



I S O F I S H

International Southern Oceans Longline
Fisheries Information Clearing House

The Vikings

the Involvement of

Norwegian Fishermen

in

Illegal and Unregulated Longline Fishing

for

Patagonian Toothfish

in the

Southern Ocean

ISO FISH Occasional Report No. 3

October 1998

ISOFISH

ISOFISH was established following the Sixteenth meeting of the Commission of CCAMLR (the Convention on the Conservation Antarctic Marine Living resources) [CCAMLR XVI] in Hobart in November 1997. It is a joint venture between conservation NGOs and commercial fishing companies licenced to fish for Patagonian toothfish [*Dissostichus eleginoides*] within the CCAMLR area (including EEZs around sub-Antarctic islands).

The principal objective of ISOFISH is to develop the capacity to report on the activities of unlicensed longline fishing vessels within the CCAMLR area and those associated with, benefiting from, and responsible for, these illegal and unregulated activities. The information outputs are to be used to assist CCAMLR member governments to adopt and ensure compliance with conservation measures designed not only to ensure the sustainability of Southern Ocean fish stocks but also to ensure the survival of albatross and other seabird populations presently being hooked and drowned by improper deployment of longline systems by unlicensed operators.

ISOFISH is an operation of the Hobart-based NGO, the Tasmanian Conservation Trust, with a Board of Management to oversee its operations. Present Board members are:

Michael Lynch, Director, Tasmanian Conservation Trust, Hobart, Tasmania (Chair).

Stuart Richey, Richey Fishing Co. Ltd. and Deputy Chair of Australian Fisheries Management Authority (AFMA), Devonport, Tasmania.

Martin Exel, Austral Fisheries, Fremantle, Western Australia (a joint venture between the Kallis & France Group and Pescanova).

Keith Sainsbury, Program Leader, Multiple Use Management of the Australian EEZ, CSIRO Marine Division, Hobart, Tasmania.

Bruce Montgomery, National Maritime Reporter, 'The Australian', News Ltd., Hobart, Tasmania.

Margaret Moore, World Wide Fund for Nature (Australia), Melbourne, Victoria.

Beth Clark, The Antarctica Project, Washington (global coordinator of the ASOC network).

Michael Kennedy, Humane Society International (Australia), Sydney, New South Wales.

For more information on ISOFISH or to find out how you can help, please contact us at:

International Southern Oceans Longline Fisheries Information Clearing House

ISOFISH, 148b Elizabeth St., Hobart, Tasmania 7000, Australia.

Ph: +61-362-343.552; fax: +61-362-312.491

E-mail: isofish@trump.net.au

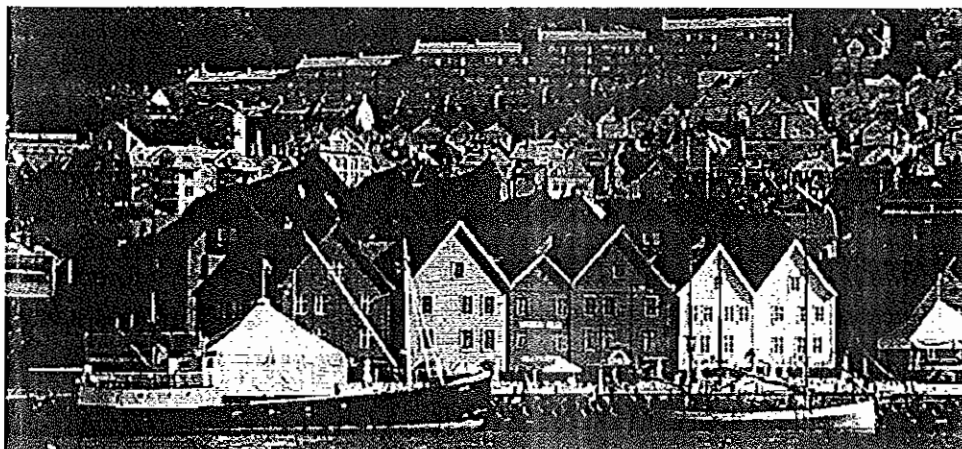
Copies of this report are available on request from ISOFISH at the above address and can be downloaded from the ISOFISH website:

[www.isofish.org.au/news/98/norway.htm]

Contents

A Plea for Help	(ii)
1. Summary and Recommendations	1
2. Introduction	5
2.1 The Vikings	
2.2 The Southern Ocean	
2.3 The Viking Boats	
3. The Glacial Group	9
3.1 The Glacial Companies	
3.2 The Glacial Sisters	
3.3 The Arrest of the Aliza Glacial	
3.4 The Wages of Sin	
4. The Cindy Fishing Co.	17
5. The Norse Seafood Co.	21
5.1 Whom to believe?	
5.2 Sjaastad forsakes his poaching ways	
6. Involvement of Other Countries with the Vikings	27
6.1 Flags of Convenience	
6.2 Extraterritorial jurisdiction	
6.3 Open Ports	
6.4 Open Markets	
6.5 Denmark – time to clean up its act	
7. References & Sources	33
8 Appendices	34
8.1 The Aliza Glacial & the Bergensbanken documentation	
8.2 States party to the 1952 Brussels Convention	
8.3 New Japanese tunafishers' licencing regulation	
8.4 New Norwegian extraterritorial fisheries regulations	

The Hanseatic Wharf, Bergen, Norway





**Even the Norwegians refer to these fisheries 'cowboys' as
Vikings**

1. Summary & Recommendations

1.1 There are three principal Norwegian groups involved in Toothfish Poaching operations in the Southern Ocean. These are:

- **Magne Hisdal and the Glacial group** of associated companies: Glacial S.A. (previously Birting S.A.) registered in Buenos Aires, Argentina; Ravenor Overseas Inc., registered in Panama; Cavan Shipping Ltd., registered in the Cayman Islands; and Crown Hill Chartering A.S., based in Bergen, Norway.
- **Oddvar Veaa and the Cindy Fishing Co.** operate five large and sophisticated longliners: the Cindy, Cevita (renamed 'Golden Sun'), Celina (renamed Golden Eagle), Tugvusteinur, and Pallihja Mariannu(a). They also operate the Sea Fox, a large trawler converted to longlining. Considered to be solely a poaching operation.
- **Jan Sjaastad and Norse Seafood Ltd. A.S.** used to own the Norse Pride (before it sank at its moorings in Mauritius in January 1998). Considered to be solely a poaching operation. Although Sjaastad has recently renounced his poaching ways, what conditions governments should set themselves before issuing licences and quotas to him to prevent backsliding and to ensure adequate recompense to aggrieved coastal states remains unclear.

