

The Patagonian Toothfish and Norwegian Interests

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Foreword

This report has been written in October 1997 and is intended as a basis for discussion at the CCAMLR meeting which takes place at the end of October this year. The report is based on information collated from newspapers in Norway, South Africa, New Zealand and Australia, CCAMLR documents, reports from the Fishery Authorities in the countries in the region and conversations with people directly involved in fishing for the Patagonian Toothfish. Very few of the latter wish to be cited by name and are referred to in the report as «sources within the fishing industry».

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Gunnar Album
Leines, 7 October 1997

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1. Summary

In 1989, the curve describing world fishing catches levelled out, and it appears that a ceiling for potential catches has been reached. Most of the world's fishing grounds are either fully exploited or over-exploited. At the same time, countries in the northern hemisphere are beginning to gain control of international waters which lie beyond their Exclusive Economic Zones (EEZ) of 200 nautical miles. Moreover, the world's fishing fleets are too large in relation to available resources. This has resulted in increasing pressure on fishing resources and their management. Unregulated fishing occurs throughout the world, constantly leading to conflicts about resources.

It is, therefore, natural that the Antarctic Ocean with its large expanses of sea and weak management has become the site of extensive, unregulated and illegal fishing. A large international fleet has found several new stocks of the lucrative Patagonian Toothfish.

Fishing for the Patagonian Toothfish began in the south-west Atlantic Ocean off the coast of Argentina and the Falkland Islands three to four years ago. Signs indicate that these resources are in the process of being depleted. During 1996 and 1997, the fishery has moved further eastwards via South Georgia, Bouvet Island, Prince Edward, Crozet, Marion, Kerguelen, and the Heard, Mac Donald and Macquarie Islands. There is reason to believe that the Patagonian Toothfish is spread sporadically around the whole Antarctic continent, inside and outside both economic and CCAMLR¹ zones. It is therefore vital to find solutions to the management and control problems before all these partial stocks are found and fished to depletion.

There is no certain information about the size, development or sustainability of these stocks. General knowledge about the fish concerning their general behavioural patterns, spawning age, reproduction rate, life expectancy etc. is also uncertain.

Today, fishing occurs primarily in the southern Indian Ocean. CCAMLR, the regional management body for the Antarctic, allocates fishing quotas, but there is also extensive illegal fishing. Stocks are about to collapse. Between 50 and 70 vessels are involved in unregulated fishing, and several of them have Norwegian owner-interests.

Norway has a special responsibility for this fishing activity. Not only are we members of CCAMLR, we also have a history of resource exploitation in the Antarctic which is not entirely flawless. In addition, several vessels involved in the unregulated and sometimes illegal fishing have Norwegian owner-interests.

¹ Convention for the Conservation of Antarctic Marine Living Resources

2. The Patagonian Toothfish

The Patagonian Toothfish, *Dissostichus eleginoides*, is a deep-sea species found throughout large areas of the sub-Antarctic oceans, but primarily in southern parts of the Atlantic and Indian Oceans. It is also known as Mero, Chilean Sea Bass and Black Hake.

Little research has been done on the species' behavioural patterns, distribution and size. Most of our knowledge comes from fishermen, but since fishing is mostly carried out by vessels without fishing rights, it is difficult to collect information.

The Patagonian Toothfish is a deep-sea fish which is fished to depths of 3,500m. It is found primarily in easterly banks and appears to thrive best near land. Even though the fish is spread over a relatively large area, the fishing grounds are concentrated around the islands in the region.

It grows slowly and reaches spawning age after 10 to 12 years, at which stage it is about 70 cm long. The fish can reach an age of 50 and a maximum length of 2.2 meters. We know very little about its diet, but the stomachs of those that are caught in the southern Indian Ocean contain mainly squid and prawns.

Stocks show signs of being overfished in most fishing zones. Several vessels which were granted licences in the Argentinean zone have given up because of the small catches. Fish landed from areas around Prince Edward have dropped in size from 80-90cm in 1996 to around 60cm in 1997. Those fish which are now caught are not mature. The same applies to fish caught around Kerguelen and Crozet. It will most probably take a long time to replenish stocks. Stocks of a similar species, Marbled Rock Cod, *Notothenia Rossii*, which was fished to depletion in the region around South Georgia in the 60s and 70s, have still not recovered.

Comparison can also be made with the deep-sea species Orange Roughy. This can reach an age of 100 and it has been found that it does not migrate - but is fished from many different stocks which must be managed separately. If this is also the case with the Patagonian Toothfish, there is reason to believe that the constant eastward migration of the fishery in actual fact reflects that mankind has depleted sub-stocks, and must constantly move on to other sub-stocks. This would mean that all stocks in the south Indian Ocean have been more or less depleted.

2.1 Quotas and catches

The Russians started autoline fishing for toothfish in international waters in the Antarctic Ocean followed by Chilean vessels in the area around South Georgia. Fishing started to increase in 1989 when the Spanish-owned shipping company, Argenova, and later Arbumasa and Esmar, started up in Argentina. The boom began when the American Seafoods Company, owned by Kjell Inge Røkke sent three vessels into Argentina in 1993, 94 and 95. Many followed suit and when pressure increased and catches fell in Argentina, the move eastwards began.

The Patagonian Toothfish is currently fished mainly in the South Atlantic and the south Indian Ocean. It is fished in waters belonging to many countries, in areas managed by CCAMLR, and also in international waters. No one has a clear picture of total catches or the

development in fishing and in stocks. Available information however clearly shows that stocks are declining in all fishing areas.

2.1.1 South Atlantic

The largest regulated fishing takes place off Argentina. Ever since several vessels, including the Norwegian-owned «Alida» and «Aliza Glacial» left the area and moved east, only the three boats belonging to the Røkke-controlled American Seafoods remain. An estimated 4,000 tonnes of fish are caught in this area.² Previously, extensive illegal fishing occurred around South Georgia, but this has practically stopped since the British sent in a fishery protection vessel. In South Georgia, which lies in CCAMLR zone 48.3, around 3,800 tonnes of a quota of 5,000³ have been fished in 1997.

