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ILLEGAL TOOTHFISH TRADE: INTRODUCING ILLEGAL CATCHES INTO THE MARKETS

Submitted by ASOC

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1. Introduction

Toothfish poaching has rapidly risen to become one of the most lucrative, illegal fishing businesses globally. For example, the 85 ton toothfish catch of the *Viarsa 1* alone was worth as much as US\$ 1 million (US\$ 1.7 million as a retail product).¹ Due to the high price that toothfish can reach at the docks, this fish has been called “white gold” by illegal fishermen.

Illegal operators have been successful in exploiting loopholes in the set of measures developed by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) to control illegal fishing and trade in toothfish. In some cases, poachers even launder their illegal catch through the use of the Catch Documentation Scheme (CDS), the certification system designed to track the trade in toothfish and to ensure that shipments of toothfish brought to market are legally caught.

This paper summarizes the main results of a research study conducted by the *National Environmental Trust* (NET)² in the United States aimed at evaluating the magnitude of illegal Patagonian and Antarctic toothfish (*Dissostichus eleginoides* and *D. mawsoni*) currently being imported into that country. The detailed findings of this study have been published in the report “*Black Market for White Gold: the Illegal trade in Chilean Sea Bass*”.³

The report describes a number of tactics that are used by illegal operators to smuggle their fish into the market, which are summarized in this paper. Taking into account that the United States is one of the main import markets of toothfish (*Dissostichus* spp.), and that its government has been in the forefront of developing trade measures to prevent illegal toothfish to access the market, ASOC believes that the loopholes identified here are relevant for all global trade in toothfish. Indeed, the authors of the NET report concluded that it is likely that the patterns of trade that allow “illegal, unreported, an unregulated” (IUU) toothfish into the United States are similar in all countries that import this fish.

¹ In August 2003, this Uruguayan flagged fishing vessel was sighted by the Australian customs ship, *Southern Supporter*. The *Viarsa 1* was fishing illegally in Australia’s Heard and McDonald Islands exclusive economic zone. She was chased for 20 days through Antarctic seas and was finally captured 3,500 km southwest of Cape Town by the *Southern Supporter*, with the assistance of British and South African ships that joined the chase.

² The *National Environmental Trust* is a non-profit, non-partisan organization based in the United States. It was established in 1994 to inform citizens about environmental problems and how they relate to health issues and quality of life. NET has a marine campaign dedicated to reversing the trend of decades of overfishing and habitat destruction that threatens the survival of many vital species of fish and other marine life. For further information on NET and their marine program, including their toothfish (“Chilean sea bass”) campaign, see www.net.org

³ *National Environmental Trust*, “Black Market for White Gold; the Illegal Trade in Chilean Sea Bass”, Washington, DC, USA, September 2004.

By portraying the results of this study, ASOC wants to call CCAMLR Members' attention to the loopholes of the CCAMLR control system applicable to fishing and trade in toothfish that allow illegal operators to keep introducing illegal fish into highly regulated markets (comparatively speaking) such as that of the United States.

2. “Black Market for White Gold”: methodology

The research study conducted by NET in the United States consisted of a systematic review and analysis of seven months of shipping data (December 2002-June 2003) concerning international trade in Patagonian and Antarctic toothfish (sold in the United States as “Chilean sea bass”). International trade and production data related to several years was also reviewed, together with investigative findings of other organizations. The purpose of the study was to identify suspicious toothfish shipments imported into the United States that may be tied to illegal catches.

Shipping manifests available through a commercial database (“Port Import Export Reporting Service” or PIERS) covering the period December 2002 to June 2003 were examined and compared to official data from the United States and foreign governments on exports and imports of toothfish.⁴ An assessment of probable and possible toothfish shipments was made, as well as of shipments of suspected toothfish handled by known suppliers and importers, and suspect companies in some cases. Some of these shipments were reported explicitly as toothfish while other shipments were manifested as “sea bass” or “frozen fish fillets” that could be, in fact, toothfish.⁵

To determine “probable” or “possible” toothfish imports that were not clearly identified as toothfish, valuations of those cargoes were compared with known valuations of toothfish and other frozen fish fillets exported from the country of export. Valuations were also compared to global market prices for toothfish, ranging generally from US\$ 6.50 to US\$ 9 per kilogram. It was found that valuations on shipping manifests frequently provide better indication about the identity of the many types of frozen fish being exported than the “official” commodity descriptions. Apparent disparities were repeatedly found between valuations provided by exporting companies to the country of embarkation, and those provided by importing brokers to United States customs officials.