Until such time as these individuals and companies have forsaken involvement in poaching and paid appropriate reparations for their past activities, **they should be pursued by governments and shunned by others wherever they go.** In particular, Hisdal and Veaa show no signs of changing their ways and deserve to be pursued with unrelenting vigour.

1.2 The Norwegian Government must take immediate steps to:

- Withdraw its capital from all companies associated with those in operational control of past or present toothfish poaching operations, namely: **Magne Hisdal, Jan Sjaastad** (including his fishfarming company, Delfa) and **Oddvar Veaa**.
- Convene an Inquiry to review and **publish a Blacklist** of Norwegian individuals known to be associated with fish poaching operations anywhere in the world (especially in the CCAMLR area) which also establishes a forum for individuals to clear their names should they decide to cease involvement in, and association with, such operations.
- Demand that banks and other investors immediately conduct internal inquiries to identify and then terminate any and all support for and involvement with poachers identified on the Blacklist. In particular, **Den Norske Bank [DnB]** must terminate any relationship with Norse Seafood Ltd.; the **Bergensbanken** must end its relationship with Magne Hisdal and the Glacial group of companies, and the **Rogalandsbanken** must disinvest from Oddvar Veaa's Cindy Fishing Co..

- Demand that all those Norwegian individuals and companies identified by the Blacklist as associated with toothfish poaching and other unlicensed fishing operations but not in operational control, **sever all ties and associations with blacklisted companies and individuals immediately.**
- **Use the new national fisheries regulations** which allow Norwegian fishing licences to be withheld from anyone involved in illegal fishing operations in CCAMLR and international waters to exclude all individuals on the Blacklist from any involvement in domestic fishing operations.
- Introduce new fisheries regulations which mirror those due for implementation by Japan in January 1999 which require all Japanese crew of foreign flagged tuna fishing vessels to be licenced by the relevant Japanese ministry if fishing within identified tuna fishing areas.

1.3 Norway, and other CCAMLR member states, must earnestly seek the immediate adoption of Conservation Measures by CCAMLR on VMS, port controls and market controls:

- Mandate the installation and use of a remotely polled, satellite-based vessel monitoring system [VMS] (monitored by the CCAMLR Secretariat for all operations within the CCAMLR area). This is a necessary first step for any comprehensive and effective management regime for any fishery. It allows the appropriate behaviour of licenced vessels to be verified and, thence, their catch to be certified as 'legal'. It does not, alone, deliver effective control.
- Require their port and/or customs authorities to refuse entry to vessels carrying toothfish which cannot satisfactorily establish that they were caught in compliance with all relevant licences, including CCAMLR Conservation Measures. Entering vessels must also be properly marked in compliance with national and international safety standards and fisheries regulations; and VMS monitoring authorities must be prepared to certify to port authorities that vessels wishing to enter their ports have complied with licence conditions. Vessels known to have been involved in 'illegal' fishing should be excluded from all ports at all times.
- Require their customs and/or fisheries authorities to comprehensively monitor the trade in toothfish and derived products and to document and report all import and export consignments to the CCAMLR Secretariat for analysis. Imports should be banned from countries which do not implement port and market controls to CCAMLR standards. All traders in toothfish should be required to be licenced and obliged to ensure that the product they handle has been derived from 'legal' fishing operations.

1.4 All coastal states should immediately review their Admiralty Rules implementing legislation to ensure that it cannot be used by poachers to rescue vessels arrested under their national fisheries laws.

Now that poachers, pirates and 'illegal' fishermen have discovered that Admiralty Rules may be able to be used to extract their arrested vessels from fisheries authorities, it is only a matter of time before the tactic becomes commonplace. It is important that all states party to the 1952 Brussels Convention on the Unification of Certain Rules relating to the Arrest of Sea-going Ships review their domestic implementing legislation to ensure that it cannot be used to 'rescue' vessels arrested under other domestic legislation [see Ch.3.3 & Apps. 8.1 & 8.2].

1.5 Norway and all other fishing nations should introduce new domestic legislation which makes it a serious criminal offence for any of their nationals to knowingly engage in fishing activities in breach of or in defiance of the relevant laws and regulations of other countries and competent international organisations, especially CCAMLR, irrespective of which flag state or coastal state may be involved.

The offence must be serious enough to allow international arrest warrants to be issued for the arrest of those responsible officers charged under fisheries legislation who routinely skip bail and flee the country where the offence was committed. At present, poachers are exploiting the fact that UNCLOS does not allow criminal charges to be laid for fisheries offences committed within EEZs. This loophole must be closed - and quickly.

Additional legislation should be introduced by states which requires any of their citizens associated with vessels identified as being involved in 'illegal' fishing activities beyond that state's jurisdiction to prove that their assets came from legitimate commercial sources or risk the confiscation of those assets. For those states which already have 'proceeds of crime' legislation, this could be done by simple amendment to such legislation.

While there are laudable reasons for states to be reluctant to legislate for such 'double jeopardy', when it comes to EEZ management beyond the territorial jurisdiction of coastal states, the exercise of such legislative power by fishing states is entirely warranted. Indeed, failure to legislate by fishing states may well come to be construed by coastal states as wilful encouragement of poachers.