The United Kingdom grants licences to foreign vessels to fish several species, including for the Patagonian toothfish, in those areas around the Falkland Islands which lie beyond the CCAMLR zone. In 1996, 682 tonnes were caught and, so far this year, 600 tonnes. The best months in 1996 were August to December, whereas catches for the first months of 1997 were well above the 96 level but fell well below in August. This can imply that either this fish too is overfished or that it is fished from the same stocks as in the Argentinean waters.

2.1.2 South Africa

In 1996, South African quotas around Prince Edward Islands in CCAMLR zones 58.6 and 58.7 amounted to 1,200 tonnes divided equally among the five right-holders. In 1996, catches amounted to 1,663 tonnes. According to the South African authorities, the reason for overfishing was an over-generous conversion factor for intact to gutted fish. In 1997, catches totalled 584 tonnes. Catches have dropped dramatically since fishing began early in 1996.⁴

A total of nine vessels have fished for the five right-holders.

Vessel	Flag	Owner	Licensed period
American Champion	USA	American Seafood Company	28.10.96 - 20.11.96
Alida Glacial	Argentina	Birting SA	17.10.96 - 31.12.96
Aliza Glacial	Argentina	Birting SA	13.12.96 - 31.12.96
Aquatic Pioneer	South Africa	Suidor Fishing Ltd	17.10. - 28.02.97, 02.04 - 31.08.97
Garoya	Namibia	Oceana Fishing Group Ltd	11.04.97 - 20.06.97
Koryo Maru 11	Japan		14.11.96 - 28.02.97
Mr B	USA		14.05.97-15.07.97
Sudurhavid	Namibia	Irvin & Johnson	14.05.97-15.07.97
Zambezi	Namibia	Bato Star	19.03-19.05.96, 30.06-31.08.97

² Fiskaren, 4 July 1997

³ CCAMLR catch report of 29 August 1997

⁴ Martin Purves, Sea Fisheries Research Institute, South Afrika

It is not always the companies owning these vessels which hold the fishing rights. For the most part, the vessels are hired by South African rights-holders to catch their quota. In 1996, there were six vessels. In 1997, the same five were awarded quota rights but one of them decided not to use it. Norwegian-owned vessels have no rights in South Africa for 1997.

2.1.3 Australia

In 1995-96, Australia started a two-year trial period in its zone around the Macquarie Islands which lie outside the CCAMLR area. The total fishing quota for two years is 1,600 tonnes. Australia also has fishing rights at Heard and Kerguelen in CCAMLR zone 58.5.

2.1.4 CCAMLR

The CCAMLR convention⁵ of 1980 provides a framework for the protection of living marine resources in Antarctica. It has 23 membership countries⁶ and deals with everything from research on seals and penguins to management of fishing resources. The CCAMLR therefore fixes quotas for the Patagonian Toothfish in its various administrative areas in Antarctica. Quotas were set at a total of 14,000 tonnes. Quotas for the season beginning 1 March this year have not been caught. On 29 August 1997, just before the end of fishing on 31 August, the following catches in the various CCAMLR zones⁷ had been registered:

Quotas and catches in CCAMLR zones in 1997		
CCAMLR area	TAC⁸ in tonnes	Catches in tonnes
48.3	5000	3739
58.5.2	3800	1821
58.4.3	1980	under 1
88.1	1980	under 1
88.2	1980	-
total	14740	5459

There can be several reasons why the quotas were not caught. One is that little knowledge about resources is available before trial fishing starts up. For example, there is little evidence of large resources in CCAMLR zone 88.1, 2 and 3 in the South Pacific. Another may be that stocks are collapsing as a result of overfishing. This applies in particular to zone 58, the south Indian Ocean. A third can be due to the fact that CCAMLR's regulatory measures are so strict that fishing is not efficient

The CCAMLR member states allocated their own quotas at the meeting in 1996 without basing these on information about how much the stocks can tolerate. This is a breach of the "precautionary" principle laid down in the UN agreement on fishing of straddling and highly migratory fish stocks. The only possible reason for defending such quotas is that the presence of vessels fishing legally with inspectors on board makes it possible to monitor the unregulated fleets. According to the Law of the Sea Treaty, coastal states have an obligation

⁵ Convention for the Conservation of Antarctic Marine Living Resources

⁶ Argentina, Australia, Belgium, Brazil, Chile, EU, France, Germany, India, Italia, Japan, South Korea, New Zealand, Norway, Poland, Russia, South Africa, Spain, Sweden, Ukraine, United Kingdom, USA and Uruguay

⁷ CCAMLR catch report of 29 August 1997

⁸ Total Allowable Catch

to manage and monitor their EEZ. Neither France nor Australia have been able to do this around the Kerguelen, Crozet and Heard Islands.

2.1.5 Unregulated fishing

In 1996/97 total catches of 38,000 tonnes have been recorded in South Africa and Namibia. In addition, the Patagonian Toothfish is landed in other countries including Mauritius and Mozambique.⁹ Fishery sources estimate that around 1,000 tonnes are landed weekly on Mauritius. A cautious estimate is 40,000 tonnes annually. This makes a total of 80,000 tonnes. On top of this come the landings in Mozambique. The Spanish shipping company Pesca Nova has attempted to catch fish and transfer to a mother ship at sea. This proved to be very difficult because of the weather, and resulted in damage to both the fishing vessel and the mother ship. Consequently, it is believed that such activities occur rarely.

Unregulated fishing occurs mainly around Crozet, Kerguelen, Heard and the MacDonald Islands. In the region 50-60 miles east, south and west of Kerguelen large fish of spawning age are fished at a depth of 2,000 meters. Around Crozet and down towards Heard and the MacDonald Islands, fish keep to the coast at a depth of 400 meters and exhibit pelagic behaviour. This is a smaller fish - around three kilos - and not of spawning age. It is difficult to say how many vessels take part in this fishery, but there are at least 40 and some say up to 70. Most of the fishing occurs within the French and Australian zones and could be prevented by the right-holders for these islands. It would appear therefore that the French and Australian authorities are unsure of their own jurisdiction or that they lack resources. In several instances, they have let boats leave the area with only a warning, instead of arresting them, issuing fines or reacting in some similar manner. This also applies to vessels flying under flags from other CCAMLR member states.