⁴ Certain limitations to PIERS data limited the investigation. The industry database uses only 6-digit “harmonized shipping codes,” which encompass a wide variety of frozen fish (fillet or non-fillet) besides toothfish. Import brokers in the United States provide customs officials with the full 10-digit product code, but privacy laws protect this information, which was therefore inaccessible for the investigation. Further ambiguity arose because some shipments identified by PIERS as having been imported to the United States may have been immediately re-exported to other countries.

⁵ The examination of the PIERS database was limited to frozen toothfish because these imports, not fresh fish, have been most routinely linked to IUU trade.

“Probable” or “possible” imports of toothfish shipments were further identified by researching the identities of known toothfish fishing, re-processing, exporting, importing, wholesaling, and retailing companies. Where “sea bass” was coded in the PIERS database as “European sea bass,” but originated in a country without a “European sea bass” industry, it was determined that such shipments were “probable” or “definite” toothfish imports.

3. Key findings

The research study conducted by NET in the United States identified suspicious patterns of valuation of fish shipments notably exceeding what is reported by importers to the United States government. An examination of shipping manifests available through the PIERS database showed that 4,481.5 metric tons of “definite” and “probable” frozen toothfish shipments entered the United States between December 2002 and June 2003. However, official United States customs data for this period showed a total of 3,903 metric tons of frozen toothfish, which represents 13 % less than the PIERS data. The greatest disparities occurred in imports from China, Mauritius, and South Africa (See Appendix Table 4). Notwithstanding this, the investigators concluded that the actual difference between official government statistics and PIERS data is likely to be even greater.⁶

The investigation also identified importers of frozen toothfish fillets that did not appear to hold valid import permits from the United States government. It was also possible to identify several shipments of toothfish that involved companies known or believed to participate in illegal toothfish trade. Such shipments appear to be flowing easily into the United States marketplace in large quantities.

The NET report describes different tactics used by illegal traders to introduce illegally-caught toothfish into the United States market, including: mislabeling; laundering illegally caught toothfish through the CDS; using ports with lax controls and dubious flag states; tampering the Vessel Monitoring System (VMS); misreporting catches (i.e., claiming that catches were taken on the high seas, even though they were caught in CCAMLR waters); exploiting gaps in the chain of custody; transshipment of product at port and at sea.

During the research, it was found that the task of detecting illegal imports is becoming increasingly difficult for United States customs and fisheries agents when shipments originate from certain port or flag states, or when illegal operators make use of tampered,

⁶ For example, nine large shipments of toothfish were identified that had been co-mingled with other seafood from Chile which could not be accurately differentiated or quantified. Furthermore, there were thousands of tons of “frozen fish fillet” imports, many involving known toothfish companies, for which no further details were available.

unverified VMS data. In reviewing permit applications, government officials normally know which ports, flag states and fishing areas are questionable, but frequently they lack the necessary evidence or the legal basis for denying permits. For example, if there is no proof that a catch document is fraudulent, and if it has been signed by a competent government official, the United States authority is often placed in the uncomfortable position of having to approve import permits, even where there are serious doubts about the legitimacy of the catch. Consequently, toothfish enters this country accompanied by all the legal documentation, even though there is a high degree of certainty that the fish is illegal.

Customs officials in the United States have serious difficulties controlling illegal toothfish imports, due to the great number of containers bringing foreign product to different ports of entry every day.⁷ If this is the situation in regards to the United States, a country with sophisticated and strict trade controls as compared to other countries, it is expected that smuggling toothfish into other importing states may be even easier.

4. Toothfish imports into the United States

The investigations conducted in the United States found that official global toothfish trade data are spotty, at best. Nevertheless, a review of various sources of information showed that the United States is the world's second largest consumer of toothfish, and appears to be catching up with Japan, the long-time leader (see Appendix, Table 2). China and Spain are apparently the third and fourth largest importers of toothfish. Both countries are major processing and re-export points. These four countries accounted for a combined total of 29,363 metric tons of toothfish imports in 2000, more than double the CCAMLR regulated catch for that year (14,440 metric tons).⁸ United States imports of toothfish represented 61% of the legal CCAMLR catch in 2000; 86% in 2001, and 85% of the total legal CCAMLR catch in 2003.

