

# Illegal fishing in the Southern Ocean: the problem, practices and perpetrators

The Australian government is concerned that within a few years the lucrative Patagonian toothfish fishery around Australia's Heard Island and McDonald Islands (HIMI) could collapse due to unsustainable illegal fishing.

Located 4,100 kilometres from the nearest Australian port, Australia's Exclusive Economic Zone (EEZ) around HIMI lies entirely within the area of the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). These remote waters are managed under Australian domestic legislation in accordance with Australia's obligations under CCAMLR and other international agreements, including the United Nations Convention on the Law of the Sea (UNCLOS).

## The problem

Illegal, unregulated and unreported (IUU) fishing, commonly referred to as poaching, is the primary threat to the conservation of toothfish stocks. IUU fishing is intrinsically unsustainable as it results in catches that far exceed sustainable limits set for legal fishers and, if it continues unchecked, will cause severe depletion of the spawning fish stock. IUU fishing uses longlines with little or no attention given to avoiding seabird bycatch. This leads to high levels of mortality among seabird populations, some of which are

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already endangered. Another serious problem with IUU fishing is that there is almost no data reporting for IUU catches, making decisions about the status and future management of fish stocks very difficult.

Toothfish is a high value, quality fish and is mainly sold to the restaurant trade in Europe, the United States and Japan. High consumer demand and the consequent high prices for toothfish and other white-fleshed fish encourage not only the legal fishers, but also illegal fishers to supply products to these markets. It has been estimated that the total IUU catch of toothfish over the past six years is almost equal to the total catch by legal fishers (80,960 tonnes and 83,696 tonnes respectively), and worth about A\$1 billion in wholesale value.



*Out of sight, but not out of mind: Australia's sovereign territory Heard Island and McDonald Islands.*

IUU fishing severely undermines national and international management and conservation measures implemented by Australia and other coastal States, and international regimes such as CCAMLR and UNCLOS, whose goals are to ensure that only sustainable utilisation of the world's oceans occurs. Illegal fishing within the HIMI EEZ also challenges Australia's sovereignty.

## The practice

IUU fishing occurs throughout the world. The targeting of toothfish in the Southern Ocean by IUU fishers started in earnest in the mid-1990s. Most IUU fishers have strong links to traditional deep sea fishing nations and, historically, many such fishers and vessels were displaced by the commercial collapse of northern hemisphere fisheries, overcapacity in the global fishing fleet and the introduction of larger maritime jurisdictions for coastal States.

More recently the nature of IUU fishing has changed from the operational styles of the mid-1990s and it is clear that it is now often a highly sophisticated form of transnational organised crime with:

- sophisticated control of vessel movements;
- complex logistics, including chartering tankers to refuel vessels at sea, specially built and modified vessels, and the use of ports in States which give little scrutiny to vessel movements and catch landings;
- use of active intelligence gathering about States' enforcement efforts;
- use of complex corporate arrangements and legal advice to exploit weaknesses in national and international fisheries and corporate law and to disguise the real owners and beneficiaries of IUU fishing;
- use of weak State regulatory regimes to flag vessels and fraudulently obtain validation of catch documents needed for market access;
- use of complex arrangements to 'launder' catches;
- strong evidence of corrupt conduct in support of IUU fishing by some States' officials;
- a small number of beneficiaries controlling nearly all IUU fishing for toothfish; and
- substantial and well-financed legal challenges when vessels are arrested.

## The perpetrators

It is estimated that there are currently between twenty and thirty vessels involved in IUU fishing for toothfish. One of the problems is that some vessels are registered under a 'flag of convenience', taking advantage of deficient vessel monitoring by the

flag States involved. Other vessels are flagged to CCAMLR Members<sup>1</sup>, and all are owned by 'front companies'. These companies are often registered in tax havens or States that are not party to international fisheries agreements (such as Belize, Togo and Bolivia). 'Front companies' are the most visible 'tip'

of a usually complex, transnational corporate structure deliberately constructed to disguise the identity of the beneficial owners and controllers and to gain financial advantage, for example through lowering taxation and administrative costs. The beneficiaries are very difficult to link conclusively to the IUU

### Illegal fishing activities off Heard Island and McDonald Islands

HIMI provides a legitimate Patagonian toothfish and mackerel icefish fishery worth about A\$30 million that directly employs up to 150 people in the capture and post-harvest processes. The marine environment within these waters contains valuable nursery grounds for commercial species, sponge habitats and benthic fauna. In recognition of the rich conservation values, Australia has declared a portion of the HIMI EEZ a marine reserve.

The Australian Fisheries Management Authority has a stringent management plan in place to minimise the impact from fishing to the HIMI environment.

Parallel to the development of the legal fishery, HIMI became the focus of attention for IUU operators. Since the 1995–96 season, IUU fishers have taken an estimated 20,352 tonnes of toothfish from the HIMI EEZ, considerably more than the legal fishery (Table 1). These catches typically enter the market by being misreported as having been caught outside the CCAMLR Area (and consequently outside of HIMI).