As mentioned above, fishing for the Patagonian Toothfish has constantly moved eastwards since it began off Argentina 3-4 years ago. It would appear that this was mainly due to overfishing and that the same thing is now happening in the south Indian Ocean. When asked by the Norwegian Society for the Conservation of Nature how long this fishing will continue, Denzil Miller of the South African Sea Research Institute replies that it is like asking "How long is a piece of string?" but estimates a maximum of two-three years. Fishery resources agree that stocks are being depleted but forecast only seven to eight more months. They estimate that it will take up to thirty years for stocks to recover.

2.1.6 Notification of participation in the fishing

At the CCAMLR meeting last year the following quotas for new fisheries were fixed:

⁹ Martin Purves, Sea Fisheries Research Institute, South Africa

Quotas for new fisheries for the Patagonian Toothfish for 1997-98	
Area	TAC
58.6	2200
58.7	2200
48.6	1980
88.1	1980
88.2	1980
58.4.4	1980
58.4.3	1980

Zones 88.1, 88.2 and 58.4.3 were also allocated quotas during the 1996-97 season. There were almost no catches, and fishing in these zones is also defined in 1997-98 as new. A number of countries have expressed interest in fishing and will discuss this at the CCAMLR meeting in 1997.

Notifications of new fisheries for the Patagonian Toothfish in CCAMLR in 1997-98	
Land	Zone
South Africa	48.6, 58.4.3 and 58.4.4,
Norway	48.6
Chile	48.1, 48.2 and 88.3
Ukraine	58.4.4 and 58,6 and 58.7
New Zealand	88.1 and 88.2

3. Norwegian interests

Norwegian interests have played a central role in the development of this fishing and in the depletion of stocks. Several vessels are Norwegian owned and have Norwegian-produced longline equipment.

3.1 Norwegian owner-interests

The American Seafoods Company, controlled by the Norwegian Kjell Inge Røkke was the first to take part in fishing the Patagonian Toothfish. This occurred in Argentinean waters with Argentinean licences.

Fishing off South Africa started early in 1996 with «MS Krill». It was owned by Kirkelandfisk in Norway, led by Terje Kirkeland, and was run as a joint venture with two South African companies. The first trial run was from Cape Town in January 1996 with South African observers on board. The boat was later sold to the Panama registered company, Atlantic Fishing Enterprises, and renamed «Explorer». It now operates from Mauritius.

Next came the Røkke boat «American Champion». It sailed to South Africa from South Georgia in April 1996 and made several successful trips with good catches in waters which were unknown to the South African authorities, before agreeing to have observers on board during one trip from August to September 1996. They claimed that they were fishing in

international waters but the observer was denied access to navigation equipment for "security reasons."¹⁰ VMS¹¹ equipment was installed on the vessel in October 1996 and it caught its 240-tonne quota in the South Africa zone. After this, the vessel stopped fishing in South African waters and is presumed to have gone to Namibia.

These vessels must have reported good fishing because several Norwegian interests joined in summer 1996. Terje Kirkeland, who had experience from «MS Krill», joined Oddvar Vea in Haugesund, Kjell Inge Røkke's former partner Helge Møgster and Petter Aune and bought a Faroese vessel - «Cindy».¹² This vessel has been seen fishing irregularly on a number of occasions. The same owners are behind «Celine» and «Cevita», both registered on Vanuatu. Ownership of these vessels is unclear. Austevoll Havfiske announced in a letter to the Fisheries Directorate dated 23.04.97 that they would sell their share in the company, which has since been done. Oddvar Vea still holds a share and the vessels are manned and run by Vea, but he also wants to sell out.

Arve Nerland and Einar Nerland, who was joint owner in «MS Krill», bought «Førde Jr.», founded the company «Norse Seafood» and renamed the boat «Norse Pride». This ship has also been observed fishing irregularly on a number of occasions. It has also been involved in direct conflicts with licensed vessels.

The Norwegian-controlled company Birting SA has a total of four vessels fishing for the Patagonian Toothfish. All were built by West Contractors at Ølensvåg in Norway. The first two, "Aliza Glacial" and «Alida Glacial» were built in 1996 for fishing in Argentina. They were later transferred to the areas around South Africa and the southern Indian Ocean. In 1997 the remaining two, «Carolina Glacial» and «Christina Glacial» were supplied by the same shipyard. «Alida» and «Aliza» were hired by right-holders of South African fishing and fished there in 1996. They have not had any rights in South Africa since then. The vessels still fish in the southern Indian Ocean and land on Mauritius. «Caroline» and «Christina» are registered in Panama and strictly speaking are not subject to CCAMLR regulations. «Aliza» and «Alida» are registered in Argentina and should have been stopped by Argentinean authorities. Friends of the Earth, Norway requested such action in spring 1997 and were informed by the Argentinean embassy in Oslo that this would be done. However, as far as we know, no steps have been taken against the shipowners.

It is not quite clear who owns these vessels. They are run by either Birting or Glacial SA in Argentina. The director of this company was Sigurd Rekkedal. He was present when the vessels were launched in Ølen and was on board «Christina Glacial» when it was in Cape Town from 16 - 23 May 1997. The captain on board was Stig Roalsand. Unofficial Norwegian sources in Argentina say that Rekkedal held 20% of the company and that the other 80% is held by a company registered on Cayman Island. Magne Hisdal and Einar Nystad from Bergen, Norway are allegedly the men behind the company.¹³ Rekkedal has now withdrawn from the company.

The Norwegian-registered vessel Frøyanes, owned by Stig Ervik of Stadlandet has also been fishing in the area. It landed 90 tonnes in Walvis Bay in Namibia in March 1997 and then returned to Norway.