United States customs control over toothfish trade improved in 1999 when a series of new categories to the "Harmonized Shipping Code"-a unique number used to identify and track commodities traded internationally- were added to fully reflect the extent of toothfish imports into the United States. Prior to this, toothfish was often imported under the same code as "sea bass" and a variety of other fish. In 2000 United States regulations were again refined to capture data for two other types of "toothfish": fresh Patagonian

⁷ It is also known that toothfish is smuggled from Canada, which is currently not implementing the CDS.

⁸ In order to calculate the total regulated toothfish catch for that year, to this amount it would be necessary to add the legal toothfish catches reported in the EEZs outside the CCAMLR Area. In the 1999/00 season, reported catches in the EEZs outside the Convention Area were 11,553 tonnes. The total reported legal catch (inside and outside CCAMLR) for that season was 25,242 tonnes. For an estimation of IUU fishing levels based on toothfish trade data, see M. Lack and G. Sant, "*Patagonian Toothfish: Are Conservation and Trade Measures Working?*", *TRAFFIC Bulletin Vol. 19 No. 1 (2001)*.

toothfish, and Antarctic toothfish (*D. mawsoni*) in both frozen fillet and frozen non-fillet form. Both Patagonian and Antarctic toothfish are sold in the United States market as “Chilean sea bass”.

The introduction of CCAMLR’s CDS seems to have brought about major changes in United States trading partners. (See Table 3 in the Appendix). Prior to 2000, South American nations were the primary suppliers of frozen toothfish to the United States. Since then, China and South Korea joined the list of the top seven countries exporting toothfish to the United States.⁹

5. Description of methods used by illegal operators to sell their catch

The NET report has identified different methods of smuggling toothfish into the United States market. What follows is a brief description of how these methods are used to smuggle illegal toothfish into import markets, based on the investigation conducted by NET on imports into the United States.

5.1 Smuggling by mislabeling

The NET investigation concluded that fish imported into the United States is sometimes deliberately mislabeled. In the case of toothfish, this can be the simplest means of circumventing the law.¹⁰ Toothfish is easily recognizable when it is whole, less easily identifiable when it’s headed and gutted, and very difficult to distinguish from other species when it is sold as fillets on ice. When the United States implemented CCAMLR’s CDS, designed to identify legal toothfish imports, illegal suppliers shifted from shipping whole fish to frozen fillets, thereby making identification more difficult. In its frozen fillet form, toothfish looks like many other varieties of whitefish. It is likely that the illegal product can easily pass through the United States customs under an assumed name.

Many of the manifests examined in the NET investigation used the terms “sea bass” or “seabass” to describe the frozen fish contents. It was found that, in many cases, this term is wrongly being used to describe imports of both Patagonian toothfish (*Dissostichus*

⁹ China and Uruguay have emerged as important sources of frozen fillets. China is basically importing toothfish from other countries and reprocessing it prior to re-export.

¹⁰ An example of mislabeling of toothfish is that of the company *Hout Bay Fishing Industries*. In August 2003, the owners of this company were charged with smuggling toothfish by misrepresenting the contents of a container bearing South African documentation. The company misrepresented the type and quantity of the seafood in the containers, concealing the fact that they included significant quantities of toothfish. An indictment followed the seizure in June 2001 of a container in Cape Town, South Africa, intended for shipment to the United States. The container was packed by *Hout Bay Fishing Industries*, owned by Arnold Bengis, who also owns *Icebrand Seafood Maine, Inc.* In this incident, Bengis and co-conspirators were alleged to have hidden two metric tons of toothfish beneath a thin layer of crayfish.

eleginoides) and Antarctic toothfish (*Dissostichus mawsoni*) as well as totally unrelated fish commonly called “sea bass.”¹¹ It appears that many toothfish shipments are being miscoded as “sea bass”. These are not carefully scrutinized by customs agents since “sea bass” is not a species of significant concern as toothfish.