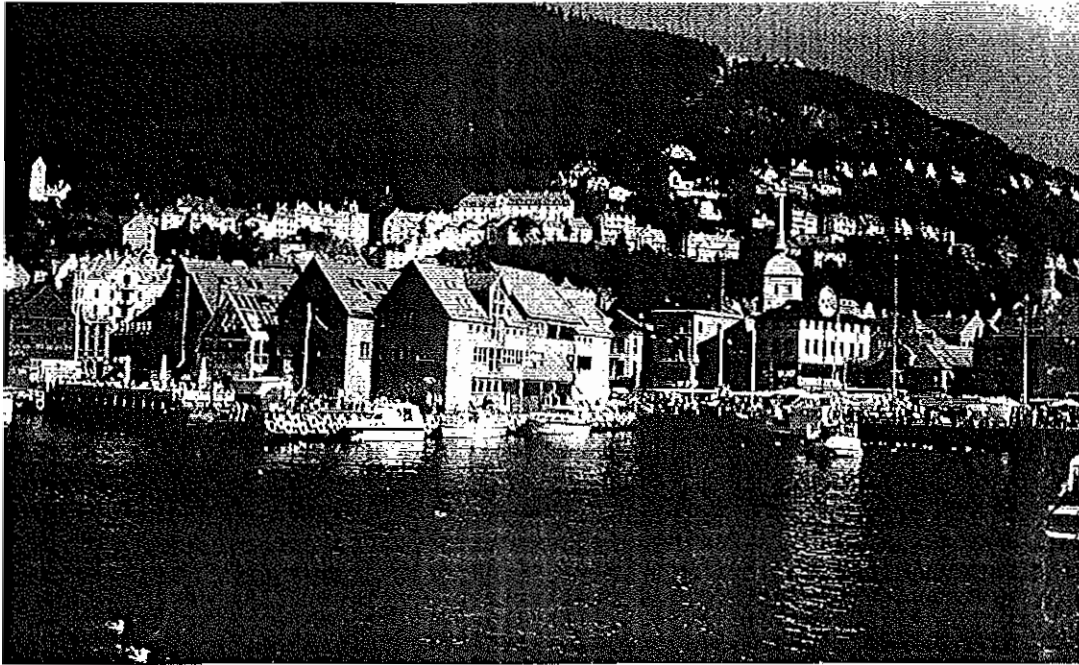
1.6 All CCAMLR member states should follow the lead of the USA and designate a unique product code for toothfish [*Dissostichus spp.*] to allow accurate trade records to be kept (which can then be submitted to the CCAMLR Secretariat for collation). States should also join the USA in trying to persuade FAO to assist in this regard.

1.7 All CCAMLR member states should ratify UNIA as a matter of urgency and so bring it into force as soon as possible so that its regional fisheries management provisions can be used for toothfish and the provisions to deal with flags of convenience and non-complying transshipment states can be used.

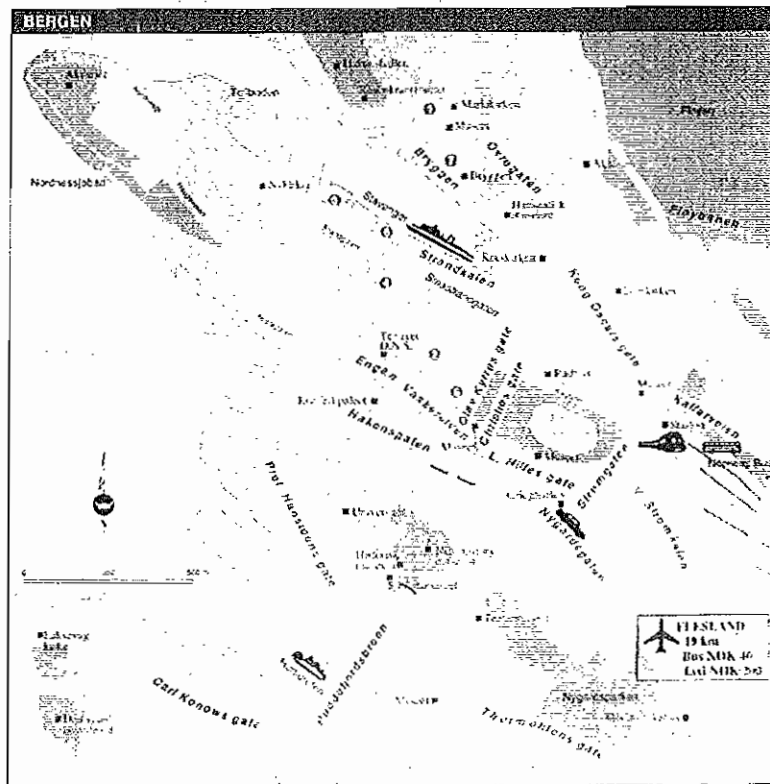
1.8 Coastal and fishing state governments should work with suitable companies to develop sashimi markets in East Asia for IQF quality toothfish

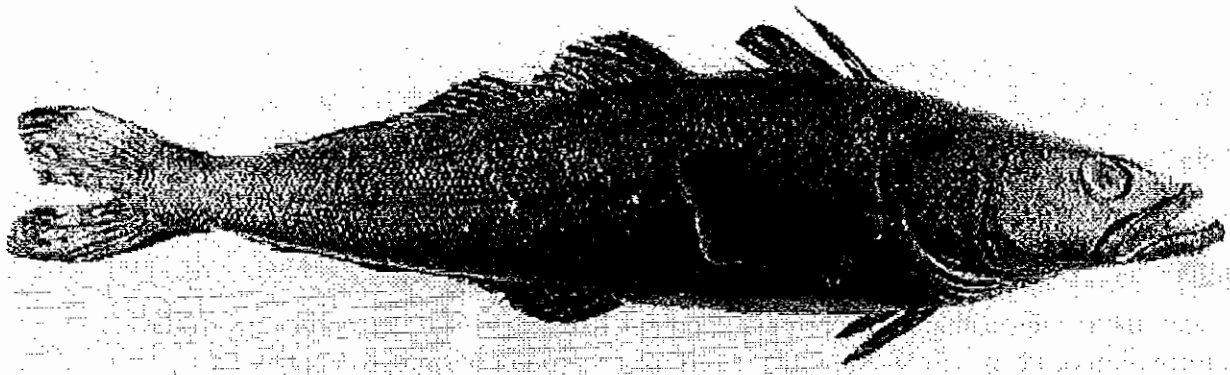
Whatever the reason, the present situation whereby IQF quality toothfish is sold into block frozen markets is regrettable and wasteful. The Vikings, and any others with the fishing skill and longline and freezer technology to do so, should be encouraged to apply for licences and quotas to take 'legal' toothfish. Fishers and governments should then work together to develop sashimi markets in East Asia for the IQF product they catch. Such a move could be expected to double the value of the longline toothfish catch.

1.9 Those CCAMLR member states which are particularly concerned to ensure sustainable management of toothfish and seabird survival should contribute funds to establish a special position with the CCAMLR Secretariat to coordinate information and initiatives.



**Bergen – Magne Hisdal's home town
where poachers are still free to walk the streets**





Dypvannstorsk – Patagonian toothfish

Acknowledgments

ISOFISH would like to acknowledge those Norwegians associated with their fishing industry who have provided much of the information and encouragement for this report. This preparedness to talk reflects a high degree of concern within the Norwegian community at the egregious behaviour of a few of their fellow countrymen. We hope that this report may help them in their own efforts to ensure Norway's fine reputation as a law abiding, progressive nation is preserved by 'taking care of their own'.