¹⁰ CCAMLR COMM CIRC 97/43

¹¹ Equipment for monitoring a vessel's position and movements by satellite

¹² Dagens Næringsliv 26 July 1996

¹³ Letter to the Fisheries Directorate from the Norwegian Embassy in Buenos Aires, 16 May 1997

In addition to those vessels which are involved in fishing off South Africa and the islands in the southern Indian Ocean, a company called Southern Fishing Group has bought two vessels for fishing off South America. The world's largest line boat, the British «Southern Princess», was bought for fishing Patagonian Toothfish in Uruguay. This has not been very successful and the boat is now laid-up in Montevideo.

«Eldborg», the line vessel of the Ålesund shipping company, Eldborg Holding, has begun fishing off the Falkland Islands. It went there in autumn 1996 and will fish «king-clip and other species».¹⁴

It is also rumoured that there are plans to start fishing for toothfish using the vessel «Russian Viking», owned by Sparebanken Rogaland.

Vessels with Norwegian interests involved in fishing for Patagonian Toothfish				
Name	Former name	Owner	Flag	Observations
Norse Pride	Førde Junior	Einar and Arve Nerland Norse Seafood LTD Gangstøvika, 6009, Ålesund. General manager: Arve Stener Nerland Chairman: Sverre Larhammer.	Panama	Fishes, according to Nerland, in international waters. Observed in illegal fishing off Prince Edward and Marion Island 8.4.97 and 13.4.97. Suspected to have cut the line of the «Zambesi» close to Marion in april 97. Seen in French zone at Heard 20.4.97 and in Australian zone 26.4.97. Lands on Mauritius.
Aliza Glacial	built 1996, West Contractors, Ølen	Birting Sa , Argentina. Agent in Norway: Magne Hisdal Crown Hill Chartering Gokstadflaten 17 Boks 63 5061 Gokstad Norway	Argentina	Had rights in Argentina, but moved west because of bad fishing. Fished on South African quotas round Prince Edward in 1996.
Alida Glacial	built 1996, West Contractors, Ølen	Birting Sa , Argentina. Avenida Davila 840 1 st floor 9 1107 Buenos Aires phone: 54 1 3319109, fax: 54 1 3314534	Argentina	Fished in 1996 under South African licence at Prince Edward. Switched off satellite transmitter and caused «a lot of trouble» (D. Miller). 21.2.97 landed 233 tonnes in Walvis Bay, Namibia. Seen 13.5.97 in Australian zone at Heard Island.

¹⁴ Sunnmørspåosten 17 August 1996

Caroline Glacial	built January 1997, West Contractors, Ølen	Birting Sa , Argentina	Panama	Observed 14.4.97 in Australian zone at Heard. Lands on Mauritius.
Christina Glacial	built May 1997, West Contractors. Ølen	Birting Sa , Argentina	Panama	Was in South Africa from 16 to 23 May 1997
Cindy	Former Faroese boat	Cindy Shipping Company . Vanuatu. Started by Terje K. Kirkeland, Oddvar Vea and Austevoll Havfiske. Vea is now the only Norwegian shareholder. The rest has been sold to unknown foreign owners.	Vanuatu	Reported to CCAMLR 22.10.96 for illegal fishing in South African zone. Seen at Crozet 19.3.97. Off-loads on Mauritius. Docked in Durban for repairs all summer. Left at beginning of October.
Celine	Former Faroese boat	Cindy Shipping Company	Vanuatu	Seen in South African zone round Prince Edward between 25 and 27 August 1997. Lands on Mauritius. According to Vea "Celine" and "Cevita" caught barely 300 tonnes together in international waters from July to October 1997.
Celita	Veafisk	Cindy Shipping Company	Vanuatu	Seen in South African zone round Prince Edward between 25 and 27 August 1997. Lands on Mauritius.
Atlantic Explorer	MS Krill	Originally owned by Terje Kirkeland and Arve Nerland. Now owned by Atlantic Fishing Company	Panama	First vessel to fish Pat. T. off South Africa. Caught actively fishing 28 September 1996 off Prince Edward.
Frøyanes	Frøyanes	Stig Ervik , Stadtlandet	Norway	Landed 90 tonnes in Walvis Bay, Namibia 4.3.97. Then returned to Norway.
Eldborg		Eldborg Holding A/S	Norway	Fishes Pat. Tooth. under licence from the Falkland Islands.
American Champion		American Seafoods Company .	USA	In 1996, operated under South African licence at Prince Edward. Refused observer access to navigation equipment. Later went to Namibia and has now been sold out of the company.
Antarctic I,		American Seafoods	USA	Fishes under licence in

II, III		Company.		Argentina
South Princess		South Fishing Group. Instigator Terje Kirkeland.		Has Pat. Toothfish licence in Uruguay. Said to be laid up in Montevideo.
Capensis	Per Senior	Formerly owned by Romandus Stare, Stadtlandet, now sold. No Norwegian ownership.	Namibia	Fished Toothfish in 1996 and first half of 1997. Converted for purse seine fishing. Fishes in Namibia.

The above information is based on a report to CCAMLR from the Sea Fisheries Institute in South Africa, dated 7 July 1997, diverse CCAMLR reports, information from sources within fishery circles in the Antarctic Ocean, newspaper articles in Norway, Australia, New Zealand and South Africa, and personal communication with Martin Purves, Sea Fisheries Institute. Several of the vessels and shipping companies change owners and names frequently and there may therefore be inaccuracies in the presentation.

3.2 Norwegian longline equipment

Most of the vessels which are fitted in Norway have Mustad autoline equipment with 11.5mm line from Fiskevegn. This line is exceptionally thick (for Norwegian longline fishing it is usually 7mm) to tolerate the stresses of deep-sea fishing.

When American Seafood built “Antarctic I” in Aukra in Norway it was fitted with Mustad autoline equipment. Two more Antarctic boats followed, also fitted with equipment from Mustad. Through this collaboration with American Seafood, many of the problems associated with deep-sea line fishing were solved.