Another form of mislabeling occurs when illegal operators falsify the quantity of toothfish imported or other relevant data. For example, the importer might be correctly identifying the fish in a container as “toothfish,” but falsifying the weight or form (filets or whole fish). For example, a 20-ton container may include a bill of lading showing 8 metric tons of toothfish and 12 metric tons of another species when in reality, the quantity of toothfish is significantly higher. This is another practice used to disguise illegal toothfish catches and introduce them into the market.

5.2 Laundering illegal toothfish through the Catch Documentation Scheme

Although CCAMLR’s CDS requires stringent controls of toothfish shipments by flag states, exporting and importing countries, important loopholes in the system are currently enabling poachers to evade the regulations. The NET investigation found that illegal operators can conceal their illegal activity - and make use of the CDS - in a way that may not be apparent even with the closest inspection by diligent customs agents.

Misreporting catches and tampering with Vessel Monitoring Systems

Enforcement concerns over the practice of misreporting the origin toothfish catches and abusing the Vessel Monitoring System (VMS), are well known by CCAMLR Members. Soon after the CDS went into effect, illegal vessels operating in CCAMLR waters began reporting that their catches were coming from non-regulated, international waters, primarily FAO Statistical Areas 51 and 57 on the high seas, areas that scientists do not believe support sizeable enough toothfish populations to account for these declared catches. In its 2002 Meeting, the CAMLR Commission acknowledged that *“the catches attributed by CDS reports of catches from outside the Convention Area in Areas 51 and 57 were unlikely to have come from those areas and most likely to have come from within*

¹¹ In the United States, the term “sea bass” is used vernacularly and/or in the marketplace to refer to more than 15 species of fish. This has allowed smugglers to easily misidentify toothfish. The research conducted found that probable toothfish trading frequently occurs under the ambiguous and common term “sea bass” in many countries. Therefore, when toothfish is mislabeled as sea bass, it is extremely difficult for fisheries or customs officials to verify whether the fish in a particular shipment are toothfish or an unrelated “sea bass.”

the Indian Ocean sector of the Convention Area".¹² It is therefore admitted that this misreporting is concealing unlicensed fishing operations within the CCAMLR Area.

Since the requirement for vessels flagged to CCAMLR Members to use VMS entered into force in 2001, there have been many reports of instances where the system was not operated according to requirements, or where the VMS data was deliberately altered.¹³ This practice has allowed misreported, illegal catches to be laundered through the validation of their *Dissostichus* Catch Documents (DCDs) by flag states, and to enter the international market in equal conditions to legal catches.¹⁴

Exploiting gaps in the chain of custody

The NET investigation found that under current regulations, it is relatively easy to smuggle illegal toothfish into the legal market using DCDs, because it is virtually impossible to track all the fish listed on a particular catch document to ensure that it has not been subdivided or co-mingled with another shipload of product. For example, a 50-tonnes toothfish catch with proper documentation can be mixed with illegal toothfish catch to ensure that the 50 tonnes with proper documentation are the best priced fish - the largest ones in the case of the United States marketplace. The remaining fish without documentation can then be sold into cheaper markets in China and other Asian countries, where they may be less discerning of the need for catch documents.

Use of forged documents

Illegal toothfish is also being smuggled into the United States and other import markets, by simply using forged or fraudulent DCDs. For example, a 2003 indictment of the

¹² CCAMLR XXI, *Report of the twenty-first Meeting of the Commission*, October 2002, Paragraphs 8.2 - 8.4, at: <http://www.ccamlr.org/pu/E/pubs/cr/02/all.pdf>

¹³ In one case, Australian authorities intercepted two Uruguayan-flagged vessels observed fishing in an unauthorized area. Both ships later produced tampered VMS data, endorsed by Uruguayan officials, showing that they were allegedly 1,000 nautical miles to the North of the actual sightings. Photographs and evidence from naval architects have subsequently demonstrated that the vessels sighted in the unauthorized area were indeed the ones claiming to be over 1,000 nautical miles away at the time. At the CCAMLR Meeting in 2002, the United Kingdom raised similar concerns about fraudulent VMS data from Uruguayan and Russian vessels. CCAMLR XXI, *Report of the twenty-first Meeting of the Commission*, October 2002, Annex 5, *Report of the Standing Committee on Observation and Inspection (SCOI)*, Paragraphs 5.12 – 5.29, at: <http://www.ccamlr.org/pu/E/pubs/cr/02/a5.pdf>