Fishing Season (Dec/Nov)	Estimated legal catch (t)	Estimated IUU catch (t)
1995/1996	0	3000
1996/1997	1868	7117
1997/1998	3671	4150
1998/1999	3659	427
1999/2000	3566	1154
2000/2001	2987	2004
2001/2002	1812	2500
Total	17563	20352

Table 1. Estimated IUU catch of *Dissostichus eleginoides* from HIMI (CCAMLR Statistical Area 58.5.2).

Source: CCAMLR. In Press. SC-CAMLR (2002) Report of the Working Group on Fish Stock Assessment (WG-FSA). Report of the twenty first meeting of the Scientific Committee (SC-CAMLR XXI). CCAMLR, Hobart.

Since 1997, Australia has apprehended six foreign vessels fishing illegally within the HIMI EEZ (Table 2). In addition to Australia's efforts in increasing monitoring, surveillance and enforcement activities and successes in apprehending IUU fishing vessels, Australia actively cooperates with other Members of CCAMLR to combat IUU fishing.

**'Our action at Heard Island is part of a much broader campaign by Australia, along with its partners in CCAMLR, to stamp out illegal, unreported and unregulated fishing which undermines international efforts to manage the toothfish resource sustainably.'** *Dr Sharman Stone, Australia's Parliamentary Secretary to the Minister for the Environment and Heritage*

Table 2. Identifying the perpetrators

Vessel name	Flag State	Nationality of Captain	Nationality of Senior Officers
Salvora	Belize	Spanish	Spanish
Alicia Glacial	Panama	Faeroe Islands	Faeroe Islands
Big Star	Seychelles	Spanish	Spanish
South Tomi	Togo	Russian	Spanish
Lena	Russia	Spanish	Spanish, Russian
Volga	Russia	Russian	Spanish, Russian



Apprehending the perpetrators – scenes of Australian authorities apprehending IUU vessels in the Southern Ocean.

ALL PHOTOGRAPHS COURTESY OF ROYAL AUSTRALIAN NAVY

## Global implementation of the CCAMLR *Dissostichus* Catch Documentation Scheme

The effectiveness of CCAMLR's management regime is seriously undermined by the presence of IUU fishing in the CCAMLR Convention Area. In 1999 CCAMLR established a *Dissostichus* Catch Documentation System (CDS) to follow toothfish from the sea to the dinner plate. The CDS identifies the origins of toothfish catches, gathers statistics on total catches and identifies catches harvested in a manner consistent with CCAMLR requirements. It also aims to prevent IUU catches from entering the territories and markets of CCAMLR Parties. The CDS was designed so that all States involved in the harvesting or trade of toothfish could participate, regardless of whether the fish were harvested inside or outside the CCAMLR Area.

### By failing to prevent trade in illegally caught toothfish, those States are also richly rewarding criminals.

Australia recognises the importance of full implementation of the *Dissostichus* CDS by all CCAMLR Members and Parties, and any other States involved in the trade and harvesting of toothfish.

The failure of some flag, port and market States to effectively implement the CDS undermines CCAMLR and the actions of other States committed to combating IUU fishing. By failing to prevent trade in illegally caught toothfish, those States are also richly rewarding criminals. Effective global implementation of the CDS would be a significant step towards eliminating IUU fishing.

Australia encourages all States involved in the trade and harvesting of toothfish to effectively implement the CDS.

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fishing but are relatively few in number and include nationals of CCAMLR members and, more recently, Asian interests, including Hong Kong nationals.

Key ports for landing IUU caught toothfish are all located in States that are not party to CCAMLR, including Tanjung Priok in Indonesia, Hong Kong and Singapore. IUU fishers purposely land catches at these ports for reasons of logistical convenience, to minimise scrutiny of their operations and because these ports do not fully implement the CCAMLR *Dissostichus* Catch Documentation Scheme (CDS), a scheme which aims to prevent IUU catches entering the market. Australia is also concerned that the flag States of such IUU vessels, which include Uruguay and Russia, both CCAMLR Members, are compromising the CDS by failing to adequately monitor their vessels' activities and by validating catch documents for IUU catches, thus allowing them ready access to high value markets.

From the sea to the supermarket, the lucrative Patagonian toothfish (*Dissostichus eleginoides*).

## Conclusion

While the protection of toothfish stocks around HIMI is a high priority, Australia is committed to eliminating all IUU fishing, including elsewhere in the Southern Ocean. This commitment was plain when in late 2002, Senator Ian Macdonald, Minister for Fisheries, Forestry and Conservation stated; 'I would like to put all those illegal fishermen and companies on notice that Australia will sink your boats, confiscate your catches and prosecute you to the full extent of the law if you fish illegally in our waters'.

Promoting greater awareness of the problems of IUU fishing and the need for a widespread and vigorous international response remains a key element of Australia's

approach to combating IUU fishing. Australia regards co-operation and exchange of information as fundamental to successfully combating IUU fishing. Australia will continue to pursue initiatives in CCAMLR and other international forums to eliminate this international criminal activity.

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<sup>1</sup> Members refers to States that have acceded to the Convention on the Conservation of Antarctic Marine Living Resources, pay annual fees, have voting rights and are legally bound by CCAMLR decisions.



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