The significant role played by Norwegians in the 'illegal' toothfish trade was first identified by Gunnar Album in his report to FOE (Norway) in October 1997 and the success of this report in revealing fresh information is largely due to Album having identified where to look. The report has also benefitted from the growing accumulation of information, ideas and contacts contributed by personnel in those companies fishing legally for toothfish under national and CCAMLR regulations. All this information has been remorselessly added to the ISOFISH database under the watchful eye of Data Manager, Rod Knight. We have also greatly appreciated the enthusiastic encouragement of our scientific and conservation NGO friends and colleagues, especially those on the ASOC network in this work.

The report still owes much to the extraordinary efforts of Jeff Williamson who generously agreed to arrange his business affairs as a fish trader, refrigeration mechanic and purveyor of ice to make a fact-finding trip to Mauritius for ISOFISH in February/March 1998. The information he collected formed the basis of ISOFISH Occasional Report No.1 on the role of Mauritius in the 'illegal' toothfish trade and has contributed significantly to this report.

The Bergensbanken, in contributing so much information to support their application for an arrest warrant under Admiralty Rules for the Aliza Glacial, also contributed crucial information - albeit unintentionally. Finally, our thanks must again go to the Tasmanian Conservation Trust and its Director, Michael Lynch, who provide institutional and administrative support for ISOFISH which allow us to make efficient and effective use of the funds at our disposal - and to the licenced fishing companies and the Australian government who have provided the seed money to establish ISOFISH.

Alistair Graham
ISOFISH Coordinator
October 1998

A Plea for Help

This report is based on the limited information presently available to ISOFISH of a standard of reliability sufficient to warrant publication. The picture we have of the activities of Norwegian toothfish poachers is far from complete. We know that many more companies and individuals are involved in supporting, servicing and working for those we have identified.

If you, the reader, can help by correcting, complementing or supplementing any of the information or ideas contained in this report, please do not hesitate to contact us - confidentially or anonymously, if you wish. In particular, if we have erroneously identified the nature or extent of any country, company or individual in the trade in illegally caught toothfish, please let us know, so that we can make the appropriate corrections and apologies.

The success of ISOFISH in attempting to persuade governments to cease their involvement in 'illegal' longline fishing for, and trade in 'illegally' caught, Patagonian toothfish (and to constrain similar involvement by their companies and citizens) rests entirely on the preparedness to help of those who are involved in or associated with the trade but are concerned for sustaining commercial fisheries and ensuring the survival of albatrosses.

Telling us what you know about boats, companies and individuals involved in the toothfish trade, however small and trivial such involvement may seem to you, is one way you can help. This is an urgent matter. Scientists acknowledge that albatross species will start becoming extinct and toothfish fisheries will start collapsing to commercial extinction within just a few years unless urgent and comprehensively effective action is taken to stop illegal longlining for toothfish.

N.B. 'Illegal' or IUU is used in this report as shorthand for 'illegal, unregulated and unreported' fishing. Technically, 'illegal' only applies to fishing in breach of national regulations within a coastal state's EEZ, while 'unregulated' covers fishing within the CCAMLR area, including the high seas beyond EEZs, without proper authorisation.

2. Introduction

2.1 The Vikings

ISOFISH has chosen to refer to those Norwegians involved in owning and controlling toothfish poaching operations in the Southern Ocean, as “the Vikings”. This is not only purposefully evocative of the reputation of these same Norwegian shores which host today’s poachers as the ancient home of pillagers of foreign lands but also serves to recognise the prehistoric association of the communities of these same shores with deep sea fishing to the very edge of the known world over hundreds of years.

We are keen to use every means at our disposal to help discourage ‘the Vikings’, among others, from unsustainable fishing in the Southern Ocean which poses a serious survival threat not only to stocks of toothfish [*Dissostichus spp.*] but also populations of albatrosses and petrels. In so doing, however, we are mindful of the justifiable assertions of fishing communities that they should be able to continue to harvest fish stocks from fisheries they helped to develop despite the recent imposition of Exclusive Economic Zones around sub-Antarctic islands by coastal states and the adoption of fisheries regulations by CCAMLR [the Convention for the Conservation of Antarctic Marine Living Resources] throughout Southern Ocean.

EEZs are here to stay!

We cannot accept the proposition put by some Vikings, however, that CCAMLR and EEZs are not legitimate fishery regulation devices. It was precisely because of the irresponsible and short-sighted over-fishing of coastal fisheries by the Vikings and their ilk that the political momentum to establish EEZs so that coastal states could ensure sustainable management was allowed to develop. It was because of the known sensitivity of the Southern Ocean ecosystem to disruption by thoughtless over-exploitation that the CCAMLR regime was established.

Rather than challenging the legitimacy of CCAMLR and coastal state EEZs, we urge those latter-day Vikings identified in this report to forsake unsustainable fishing and the ecological and economic damage it causes to others - out of all proportion to the benefits to themselves.

As experienced fishers with cutting edge technology, Norwegians should have the confidence to expect to compete favourably with any other fishers for licences to harvest fish legitimately anywhere in the world.

While pirates, poaching and Vikings may be romantic notions, the reality was always cruel, callous and careless. While it may be romantic to be one of the last of the hunter-gatherers, there are no more ends of the earth to go beyond.

Norwegian fishermen, like all others, must be prepared to work within the new global paradigm of sustainable management and to accept the rules of fisheries management - or be hunted to commercial extinction themselves by the communities of the world and their governments, just like the toothfish and albatross populations they are presently destroying.

2.2 The Southern Ocean

The 'illegal' behaviour of these few Vikings is a particular problem in the Southern Ocean because: a) they are not alone; and b) they are doing irreparable harm to fish stocks and seabird populations throughout the Southern Ocean. Under pressure from the Vikings and other poachers, CCAMLR member governments have lost control of fisheries management in the Southern Ocean in the last two or three years as a massive breakout of illegal, unregulated and unreported fishing for the bottom fish, *Dissostichus eleginoides* [Patagonian toothfish] and *Dissostichus mawsonii* [Antarctic toothfish], on continental shelves throughout the area has destroyed the effectiveness of conservation measures applied to authorised fishing vessels. *D.eleginoides* stocks are found around sub-Antarctic islands and on the continental shelves of southern South America. As a result of past fishing effort and rudimentary research programmes, the nature and extent of these stocks are partially known and understood. The size and nature of stocks of *D.mawsonii* around the Antarctic continent itself remain largely unknown.