¹⁴ In May 2003, following scientific evidence that there were insufficient populations of toothfish in these regions to support a sustainable toothfish fishery, the United States notified that it would not accept the import of toothfish claimed to be caught in Areas 51 and 57. Even though catches in those areas have dropped precipitously, a sudden increase of reported catches from FAO Statistical Areas 41 and 47, also high seas areas “conveniently” located just outside CCAMLR waters, has occurred. It is clear that illegal operators have shifted to declaring catches from Areas 41 and 47, as a reaction to the United States’ ban on imports from Areas 51 and 57.

operators Arnold Bengis and his son alleged that the same DCDs were used repeatedly, allowing illegal fish to enter the United States and other countries without arousing suspicions: *“the defendants and one or more of their co-conspirators imported into the United States shipments of Patagonian toothfish by presenting to United States authorities DCD forms that did not correspond to the particular shipment of toothfish being imported, thereby concealing from United States authorities that they were importing into the United States Patagonian toothfish that had been illegally harvested, possessed and processed.”*¹⁵

5.3 Use of ghost trading companies

The use of front companies to conceal the real ownership of illegal fishing vessels is a well-known practice. The investigations conducted in the United States found that this practice is also being commonly used to cover up illegal trade operators. Under this practice, toothfish catches are often sold to a ghost company that forges resale documents, listing the product as legal toothfish. This product is then sold to an American dealer who obtains what appears to be proper documentation to import the fish into the United States. Attempts by customs officials or other authorities to trace the fish back to its source would “dead-end” with the non-existent phony corporation.¹⁶

5.4 The role of port states in the illegal toothfish trade

A review of the toothfish illegal fishing activity for the last years reveals that lax enforcement in landing ports is an important factor that is helping illegal operators launder their catches to gain access to legitimate markets.¹⁷ Toothfish can be landed in many countries that are not CCAMLR Members, which are not required to comply with its fish trade controls. Some non-CCAMLR Members countries apply CCAMLR’s CDS voluntarily, but even in these cases, effective implementation is often limited by lack of enforcement capacity of port states, or by the sophisticated methods used by the illegal operators to conceal the nature of their catch. Corruption of port officials can also be the underlying cause of lack of enforcement in some cases. As an example, it is commonly known that officials in some ports accept the catch documents claimed by operators without verifying the validity of their assertions. This lax enforcement helps poachers

¹⁵ United States of America v. Arnold Maurice Bengis, S.D.N.Y., Indictment, August 2003, Paragraph 27 (i).

¹⁶ For example, the Bengis family in South Africa have obtained and transferred illegal fish for over a year through a dummy corporation set up in Namibia. Melanie Gosling, “Company ‘set up front’ for illegal fishing,” *Cape Times*, November 26, 2001, p. 3.

¹⁷ The current paper focuses on practices related to toothfish trade flows and will not describe the way that illegal operators make use of flag states that do not exercise proper control and enforcement over registered vessels. ASOC is very much aware of the primary responsibility of flag states in IUU fishing.

and illegal traders complete the process of laundering catches to gain access to legitimate markets.

CCAMLR, ASOC, and the Coalition of Legal Toothfish Operators (COLTO) have identified a number of ports that have come under suspicion in recent years, as they have been used by illegal operators to land their catches - using dubious documentation from flag states in some cases. These include: port of Qingdao (China); port of Tanjung Priok (Indonesia); port of Walvis Bay (Namibia); Port Louis (Mauritius); port of Montevideo (Uruguay); port of Tenjong Pelepas (Malaysia); and Singapore.

Illegal toothfish operators often shift ports of landing, as the level of compliance can vary depending on the degree of scrutiny of port operations by relevant officials, and ultimately on the international pressure that their countries may face to introduce reforms. In 2001, Port Louis, Mauritius, was a major port for false documentation in illegal toothfish and documentation. Prior to Namibia's CCAMLR membership in 2002, the Namibian port Walvis Bay received at least three ships included in ASOC's "Red List" of vessels engaged or suspected to be engaged in IUU fishing for toothfish.¹⁸ After this issue was brought to Namibia's attention by the CCAMLR Secretariat, Member countries and NGOs, Namibian authorities moved to tighten regulations relating to toothfish off-loadings. As a result, the illegal fleet moved to other ports.