Mustad must take its share of the “honour” for so many ships entering the race for the Patagonian Toothfish. In their Spring 1995 newsletter, we find a two-page article entitled “Major Growth in Toothfish Lining”. This article states that “The future could be quite bright for the toothfish longliners outside Argentinian waters too. The Toothfish are found all around the South American continent.....and it is possible that resource stretches right around the globe - in which case the potential is enormous.”¹⁵

In 1996, Mustad developed new haulers which tolerated retrieval of lines from so great a depth. These were first installed on “Alida” and “Aliza Glacial”¹⁶. The next two Glacial boats “Caroline” and “Christina” were also fitted with autoline from Mustad. Mustad has now delivered autoline equipment to about 20 vessels which participate in fishing for the Patagonian Toothfish in the Antarctic. There is reason to believe that a number of these have Norwegian key personnel who have experience with this equipment from longline-fishing in Norway.

4. What can be done and what has been done?

So far, not much has been done to save the population of the Patagonian Toothfish from total collapse, either by the respective flag states, coastal states, CCAMLR or by states whose

¹⁵ Mustad Lining news, March 1995

¹⁶ Mustad Lining News, March 1996

nationals are interested in this fishery. There are several possible approaches, each with weaknesses, for finding a solution and they must be combined to be effective.

4.1 Norwegian reactions.

As early as July 1996, the Norwegian media revealed that there was a great deal of interest for participating in this fishery. In addition, during the CCAMLR meeting in October 1996, the Norwegian authorities were made aware of South African claims of Norwegian involvement in illegal fishing.

Polar adviser Jon Bech at the Ministry of Foreign Affairs writes in his report from this meeting that “it appears that Norwegian interests are behind these vessels”. He continues that “it is desirable to support South Africa in preventing Norwegian ships from illegal fishing in the area around the Prince Edward Islands” and “a change in the Law on Salt Water Fishing ... of 3 June 1983 no. 40 should also be evaluated in that the law, as it now stands, does not allow action to be taken against ships which are owned and run by Norwegian interests and with Norwegian crew, and which, under a flag of convenience, fish illegally in the CCAMLR area.”

It was not, however, until it became known that the Norwegian-owned vessel “Cindy” had been observed fishing illegally, that the debate really started in Norway. At a meeting at the Ministry of Foreign Affairs on 28 January 1997, the Directorate of Fisheries commissioned a report on possible Norwegian involvement in this fishery. In May, the Foreign Minister Bjørn Tore Godal warned against unregulated fishing and warned that Norway would take steps to prevent it¹⁷.

The preliminary report from the Directorate of Fisheries comprises a three-page letter, dated 5 June 1997¹⁸. It includes no new information about ownership or catch rates. It contains no evaluation of polar adviser Jon Bech’s 9-month old proposed actions. Neither does it contain any other proposals for deterrent measures as suggested by Godal months earlier. It contains no evaluation of Norwegian subsidy and guarantee policies in relation to the building of vessels which do not have fishing rights. It is difficult to find a good reason why it took half a year to write this letter and as to why no actions have been discussed. This is particularly alarming when considering that in 1996 Norway reported that it was interested in trial fishing in the CCAMLR zone and that there now exist concrete plans to start in the 1997-98 season.

The Directorate of Fisheries have made a judicial evaluation of possible measures. This is not available to us at this time, and will not be so before the CCAMLR meeting in October. The Ministry of Foreign Affairs has also made it clear that Norway will not be attending this meeting with any clear answers on how to prevent Norwegian involvement in unregulated fishing.

According to our information, the following are some of the main points in the Directorate of fisheries’ report:

¹⁷ Dagbladet 21 May 1997

¹⁸ Letter to the Dept. of Fisheries “unwanted fishing by foreign registered vessels with Norwegian owner-interests” Directorate of Fisheries 5 June 1997.

A proposal to change the law concerning salt-water fishing so that it also includes Norwegian-owned ships, not just Norwegian flagged ships will “awake reaction in Marine Law circles”

This is the only suggestion in this list which can quickly halt Norwegian involvement in fishing for the Patagonian Toothfish. It is regrettable that this has been turned down. Norway is one of the strongest advocates for the “flag states principle,” by which it is the flag state, and not the owners homeland, which has responsibility. There is reason to believe that the strongest reactions to such a measure will come from the ship owners association in Norway.

A possible solution is that participation in “unwanted” fishing has repercussions for any Norwegian concessions which these participants may have.

Friends of the Earth, Norway feels that this will have little effect. Firstly, many of these ships (for example Glacial boats) have Norwegian owners who do not have Norwegian concessions. Secondly, it is difficult to see how one could implement punishments for activities which are not illegal under Norwegian law.

Withdrawal or non-allocation of shipyard subsidies to vessels participating in “unwanted” fishing.

This too is a measure that will have little effect. It is not likely that anyone will build a boat with the expressed aim of illegal fishing. Secondly, the Norwegian authorities’ policy emphasises that Norwegian interests must try to develop new fisheries. New fisheries are generally not regulated by quotas. Fishing for the Patagonian Toothfish in international waters was just such a “new fishery”. Thirdly, in many cases, new ships replace the older ships in a regulated fishery. The ships which are replaced are then often used in other fisheries. “Cindy” and “Celine” are two such ships which were taken out of the Faeroe Islands fishery and sent to the Antarctic ocean. Friends of the Earth, Norway believes therefore that it is the subsidising of fishing vessels that is the real problem. This is a structural problem which cannot be connected to a particular new vessel.

Apply pressure on the USA in conjunction with OECD to get an international agreement banning subsidies for building fishing vessels.

This is essential to tackle the global overcapacity of the ocean-going fleet, and it is commendable that Norway will do this. This will not, however, save the Patagonian Toothfish population which could be fished to depletion in the course of a year.

4.1.1 Inadequate fishery expertise

Communications between the Ministry of Foreign Affairs and the embassies in Argentina and Australia reveal that the embassies lack significant fishery expertise. The Australian fishery authority sent a letter dated 19 June this year to the Norwegian embassy in Canberra in which they asked for information concerning the owners of the “Glacial” boats, about the ownership of “Norse Pride” and about the name or place “Vartdal” which had been mentioned in this connection. Ambassador Kjell Martin Frederiksen answered¹⁹:

- To the embassy’s knowledge no company exists registered under the name “Glacial” in Norway

¹⁹ fax from the embassy in Canberra to the Ministry of Foreign Affairs 19 June 1997

- Information about the “Glacial boats” and “Norse Pride” printed in Aftenposten 6 May entitled “Norwegians flout fishing rules in Antarctic” has been quoted. It is however stressed that this information has not been officially confirmed.
- Vartdal is south of Ålesund.