Albatrosses

This 'illegal' fishing not only destroys commercial fisheries but exacerbates the problem of incidental mortality of albatrosses and other seabirds (which dive on the baited hooks of longline fishing boats as they are being set) because the 'illegals' do not use the mitigation measures which have been developed by CCAMLR in recent years (such as: no fishing during the breeding season, only setting longlines at night, and trailing streamers to ward off birds).

In one of those terrible ironies of nature, schools of toothfish and albatrosses both feed at the edge of continental shelves - the same upwelling of on-shore ocean currents bringing food to both. As a result, commercial longliners cannot help but set their hooks in much the same parts of the great expanse of ocean in the southern hemisphere as albatrosses seek out for their feeding grounds. **If longliners do not deploy effective measures to avoid hooking albatrosses, these birds will become extinct.**

Some five species of albatross are already listed as threatened by IUCN and 13 have been added to Appendices I & II of CMS (the Convention for the Conservation of Migratory Species of Wild Animals). The conservation status of Antarctic seabirds is likely to deteriorate rapidly if estimates of seabird deaths attributable to drowning when caught on longline hooks remain at more than 100,000 deaths every year.

Overfishing

Overfishing in the CCAMLR area is nothing new. Blatant overfishing by the then USSR in the 1980s destroyed stock after stock, mainly of *Notothenia rossii*. Sustained scientific and diplomatic effort had succeeded in bringing finfishing generally under control by the mid 1990s with catch limits (TACs) being set on the basis of scientific advice for most stocks. Aggregate TACs are now around 18,000 tpa compared with recorded catches measured in hundreds of thousands of tonnes in the late '80s. In the last decade, however, the commercial 'discovery' of the suitability of the Patagonian toothfish to substitute for the collapse of market supplies of over-exploited white-fleshed species (like orange roughy and black cod) at prices around \$10/kg wet/green led not only to a rash of applications for authorised access to *D.eleginoides* stocks associated with continental shelves throughout the Southern Ocean but also to an avalanche of illegal and unregulated 'pirate' fishing.

Illegal fishing for toothfish in the CCAMLR area has been driven by two trends. The big picture is that bottom dwelling fish in shallower waters on continental shelves, mainly various cod species, have been fished to - or close to - commercial extinction in most of the traditional fishing grounds of the northern hemisphere like the North Sea, Iceland and the Grand Banks. The bottom fishing effort thus displaced has been seeking out new fisheries - shallow shelves in the southern hemisphere and deeper waters - even to the edge of the continental shelves and down the slopes of continental shelf edges.

It was only a matter of time therefore, before these fishers discovered toothfish - called *bacalao de profundidad*, or 'cod of the deep' in Spanish. The same fishing technology could be used, so set-up costs for the new, deeper, remoter fisheries were minimal. Similarly, it was only a matter of time before coastal fisheries of the southern hemisphere were over-fished and fishers started seeking out even more remote continental shelves to plunder. The difficulties of enforcing fisheries rules within EEZs and within the CCAMLR area created just too much of a temptation for these fishers and the Viking mentality of old reasserted itself in a whole new generation of plundering fish in the remotest and most inhospitable 'edge of the world'.

While authorised TACs for toothfish within the CCAMLR area may only be around 18,000 tpa and within Chilean and Argentinian EEZs are a further 20,000 tpa, the illegal catch is estimated to be around 80,000 tpa (from port landing and market import statistics). Estimates of catch based on estimates of illegal fishing effort put the tonnage at substantially higher levels, perhaps in excess of 100,000 tpa.

A major fisheries smash and grab raid is underway and likely to last for up to five years as previously unexploited stocks are fished to commercial extinction. A very substantial increase in government determination and commitment to hound illegal fishers in EEZs, on the high seas, in ports and in the marketplace (mainly in Japan and the USA) will be needed to regain control. A multi-million dollar industry and the survival of several species of albatross is at stake.

2.3 The Viking boats

The fishing vessels used by the Vikings are as modern and sophisticated as those to be found anywhere in the world. Their vessels are characterised by relatively new, expensive, high technology boats mostly crewed by Scandinavians - many of the crew are Faeroe Islanders - and they all use the Mustad longline system, invented by O Mustad & Sons and manufactured by them in Gjøvik, Norway [M1].

They tend to target larger Patagonian toothfish on outer continental shelves and shelf edges down to 2,500 metres depth, which is the limit of commercial deployment of the latest version of the Mustad longline system using a 12mm monofilament nylon line for the main line. They are thus able to exploit deeper and remoter shelf areas than vessels equipped with trawl gear or the Spanish longline system. the latter's commercial deployment is limited to about 1,500 metres depth [ISO, M1].

These boats are all equipped with modern blast freezers capable of freezing fresh-caught fish to temperatures below -60°C. These longliners are thus capable of producing IQF (individually quick frozen) sashimi grade fish [Japanese-style thinly sliced raw fish]. To make the best sashimi grades, toothfish need to be older, with higher oil content and bigger (at least 5 kg when headed, gutted and tailed (hgt) which means the fresh-caught fish needs to be about 7.5 kg). These must then be frozen to at least -35°C. To make top grade sashimi, at prices as high as \$10/kg (hgt) [M1], the fish need to be frozen to at least -60°C [JW].

These ultra-low temperatures are needed to completely halt fat metabolism in cells and so avoid any hint of rancid flavour. These temperatures cannot be met, and thus sashimi markets accessed, without modern blast freezers [JW].

A wasted opportunity

Surprisingly, however, although all of the 'illegal' toothfish landed by the Viking poachers in Mauritius, their favourite transshipment point, is of IQF quality sufficient to meet sashimi market standards [M1] (or could readily be made so), none of it is actually sold as such. Instead, it is sold on the white fleshed, grilled, restaurant fish market in competition with the lower grade block frozen toothfish product [AF, SM, ISO].

Given that fob prices for sashimi grade fish are US\$6-10/kg (hgt) landed in Mauritius [M1] while block frozen prices are around \$3.50/kg, this represents an enormous lost opportunity. At a conservative estimate of 10,000 tpa of 'illegal' toothfish being landed by the Vikings, this represents an earnings loss of \$35M on earnings of \$35M [JW].