In 2002, a minimum of six ASOC red-listed vessels offloaded Patagonian toothfish totaling at least 300 metric tons in the port of Maputo (Mozambique). When officials there became aware of the problem, Mozambique significantly improved its enforcement capacity beginning in 2003. Since then, no vessels carrying toothfish have offloaded in Maputo. Control of ports and inspection capacity, however, is still limited in Mozambique's northern ports, which may well be exploited.

Singapore and Uruguay are still identified as port states which continue to raise concerns.¹⁹ The trouble is that the validation by port authorities of the information contained on the DCD from vessels operating in these ports, often enables alleged illegal toothfish catches to be "legally" traded.

Even when port states make considerable efforts to control fish landings, the enforcement capacity of countries such as Namibia, Mozambique, South Africa, or the United States, are vastly different. Some developing countries have only one fisheries control officer in charge of all fish species. Even responsible countries may unwittingly harbor illegal operations.²⁰ In the United States, a country that has devoted considerable effort to

¹⁸ *Dorita* and *Lugal Pesca* (both Uruguayan), and *Mare*, (registered in Namibia at the time). See *Antarctic and Southern Ocean Coalition*, "IUU Vessel Red List", at: www.asoc.org/RED%20LIST/redlistfeb04.htm

¹⁹ In relation to Uruguay, see *TRAFFIC* South America, "Fishery Activities and Trade of Patagonian Toothfish in South America: a Regional Perspective," October 30, 2002, pp. 114-115.

²⁰ For example, charges against illegal traders such as *Hout Bay Fishing Industries* have not only included illegal fishing, but also and bribing South African and other fishery inspectors to overlook the company's

curbing the illegal trade in toothfish, overall workloads are too heavy to properly oversee all aspects of toothfish trade controls, seriously undermining their effectiveness.

5.5 Transshipment of product at port and at sea

Illegally caught toothfish is frequently transshipped. For example, the illegal catch can be transferred from the vessel that fished for it to another that carries “legal” documentation, or to a vessel that takes the catch to ports where DCDs are not required. Transshipments can occur either at sea or at certain ports that allow the transfer of product from one vessel to another for re-export. In both cases, documentation is often unclear.²¹

6. Recommendations

The following recommendations have been developed as a means to control international trade in toothfish and prevent illegally caught fish to enter the markets:²²

Recommendations for CCAMLR:

- (i) The introduction of electronic DCDs: the requirement of filling out electronic catch documents online and submitting them immediately to the CCAMLR Secretariat, would eliminate the smuggling of illegal toothfish into the markets through the use of forged DCDs and other DCD-related fraudulent practices. This would require amending Conservation Measure 10-05 (2003) to require the use of electronic DCDs.
- (ii) The introduction of a tamper-proof, centralized VMS: this requirement would close one of the major loopholes of the current system, which is the practice

illegal activities. A director of the *Hout Bay Fishing Industries* pleaded guilty to 301 charges of corruption relating to the bribery of fisheries inspectors. “Fishing company fined R40m,” *News 24*, April 30, 2002, at: http://216.239.41.104/search?q=cache:N767gt_hUPYJ:www.news24.com/News24/South_Africa/WesternCape/0,,2-7-830_1175318,00.html+Hout+Bay+Fishing+Industries+illegal&hl=en&ie=UTF-8.

²¹ In October 2000, the fishing vessel *Amur* sank in rough seas after fishing illegally for toothfish in French waters. When the *Amur* began taking on water, five Chilean and several other crew members died. The surviving crew members were rescued by the illegal fishing vessel *Arvisa 1*, after several other illegal vessels that were closer, ignored their distress call. The toothfish catch on the *Amur* sank with the ship. According to the surviving crew of the *Amur*, the deceased and the illegal catch from the *Arvisa 1* were later transshipped to a vessel that they identified as the *Aqua Reefer*, flagged to Sao Tome. The *Aqua Reefer* then collected toothfish catch from several illegal fishing vessels in the area and also provided the vessels with food and fuel. When one of those illegal vessels, the *Lena*, flagged to Russia at the time, transshipped its catch to the *Aqua Reefer*, the survivors and the cadavers from the *Amur* were transferred to the *Lena*, which finally deposited them without papers in Port Louis, Mauritius. The crew of the *Amur* later told officials that the transshipped product is often off-loaded in ports with poor enforcement such as Singapore, and that the product is then exported to North America, Europe, and Asia.

