA agreed to recommend to the Commonwealth Minister that he requests through the Northern Territory Minister that the Fisheries Division provide:

- Policy development services;
- licensing and permit administration; and
- records and correspondence;

comprising appropriate services to the NTFJA should be provided by officers of the Fisheries Division, DPIF.

It was agreed that the Fisheries Division, DPIF would coordinate the preparation of the Annual Report for the NTFJA for 1995/96.

## 8. Arrangements for Consultation

### 8.1 Consultation with Stakeholders

The NTFJA agreed to recommend to the Northern Territory Minister that the fisheries management advisory committee structure as set out in section 24 of *the Fisheries Act 1995*. Each management advisory committee is to meet annually to provide advice to the Joint Authority on management of fish stocks under its jurisdiction.

It was further recommended that outcomes of meetings of these committees be available for the information of existing relevant management advisory or consultative committees formed by the Northern Territory or AFMA.

### 8.2 Consultation with Adjacent Jurisdictions

It was agreed that the NTFJA:

- a) review arrangements for satisfying requirements for co-operation contained in Memoranda of Understanding entered into concurrently with the Offshore constitutional Settlement (OCS) Arrangements of February 1995; and
- b) approve the development of a joint statement consistent with the provisions of Memoranda of Understanding associated with the OCS Arrangements agreed in February 1995 in the time frame required.



## 9. Management Approach for the Adjacent Fisheries

The NTFJA agreed to adopt as policy the following approaches to fisheries under its jurisdiction:

Management of fisheries will be based on the principles of ecological sustainable development. In any decisions on management, considerations will be given to the environmental impacts of any action taken, the social and economics impacts, the needs of the user groups, and the benefits to the people of the Northern Territory and Australia as a whole. Management arrangements will be developed in the context of consultation with all user and interest groups.

## 10. Delegations under the *NT Fisheries Act 1995*

The NTFJA delegated all powers exercisable under s67(2) of the Act, with the exception of the power of delegation, to the Director of Fisheries, Fisheries Division, DPIF.

The NTFJA delegated to the Assistant Director Fisheries Management, or the person, who for the time being, is occupying, acting in, or discharging the duties of the Assistant Director Fisheries Management, its powers under:

- Part II, Division 2 (s11 to 14 inclusive), Division 3 (s15 to 17 inclusive), Division 4 (s18);
- Part III, s23, 25, and 25A;
- Part IV, Division 3 (s34 and 36);
- All Fisheries Regulations relevant to Joint Authority Fisheries; and
- All Management Plan clauses relevant to Joint Authority Fisheries.

## 11. Source and Application of Funds

The NTFJA agreed that the Northern Territory will develop a budget for its operation with each party bearing their own administrative and travel costs.

## 12. Fishery Monitoring, Research, Surveillance and Enforcement

The NTFJA agreed that it should:

- a) within the context of developing a joint statement on inter-jurisdictional arrangements for management, research, monitoring and surveillance, develop a strategy for long-term provision of such services and arrange for their delivery;
- b) seek to establish arrangements for short-term provision of such services with the Fisheries Division, DPIF where appropriate report the results of those arrangements back to the NTFJA.

### 13. Other Related Matters

The NTFJA noted that Joint Statements are being prepared between the Northern Territory and the Commonwealth, Northern Territory and Western Australia, and Northern Territory and Queensland concerning cooperative management of fish resources off northern Australia, as required under the Memoranda of Understanding associated with the OCS Arrangements of February 1995. These statements will incorporate the requirements for cooperation within the Joint Authority Northern Shark Fishery, the Demersal and Timor Reef Fishery and the fishery for fish and other aquatic life resources in waters relevant to the Northern Territory.

### 14. Record of Recommendations and Decisions

The NTFJA agreed that a record of decisions of meetings be submitted to the Commonwealth and Northern Territory Ministers' following each meeting.

14 November 1995

1. That all previous delegations made by the Northern Territory Fisheries Joint Authority are revoked.
2. That the appointment of Mr Peter Blake as Secretary to the Northern Territory Fisheries Joint Authority under Section 69 of the *Fisheries Management Act 1991*, is revoked.
3. That the person from time to time holding the position of, or performing the duties of the Assistant Director, Fisheries Management Branch, Fisheries Division of the NT Department of Primary Industries and Fisheries is hereby appointed as Secretary of the Northern Territory Fisheries Joint Authority pursuant to Section 69 of the *Fisheries Management Act 1991*.
4. That the Annual Reports of the Northern Territory Fisheries Joint Authority for the 1993 and 1994 years are approved for tabling in the Commonwealth Houses of Parliament pursuant to Section 70 of the *Fisheries Management Act 1991* and then tabling in the Northern Territory Legislative Assembly pursuant to Section 63 of the *Fisheries Act 1995*.

### Appendix 3: NTFJA Fishery Management Arrangements and Yield Estimates

Please note that the details outlined below provide a general summary of the management arrangements only and should not be relied upon as a complete description of all legislative requirements. The Northern Territory Fisheries Act and Regulations provide precise information about legislative arrangements implemented for the Fisheries nominated.

Fishery	No of Restricted Licences	No of Unrestricted Licences	Management Regime	Sustainable Yield Estimates	Landings (1 Jan 1995 to 30 Jun 1995)
Pearl	n/a	5	Licence restrictions Annual allocations of total catch by licensee	120,000 oysters/ year	Nil
Shark Coastal Arafura Gulf of Carpentaria	17 13 9	- - -	Effort Controls Restriction of the total number of licences issued 2500 metres of net mesh size 150 mm to 250 mm Longline to 20 nautical miles	3900 tonnes for Northern Australia	Black Tipped shark 163 t Sharks (other than Blacktip) 36 t Mackerel 32 t
Demersal	Not Applicable	60	Effort Control Restriction of the total number of licences issues Vertical Lines with a maximum of 5 hooks Droplines with 6-40 hooks Transferability on purchase and amalgamation of two restricted licences Must hold a Demersal Licence Restrictions on the possession of sharks and mackerels	Red Snapper - up to 10, 000 tonnes	Golden Snapper 15 t Gold Band Snapper 8 t Red Snappers 3 t Tuna 4t Cods 2 t Red Emperor 2 t Other Reef Fish 4 t
Timor Box	20	1	Effort Control Restriction of the total number of licences issues Vertical Lines with a maximum of 5 hooks Droplines with 6-40 hooks Transferability on purchase and amalgamation of two restricted licences Must hold a Demersal Licence Restrictions on the possession of sharks and mackerels	Gold Band Snapper - 400-1000 tonnes	Gold Band Snapper 84 t Cods 4 t Red Snappers 5 t Red Emperor 4 t
Fish Trawl	1	Not Applicable	Effort Controls Access restricted to a single licence holder Non Transferable licence	Refer to Demersal Fishery estimates	Confidentiality provisions precludes release of landing details