This was 14 days after the Directorate of Fisheries’ memo about Norwegian participation in this fishing was sent. In this memo, the ownership of both the “Glacial” boats and “Norse Pride” is described.

4.2 Overcapacity and Subsidies

The unregulated fishing in the Antarctic is yet another sign of the disparity between the total size of the ocean-going fleet and the available resources. Over-investment is calculated to cost NOK 3-400 billion each year in losses to the world’s fishing fleet²⁰.

When most of the known resources are either fully exploited or over-fished and the regulation of international waters also becomes stricter, the pressure on the last available resources will increase. It is therefore alarming if Norwegian subsidies and guarantee agreements contribute to further building up of the fleet.

Ships built in Norway, for example the four “Glacial” boats, enjoy shipyard subsidies of NOK 5-6 million per ship. This is an arrangement which applies only to ships which will be registered abroad. These subsidy arrangements have two effects. Firstly, it encourages ship owners to register their vessels outside Norway, which means that Norway cannot apply sanctions should they be involved in illegal fishing. Secondly, it contributes to the further building up of the ocean-going fleet. Without such subsidies it would be less interesting to use a new ship worth NOK 60-70 million instead of an older vessel worth NOK 10 million (which according to sources in the industry would, in many cases, be just as effective).

Other aspects of Norwegian fishery policies can contribute to this type of activity. When the Norwegian boat “Førde jr.” was taken out of Norwegian fishing and renamed “Norse Pride”, the previous owner Erling Førde had the right to introduce a replacement vessel in the Norwegian register. Unregulated fishing therefore operates as a contract subsidy for Norwegian ship owners. In this way one gets older, cheaper ships in fishing, but there are enough of those already.

4.3 Processing of fishing rights in the CCAMLR zone

The only reason FoE Norway can see for giving permission for several vessels in a fishery that is about to collapse, is that vessels with legal quotas can contribute to surveillance of the fishery and report vessels that are fishing illegally. It should therefore be a matter of course that no ship or ship-owner who has been involved in illegal fishing gets these rights. If this happens one would, firstly, be rewarding those who had run their own private fishing trials by giving them rights later, and secondly, ships and ship-owners who have participated in illegal fishing will have little credibility in their new role of surveillance.

²⁰ FAO

For example, Argentina reported on 27 March this year that several ships had been observed in unregulated fishing in the CCAMLR zone.

Vessel	Owner
Arbumasa XXII	Arbumasa S.A
Arbumasa XXV	Arbumasa S.A
Mar del Sur II	Pesq. Mar del Sur S.A.
Aruchi Maru	Pespasa S.A.
Marazul X	Patagonian Pride
Marazul XII	Patagonian Pride
Marazul XXIV	Patagonian Pride
Marazul XV	Patagonian Pride
Cristal Marino	Pescom S.A.

Apart from the “Aruchi Maru”, all these ships or their owners have been involved in illegal fishing in 1996/7.

“Arbumasa XXII” and “XXV” are owned by Arbumasa S.A. in Argentina. On 19 January 1997, their ship “Arbumasa XXIII” was observed pulling line by a French inspector on board “Anyo Maru 22”. “Arbumasa XXV” was seen in Cape Town preparing for deep-sea line fish on 10 January 97. when it was not in fact supposed to be fishing for another two months.

“Mar Del Sur II” was seen by a French inspector in the area between Kerguelen and Crozet on 11 November 1996.

“Marzul X”, “XII”, “XIV” and “XV” are owned by Patagonian Pride in Argentina. In Puerto Quilla, Argentina on 21 November 1996 “Marzul XV” unloaded 200 tonnes caught around Prince Edward. It was later seen in French waters round Kergulen on 18 and 27 December 1996.

In November and December 1996 “Cristal Marino”, owned by Pescom in Argentina, was on several occasions observed fishing illegally, in the area around Prince Edward, Marion and Crozet. The ship unloaded 146 tonnes in Walvis Bay in February 1997. Despite this, the ship was allowed to enter South Africa in March 1997 without the South African authorities reacting in any way to the illegal fishing.

FoE Norway feels that none of these ships or ship owners should be given permission to fish in the CCAMLR zone. Argentina should not be allowed to continue fishing in the zone until they have shown both intention and ability to stop Argentinean-registered ships from fishing illegally for the Patagonian Toothfish.

Ships with South African rights have also been observed fishing illegally. This applies to “Zambesi” and “Garoya” which both had rights in the South African zone in 1996 and 97. They were seen 2 nautical miles off Marion on 12 April 1997. “Garoya” lost its rights while “Zambesi” was reprimanded.

4.3.1 Norwegian participation in new fishery

Norway has notified the CCAMLR that it will start trial fishing for the Patagonian Toothfish in the area around Bouvet Island in the 1997/98 season. If this occurs, the line-ship “Skarheim” will get the licence.

South Africa states in its notification that there is as yet no information on Patagonian Toothfish stocks in CCAMLR zone 48.6. We do know that the Norwegian-owned ships have fished for 60-70 days around Bouvet Island and that the largest catch was a few tonnes. They concluded that it was not a commercially viable area.

This gives reason to question the Norwegian plans for fishing around Bouvet Island. Even though “Skarheim” is an older boat which is paid for, informed sources say that it will still have expenses of US\$ 8-10,000 per day. This means that they must have a daily catch rate of 1,500-2,000 kilos of large toothfish just to break even.

This is most unlikely in the area that Norway has asked to fish. One could say that trial fishing in the area has already been carried out by Norwegian interests and that the Norwegian authorities could collate this knowledge from those involved.

FoE Norway demands that Norway show both their intent and ability to prevent their nationals from participating in unregulated fishing of the Patagonian Toothfish before we can approve any Norwegian trial fishing in the CCAMLR zone.