²² These recommendations relate to loopholes in the current regulations, and to the smuggling practices described in this paper.

of attributing catches taken illegally inside the CCAMLR Area to high seas areas of the Southern Ocean outside CCAMLR's jurisdiction and national EEZs. A centralized VMS -one that automatically transmits the geographical location of a vessel to an objective third party such as the CCAMLR Secretariat- could be used to independently verify the activities of vessels and locations where catches have been taken. This would require amending Conservation Measure 10-04 (2002) to require that VMS data are automatically transmitted to the Secretariat. In addition, this Conservation Measure should provide sanctions for flag states that validate toothfish catches in those cases where it is later established that the VMS data have been manipulated or misreported.

- (iii) Require CCAMLR countries to implement harmonized shipping codes for toothfish. In addition, these harmonized codes should be included in the DCDs, as a new requirement of Conservation Measure 10-05 (2003).
- (iv) Adopt an enforcement regime that holds flag states accountable for implementing CCAMLR Conservation Measures. For example, CCAMLR Parties can take trade-related measures, such as temporary import prohibitions, against Contracting and Non-Contracting Parties whose vessels have been repeatedly involved in illegal fishing for toothfish, as determined by Conservation Measures 10-06 and 10-07 (2002), on CCAMLR IUU Vessel List.
- (v) Agree not to accept imports of toothfish declared as caught on the high seas in waters outside of CCAMLR jurisdiction. Resolution 17/XX includes a recommendation for CCAMLR Members to prohibit imports of toothfish from Area 51, if the flag state fails to demonstrate the veracity of VMS data in relation to those catches. This recommendation should be extended to all areas outside the Convention Area.
- (vi) Agree to deny further fishing licenses and import permits to vessels and operators previously involved in illegal fishing and trade for toothfish. Consequently, Conservation Measures 10-06 and 10-07 (2002) should be amended to cover not only vessels included in the IUU vessels list, but also their beneficial owners and operators.
- (vii) Promote further cooperation and exchange of information between CCAMLR and the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) to improve trade controls and the level of information available on international toothfish trade. CCAMLR Members should explore how both systems can complement each other. They should also study the possibility of tightening current CCAMLR controls and

extending them to all CITES Parties through the listing of toothfish on Appendix II of CITES.

Recommendations for importing countries:

- (i) Prohibit importation of any product simply identified as “frozen fillets”. Imports of all fish products should be required to be labeled and clearly identified by its scientific name. In the case of toothfish, either *Dissostichus eleginoides* or *Dissostichus mawsoni* must be used, and not “sea bass” or other common variant.²³
- (ii) Accept toothfish only from countries that have assigned 10-digit harmonized shipping codes to toothfish products.
- (iii) Consider requiring valid DCDs to accompany toothfish to its final destination, ensuring an unbroken chain of custody. A document showing an unbroken chain of custody should accompany each fish and fillet from the time it leaves the fishing boat to the time it arrives at the grocery store or the restaurant. Maintaining the paper trail would keep shipping agents, importers, food warehouses and distributors accountable for the toothfish product in their possession.
- (iv) Countries that import toothfish should require all importers to notify relevant authorities of their intent to offload ten days in advance. This requirement was introduced by the United States in 2003 and it has had the result of giving relevant authorities the time to investigate the origin of the shipments concerned before authorizing the import. For example, this enables authorities to track the information contained in the DCD and try to clarify any doubts that may arise as to the legality of the catch. This measure has allowed United States authorities to reject a number of shipments that were found to be illegal.
- (v) Maintain a historical list of all toothfish permits granted to importers, which should be cross-checked against shipments entering ports. The information listed should include the specific time period for which the permit is valid and the total quantity of fish allowed for import under the permit. This would allow importing countries to keep track of all permits and to make them void once the total allowable import quota for each permit has been reached. This measure would prevent importers from using one DCD multiple times to evade the limitations of the permit. In addition, it would put the onus on the importers to double-check that they had not exceeded their allowable import amount, at the risk of losing their permit.