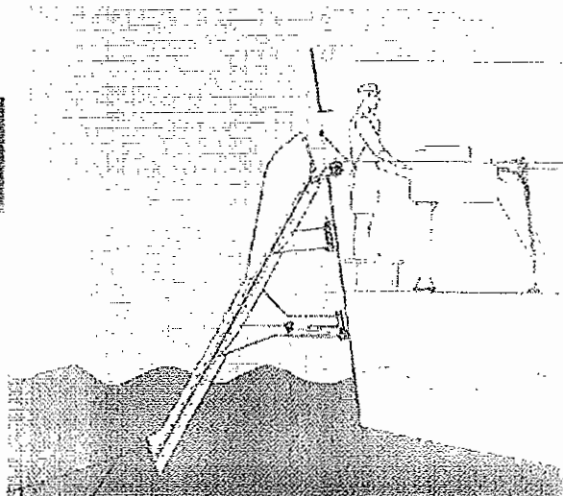
No-one has yet provided a credible explanation as to why those involved in the toothfish trade have not attempted to break into the sashimi market given they have the skills and technology to produce the necessary product quality. It may be that the bottom fishing industry, traditionally focused on cod, has not changed its focus when moving onto toothfish stocks. It may also be the case that poachers trading 'illegal' product cannot afford the investment of time and patience necessary to develop sashimi markets in East Asia given the necessarily uncertain, and thus potentially unreliable, nature of their trade.

Whatever the reason, the present situation is regrettable. The Viking operators appear to be all of a top standard in all aspects of their fish handling operations, including good quality packaging to go with their good quality product [M1].

The Vikings, and any others with the fishing skill and longline and freezer technology to do so, should be encouraged by both their host governments and by coastal state governments to apply for licences and quotas to take 'legal' toothfish - having first forsaken poaching. Fishers and governments should then work together to develop sashimi markets in East Asia for the IQF product they catch.

Thunderbox II – the New Zealanders' name for Mustad's latest attempt to develop an albatross-friendly longline deployment device for their system.

Mustad



3. The Glacial Group

3.1 The Glacial companies

The Glacial group is a small group of companies controlled by **Magne Hisdal** and his partner, **Einar Nystad**. Both are well-known businessmen in Bergen [GA, ISO]. These Norwegian citizens are poachers. The companies involved are:

- **Glacial S.A.** (previously Birting S.A. [ISO]) registered in Buenos Aires, Argentina [CC]. Hisdal bought Birting S.A. from a Norwegian/American company and renamed it Glacial S.A. [ISO] as his vehicle to establish and manage his toothfish fishing operations in the Southern Ocean using four large, purpose-built longliners; two pairs of sister ships, the Aliza Glacial & Alida Glacial, and the Caroline Glacial & Christina Glacial [CC].
- **Ravenor Overseas Inc.**, registered in Panama City, Panama [BB]. This company was set up in mid 1997 for the express purpose of transferring ownership of the Aliza Glacial away from Hisdal's Argentina-registered Glacial S.A. [ISO] to his chosen flag of convenience state, the Republic of Panama. On the surface, at least, the Aliza Glacial is now owned by a Panamanian company and is registered in Panama City and flies the Panamanian flag.
- **Cavan Shipping Ltd.**, registered in the Cayman Islands [BB]. Hisdal has structured his financial affairs such that the shares in his companies which own and operate fishing vessels are formally owned by Cavan Shipping which is a registered company in the notorious tax haven of the Cayman Islands (an overseas territory of the United Kingdom) [BB, ISO]. Hisdal thus pays little tax in either Argentina or Norway (let alone in the coastal states whose waters he pillages) on the profits generated by his 'illegal' toothfish fishing operations [ISO].
- **Crown Hill Chartering A.S.**, based in Bergen, Norway [BB]. This is Hisdal's shipping agent company which actually acts as much more with respect to the Glacial group of companies and their longliners. It is through this company, and its arms-length dealings with Glacial S.A. and Ravenor Overseas Inc. as their agent, that Hisdal controls them and thus the longliners they operate [ISO].

3.1 The Glacial sisters

The Glacial group owns and operates four custom-built longliners. All four were built by West Contractors at Olensvag in Norway as two pairs of sister ships - the Aliza Glacial and Alida Glacial were built in 1996 and the Caroline Glacial and Christina Glacial in 1997. They were commissioned and paid for by Glacial SA, based in Buenos Aires. At the time, expatriate Norwegian, **Sigurd Rekkedal** was company director.

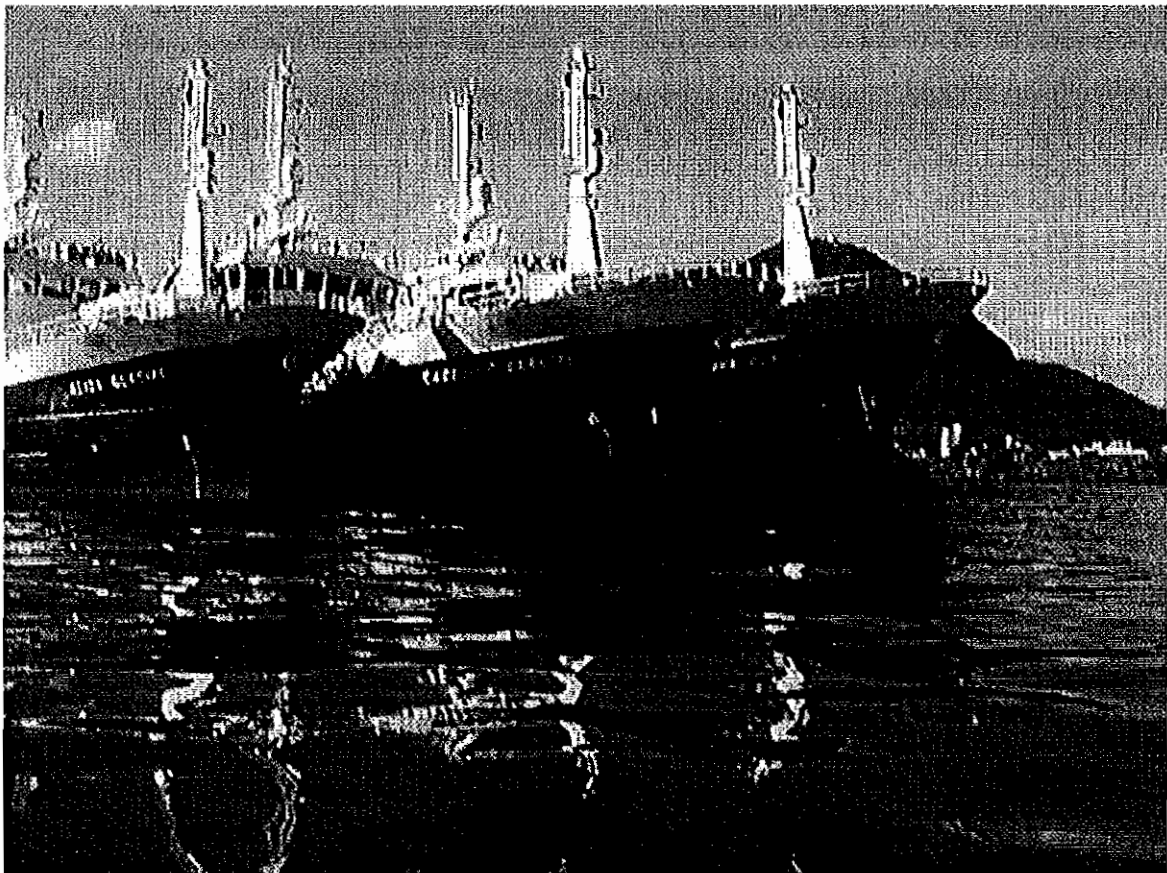
The Buenos Aires base of operations reflects the Glacial group's original plans to go longlining for bottom fish on continental shelves in the south Atlantic Ocean. Operations were shifted to poaching around sub-Antarctic islands in the Indian Ocean sector of the Southern Ocean when commercial fish stocks collapsed [GA] and the UK declared its EEZ around the Falkland Islands/Islands Malvinas and excluded fishing vessels without UK licences [BC].