4.4 UN Convention on Straddling and Highly Migratory Fish Stocks

Currently, the CCAMLR is not a very effective management body. It has little possibility to monitor fishing effectively and has no possibility of implementing deterrents. This could change when the UN Convention on Fishing of Straddling Stocks²¹ comes into force. However, this will be too late to save the remainder of the toothfish stocks in the areas which are currently being plundered.

According to this UN convention, CCAMLR will be defined as a regional management body which is bound to manage resources in its area according to the principles of sustainable management. States which do not participate in such a body will, according to the UN convention be under obligation to follow the management initiatives that are introduced by the regional management body. This will however apply only to countries which are members of this UN agreement. Thus, the CCAMLR zone will no longer be defined as international waters by states which have signed the UN agreement, but are not members of CCAMLR. The problem still applies to countries which will be unlikely to sign the UN agreement, for example Vanuatu and Panama, where many Norwegian-owned ships are registered.

The UN convention requires all states to co-operate with regional management regimes to preserve fish stocks under these regimes’ management. The challenge is to get countries which currently allow vessels to land their catches in their harbours to sign the UN agreement. In such cases the countries should be obliged to register the landings and demand information about the ships owners. The convention should also be used to bind these states to co-operate with the CCAMLR and coastal states in the region to arrest ships which have been fishing illegally, to confiscate the catches and to impose fines.

The convention is relatively clear on the flag states’ duties and the coastal states’ rights to enforce regulations in international waters which border their EEZ. The duties of harbour

²¹ Agreement of the UN Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

states such as Mauritius, which does not have any fishing interests and are not involved in the management, are however unclear. Mozambique, Mauritius and Madagascar are all countries with a large EEZ and should have an interest in signing the UN agreement. Other countries can also pressurise them to do this. For example, Japan as a main importer of the Toothfish could demand membership in the management as a pre-condition for importing the fish. However this could take a long time.

4.5 Tasks for the CCAMLR meeting 1997

The situation for the stocks is currently so precarious that an early solution must be found. From our view-point, there are three routes for saving the rest of the stocks.

1. Direct pressure must be applied to countries in the region to stop landings in their harbours. This applies to Mauritius, Madagascar, South Africa, Australia, New Zealand and Namibia. Transferring the fish to a mother ship at sea is not possible and it is not profitable to go further afield to deliver. If unloading can be stopped then much will have been achieved. The pressure should come from all the CCAMLR members. Japan, as the largest importer of the fish and a CCAMLR member, is in a particularly strong position. To halt the unregulated fishing, they should not allow import of fish from countries which are not co-operating with CCAMLR.

2. Surveillance and enforcement of the 200 nautical mile zone around the islands in the region must be strengthened. The fish are mainly concentrated in a few distinct areas within the 200 miles of the islands. This applies particularly to Prince Edward, Marion, Kerguelen, Crozet, Heard and McDonald Islands. If we can halt the fishing in these areas there is still a chance to save the stocks. This must be done by the coastal states of France, South Africa, New Zealand and Australia. The right to fish in these areas must carry with it a commitment to effective surveillance of own zones.

3. CCAMLR must deny quotas to those who do not prevent their own ships from illegal or unregulated fishing of the same stocks in international waters. This would be in the spirit of the UN agreement. The agreement says that regardless of the location of the stocks, the same management regulations apply. This would mean that Argentina should not get rights before they have halted the unregulated fishing by Argentinean registered ships. Norway should not be allowed to start trial fishing in the CCAMLR zone until they have implemented measures to stop Norwegian involvement in illegal fishing, for example, by changing the Law on Salt Water fishing to apply to Norwegian nationals who own or have jobs on ships that are involved with illegal or unregulated fishing.

This year's meeting of CCAMLR starts on 27 October in Hobart, Tasmania. Since the meeting last year, Norway has been under strong pressure because of its activities. The Norwegian delegation should therefore have clear answers ready as to how it is going to stop this in the future. This is not only relevant for current fishing in the Antarctic ocean, but applies also to Norwegian involvement in fishing in international waters, in zones under joint management and in other countries zones generally.

5. Demands

The Norwegian Society For the Conservation of Nature/Friends of the Earth, Norway demands that Norway:

1. Remove the shipyard subsidies for the building of ocean-going fishing vessels.
2. Remove the arrangement for export guarantees for ocean-going fishing vessels.
3. Does not give subsidies or guarantees for trial fishing or regulated fishing in international waters.
4. Change the Law on Salt-Water fishing, or in some other way create the opportunity to apply sanctions against Norwegian-owned ships or Norwegian crew on ships which are involved in illegal or unregulated fishing even if these ships are not registered in Norway.
5. Support a process for surveillance and enforcement of management around the islands under various countries' jurisdiction in the Antarctic ocean.
6. Contribute to pressurising Mauritius, Mozambique and Madagascar to halt landings from the unregulated fleet in their harbours.

Appendix.

List of ships involved in fishing for the Patagonian Toothfish in the Antarctic ocean. This list includes vessels fishing legally and those that have been observed in any kind of illegal or unregulated fishing of the Patagonian Toothfish, or are registered as unloading the Patagonian Toothfish.