²³ The prohibition of all fish imports using shipping codes for “frozen fillet” and “frozen fish” without a species name would contribute to the tracking of other fish imports besides toothfish.

- (vi) Importing countries should promote the increasing involvement of CITES in toothfish trade, as a way to improve and extend current toothfish controls. Fisheries and trade authorities should jointly explore how both systems can complement each other. They should also study the possibility of tightening current CCAMLR controls and extending them to all CITES Parties through the listing of toothfish on Appendix II of CITES.

APPENDIX

Table 1. United States imports of toothfish: July 1998 to June 2003^a

<u>Year</u>	<u>Frozen</u>	<u>Fresh</u>	<u>Total</u>	<u>% Frozen</u>
1998 ^c	3,626	4,421 ^b	8,047	45%
1999 ^c	6,210	3,145 ^b	9,355	66%
2000	8,121	692	8,813	92%
2001	9,439	1,852	11,291	84%
2002	9,582	1,485	11,067	87%
2003 (Jan-June)	3,903	710	4,613	85%

^a United States F.A.S. (Foreign Agricultural Service) and customs data, unless otherwise specified.

^b *TRAFFIC* 2000, based upon Chilean export data.

^c Data for frozen toothfish imports in 1998 and 1999 may be incomplete due to inadequate commodity code specifications.

Table 2. Leading importing countries of frozen toothfish (metric tons): 1998 to 2001

<u>Country</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Japan ^a	22,357	16,985	16,658	15,067
US ^c	3,626	6,210	8,121	9,439
China	n/a	n/a	3,230 ^b	n/a
Spain ^a	n/a	n/a	1,354	1,840

^a FISHSTAT database.

^b Includes exports from Australia (2,004 metric tons), Chile (592 metric tons), and France (634 metric tons), as reported by *TRAFFIC*.

^c United States customs data.

Table 3. Leading exporters of frozen toothfish to the U.S.: 1998 to June 2003 (metric tons)

Origin	1998	1999	2000	2001	2002	2003	2000-2002 ^a	% total
						Jan.-Jun.	An. Aver.	
Chile	588	953	1,340	1,981	1,503	1,060	1,608	18%
Argentina	1,784	2,295	1,795	1,189	1,472	737	1,485	16%
Uruguay	79	928	1,437	1,214	895	340	1,182	13%
Seychelles	25	0	122	1,434	1,656	0	1,071	12%
China	0	477	1,061	690	512	335	754	8%
France	33	324	240	898	949	356	696	8%
South Korea	0	0	395	658	360	119	471	5%
UK overseas territories*	26	76	204	567	477	252	416	5%
New Zealand	0	113	136	209	772	221	372	4%
South Africa	63	287	585	267	212	236	355	4%
Mauritius	300	541	388	24	144	76	185	2%
Others	728	216	418	308	630	171	452	5%
TOTAL	3,626	6,210	8,121	9,439	9,582	3,903	9,047	100%

^a The period from January 2000 to June 2002 covers the time during which the CCAMLR Catch Documentation Scheme has been in effect, and presumably indicates the effect of this regulations on toothfish landings.

* Exported from UK overseas territories.

Source: United States customs data.

Table 4. Disparity between PIERS toothfish imports and official United States data, January-June 2003 (metric tons)

Country of Origin	PIERS*	U.S. govt.	% Difference
Argentina	318.4	737	(+57%)
China	697.2	335	-52%
Chile	1,073.0+	1,060	-1%+
France	423.0	356	-16%
South Korea	143.9	119	-17%
Mauritius	289.4	76	-74%
New Zealand	287.0	221	-23%
South Africa	619.0	236	-62%
Uruguay	433.0	340	-21%
Others	197.6	423	(+53%)
TOTAL	4,481.5	3,903	-13%

*Definite and probable toothfish imports identified through records of the Port Import- Export Research Service

+A large, but unknown, quantity of toothfish was imported in loads mixed with other seafood.