Argentine angst

Rekkedal has subsequently left the company. It is rumoured that there was a falling out over continued involvement in 'illegal' fishing and repeated breaches of Argentine fishing licence conditions [ISO]. Apparently, holders of licences to fish within Argentina's EEZ are required to fish only within the EEZ and to land all their catch at Argentine ports. Additionally, a fishing vessel's licence to fish may be withdrawn if no fishing takes place within the EEZ for more than a year [ISO]. Not surprisingly, a company committed to poaching in the Indian Ocean sector of the Southern Ocean would have trouble meeting these licence conditions.

Additionally, Argentina has been coming under growing diplomatic pressure from fellow CCAMLR member countries to curb the poaching activities of its nationals - and Glacial S.A., as a Buenos Aires registered company, was its number one problem.

Rekkedal now works through his own company, Eldfisk, and has set up a joint venture with South African fishing company, BATOStar [BS]. This is the pattern of Vikings forsaking poaching in favour of legal, licenced operations which we would like to encourage others to emulate.



The magnificent sight of three of the four Glacials moored together in Port Louis harbour, Mauritius, in early March 1998 at the end of an 'illegal' fishing season in the Southern Ocean. [The fourth Glacial was under arrest in Australia, having been caught poaching in the Australian EEZ around Heard Island.] [photograph: ISOFISH].

Mauritius - the Pirate Capital

While poaching in CCAMLR waters and EEZs around sub-Antarctic islands in the Indian Ocean sector of the Southern Ocean, the Glacials used Port Louis, Mauritius, as their base of operations and transshipment point for their 'illegal' catch. In Mauritius, the Glacials use Happy World Marine as their agent. Their 'illegal' product is shipped directly to East Asian markets including Tokyo, Yokohama and Singapore in refrigerated containers by Mitsui OSK Lines [M1].

The Glacials are also understood to be able to fish for crayfish and were reputed to have done so in depths of 200-500 metres around Kerguelen [M1]. There is also some doubt as to whether longliners such as the Glacials, observed operating close in shore at depths less than 500-600 metres, are actually targeting bottomfish like Patagonian toothfish or mid-water fish like Icefish [SM] or crayfish [M1]. This has some implications for estimates of the size of the illegal toothfish trade based on observed fishing effort [JW].

Chequered histories

The following notes on the four Glacials are reproduced from ISOFISH Occasional Report No.1 [April 1998] on the role of Mauritius in the 'illegal' toothfish trade:

- **Alida Glacial.** Argentinian flagged, registered in Buenos Aires. Built as one of a pair with the Aliza Glacial in 1996. 50 metres, red hull, white superstructure; no call signs evident, pennant no.: G. Purpose-built longliner fitted with blast freezers to allow the production of quality IQF product. State of the art in every respect, including fitted with latest Mustad longline system using 12mm monofilament line (to minimise breakages in deep water). Arrested and fined by the South Africans for having longlines on board without a licence within the South African EEZ. Came into Port Louis on 27 February 1998 and, in a clean and highly efficient joint operation with the Caroline, unloaded directly into Mitsui OSK containers marked 'Tokyo/Yokohama trade only' or 'Singapore/south east Asia trade only'. A total of 180 tonnes was rapidly offloaded from both vessels that day. The containers were subsequently transferred to the freeport zone's container park.
- **Aliza Glacial.** Argentinian flagged, registered in Buenos Aires [since reflagged to Panama and registered in Panama City]. Built as one of a pair with the Alida Glacial in 1996. 50 metres, red hull, white superstructure; no call signs, pennant no.: G. Purpose-built longliner fitted with blast freezers to allow the production of quality IQF product. State of the art in every respect, including fitted with Mustad longline system using the new 12mm monofilament line. Presently (September 1998) under arrest in Fremantle, Australia, pending the outcome of court proceedings following her arrest by fisheries authorities in October 1997 [and subsequent rearrest by the Admiralty Marshal on a warrant issued to the Bergensbanken under Admiralty Rules in February 1998].

Caroline Glacial. Panamanian flagged, registered in Panama city. Built as one of a pair with the Christina Glacial in 1997. 55 metres. No call signs, pennant no.: G. Purpose-built longliner fitted with blast freezers to allow the production of quality IQF product. State of the art in every respect, including fitted with Mustad longline system using the new 12mm monofilament line. Came into Port Louis on 27 February 1998 and, in a clean and highly efficient joint operation with the Alida, unloaded directly into Mitsui OSK containers marked 'Tokyo/Yokohama trade only' or 'Singapore/south east Asia trade only'. A total of 180 tonnes was rapidly offloaded from both vessels that day. The containers were subsequently transferred to the new freeport zone's container park.

A party of visitors, including the PDG/CEO of French fishing company, Sapmer, Mr Jacques Dezeustre, was photographed by chance boarding the Caroline Glacial on 28 February 1998 [M1, SM]. The Norwegian host of Dezeustre's visit has subsequently been identified as Hisdal's right-hand man, **Knut Kolbeinshavn** [ISO]. Sapmer has been showing persistent interest in buying one of the Glacial longliners as its entree into the toothfish fishing industry [AF, SM]. As a French company, they could expect to get access to licences and quotas to fish in French waters around the Crozet and Kerguelen Islands and associated CCAMLR waters [ISO].