Ships which have been or are involved in fishing for the Patagonian Toothfish²²						
	8 Sept.97			**ship with South African Licence		
	Name	Flag	Call Sign	Home Port	Pennant no.	Lloyds no.
**	Aquatic Pioneer	South Africa	ZR 2982	Cape Town	CTA 288	7930010
**	Zambezi	South Africa	ZUPT 25	Saldanha Bay	SBH 200	
1	Alida Glacial	Argentina	LW 9806	Buenos Aires	6523	9127825
2	Aliza Glacial	Argentina	LW 9860	Ushuaia	6568	9127837
3	Alkar II	Namibia	V5AC	Luderitz	93 LB 005	6925460
4	American Champion	USA	KYAZ	Seattle	527411	
5	Antartica	Namibia				
6	Antartico	Portugal	CUFY	Punta Del Gado	PD 401N	7362768
7	Antonio Lorenzo	Chile	CB 4054	Valparaiso		5020287
8	Arbumasa XXIII	Argentina	LW 9017	Buenos Aires	348033	7529550
9	Arbumasa XXV	Argentina?/Belize?	LW ?/V3TK8?	Puerto Deseado?/Belize City?	05971073?	
10	Arctic Fox					
11	Argos	Malta	9HBM3			
12	Batanzos	Spain				
13	Belgie III	Belize	V3PQ2			
14	Bobby 3	Honduras	HQNW4		L1925315	
15	Bueno Pesca I	Belize	V35A8	City of Belize	019771787	
16	Cam Zebra	Guiney-Bissau	GHHG		B1-486-C	
17	Cape Flower	Panama	HP 7723		23146-PEXT	
18	Capensis	South Africa			18908	
19	Caroline Glacial	Panama				
20	Celine	Vanuatu	YJQS3	Fort Villia	1045	
21	Cevita	Vanuatu	YJQS4	Fort Villia	1046	
22	Christina Glacial	Panama	HP 8965		26163-PEXT	
23	Cindy	Vanuatu	YJQP8	Port Villa	1024	
24	Cisne Verde	Chile	CB 4109	Valparaiso	2616	
25	Conbaroya Quatro	Namibia			L611	
26	Cristal Marino	Argentina	LW 5924	Buenos Aires?/Bahia Blanca?	960474	
27	Eagle	Marshall Islands	V7AG9		1056	

²² Sea Fisheries Research Institute, South Africa

28	Echalar	Namibia			L594	
29	Ekuelle	Chile		Kingstown		
30	Elqui	Chile	CB 3799	Valparaiso	6622654	
31	Elva Maru	Belize?	V3TP3?			
32	Ercilla	Chile	CB 4061	Valparaiso		8711174
33	Erstella II					
34	Esamar I	Argentina	LW 8485	Buenos Aires	950370	
35	Estela	Argentina	LW 8316?/LW 8136	Puerto Deseado	6010	
36	Explorer (ex Krill)	Panama	HP 8630	Panama City	25201-PEXT	
37	Faro De Hercules	Chile	CB 5143	Valparaiso		
38	Frio Sur III (Sur)	Chile	CB 3506	Valparaiso	951N62	
39	Froyanes	Norway				
40	Fuji	Argentina	LW 8194	Puerto Delgado	5969?/9949?	
41	Garoya	Namibia	V5GY	Luderitz	92 LB 086	
42	Isla Antartica	Argentina				
43	Isla Camila	Chile	CB 4234	Valparaiso	2637	
44	Isla Guafo	Chile	CB 3823			
45	Isla Guamblin	Argentina?/ Chile?	LW 9824?/CB 3822?	Buenos Aires?		7323140
46	Isla Isabel	Chile	CB 4188	Valparaiso	89P368?/2635	
47	Isla Sofia	Chile	CB 4233	Valparaiso	89G384	
48	Kinshu Maru	Argentina	LW 9302	Buenos Aires	6340?/940329?	
49	Koyru Maru 11	Japan	JDEG	Yaizu, Shizuoka Prefectura	119910	
50	Krill (later Explorer)	Norway		Alesund	LLJT	
51	Liberty	Belize	V3NU9	Belize City		
52	Magallanes I	Argentina	LW ?	Puerto Deseado	6243	
53	Magallanes III	Chile	CB 4299	Valparaiso		
54	Magallanes IV	Namibia	V5ML	Luderitz	L656	
55	Mar De Pesca	Argentina	LW 9828	Puerto Deseado	6539	
56	Mar Del Sur I	Chile	CB 3544	Punta Arenas	2501	
57	Mar Del Sur II	Argentina	LW 9591	Ushuaia	6384?/C8-3544?	
58	Mar Largo	Portugal	CUOA	Peniche	PE-2078-C?/PE-2078-PE-N?	
59	Marazul	Argentina	LW 9044	Puerto Quilla?	6437	
60	Marazul X	Argentina	LW 7123		6435	
61	Marazul XII	Argentina	LW 9043	Puerto Quilla	6436	
62	Marazul XV	Argentina		Buenos Aires?/Puerto Quilla?	MAT 6438	
63	Maria Tamara	Chile	CB 4459	Valparaiso	2693	
64	Martino	Chile?/Spain?		Madeira?		
65	Marunaka	Argentina		Puerto Deseado	6049	
66	Merced					
67	Monte Confurco	South Africa		Cape Town		

68	Mr B	USA	WCD 7786	Seattle	600325	
69	Name erased	Chile	CB 4234			
70	Nao	Panama	HP 6920			
71	Norse Pride	Panama	HP 8775	Panama City	962P21	
72	Ons	Belize	V3TM8	Belize City	02931024	
73	Orense	Argentina	LW 9099	Puerto Deseado		
74	Palli Hja Mariannu	Faeroe Islands	OW 2169		KG 691	
75	Pesca Nao	Panama?				
76	Praia Do Rostello	Portugal	V5PR??	Lisbon		
77	Puerto Ballena	Chile	CB 2043	Valparaiso		
78	Puerto Madryn	Belize?/ Argentina?	V3TR8?/LW 4031	Belize City?	15962009	
79	Quantas	South Africa?/ Namibia?	V5LU??	Cape Town?	SBH 195	
80	Rita	Portugal?				
81	Salvora	Belize	V30W6	Belize City	02952103	
82	Sanoura	Belize?				
83	Santa Monica	South Africa		Cape Town	CTA 141	
84	Shin Sheng 23	Taiwan?	BH 2312?		CT 0312	
85	Sil	Spain	EGUL			
86	St Porto No. 1	Panama	3 EOW 7	Panama City	19457 PEXT	
87	Stella	Belize	V3SC2	Belize City	15961003	
88	Sudurhavid	Namibia	V5SW	Luderitz	93 LB 011	
89	Tierra Del Fuego	Chile	CB 5999	Valparaiso	961D65	
90	Tugvusteinur	Faeroe Islands	XPYK	Hosvik	VN86	
91	Vasco De Gama	Panama	HP 8804			
92	Vieirasa Doc	Argentina			3-CO-2-3881	
93	Vieirasa XII	Argentina	LW 9745	Ushuaia		