- **Christina Glacial.** Panama flagged, registered in Panama City. Built as one of a pair with the Caroline Glacial in 1997. 55 metres. No call signs, pennant no.: G. Purpose-built longliner fitted with blast freezers to allow the production of quality IQF product. State of the art in every respect, including fitted with Mustad longline system using the new 12mm monofilament line. Arrived in Port Louis on 28 February 1998 but made no attempt to unload for several days [M1]. Filmed unloading an unknown tonnage of toothfish on the night of 4 March by French TV Co., RFO [RFO].

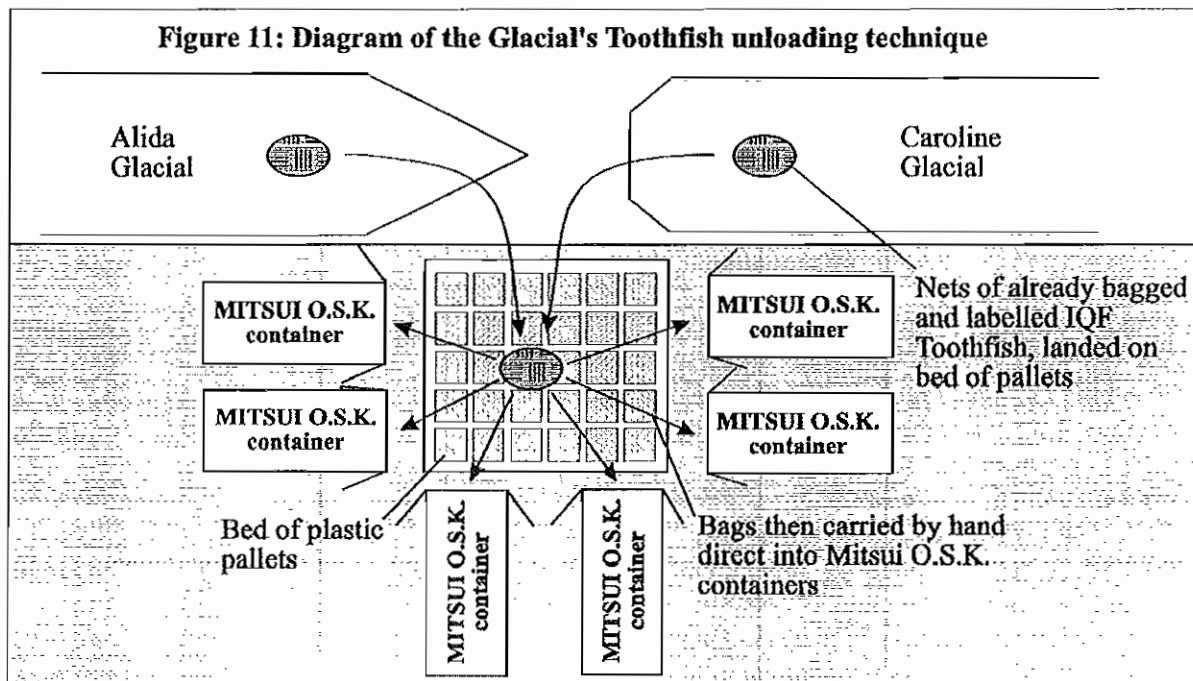


Diagram of the layout of ships and containers when the Glacials were jointly unloading in Port Louis on 27 February 1998 in an impressively clean and efficient operation directly into Mitsui OSK containers destined for Japanese and other Asian ports.

Future plans

In response to the original arrest of the Aliza Glacial, Hisdal is understood to have decided to pull the other three Glacials out of the toothfish poaching business. When they left Mauritius in March 1998, the three Glacials moved to the South Korean port of Pusan to fish for cod in Russian waters [JW, ISO]. After initial delays in arranging licences, they went fishing for cod but their catches have been so poor that Hisdal is thought to be contemplating recommencing toothfish poaching to make good his losses.

3.3 The Arrest of the Aliza Glacial

By early 1997, under pressure from the Argentine government to curtail their poaching activities, Glacial S.A. decided to transfer their operations to Panama, not just as a flag of convenience state for registration of the Glacials but also for registration of dummy companies. They decided to register a new company in Panama, Ravenor Overseas Inc., and simply transfer ownership of the Aliza Glacial from Glacial S.A. to Ravenor Overseas Inc. [ISO]. At the same time, various bank loans taken out by Glacial S.A. to help finance the original purchase of the Glacials were refinanced with the **Bergensbanken** providing bridging finance for the reflagging operation [ISO] including a loan worth about US\$6M secured against a mortgage over the Aliza Glacial [BB, ISO].

Only five days after this new loan was first drawn down on 2 October 1997 [BB], however, the Aliza Glacial was apprehended by the Australian Navy on 7 October within the Australian EEZ around Heard Island on suspicion of being involved in illegal fishing activities. At the time, there were some 15 longliners known to be operating illegally within the EEZ [AF] and whether it was good judgement or bad timing, the most valuable vessel among them was caught.

Pirate petulance

In a response befitting a pirate Viking with little respect for the rights and interests of others, Hisdal's first response to this disaster was to get Ravenor Overseas Inc. to initiate an action in the High Court of Australia against the arresting officer of the Australian Fisheries Management Authority (AFMA) alleging that the Australians had no right to apprehend them - despite legal precedents to the contrary. Inevitably, the High Court dismissed the case: "I (Justice Brennan) dismiss the summons and refuse to state a case or to reserve questions for the opinion of the Full Court." on 11 March 1998 [HC]. A copy of the Judge's very terse order and reasons is appended [Appendix 8.1].

Bergensbanken angst

Meanwhile, in an extraordinary development, Ravenor Overseas Inc. stopped its loan repayments to Bergensbanken shortly after the Aliza Glacial had been arrested. Inevitably, on 28 January 1998, the Bergensbanken formally asked for its money back [BB]. The bank letter formally advising Ravenor Overseas that it was in default of its loan agreement was received personally by Hisdal at Crown Hill Shipping, Ravenor Overseas' agent [BB, ISO]. In an even more extraordinary development, when Hisdal failed to rectify matters, the Bergensbanken's Australian lawyers applied to the Registrar of the Federal Court in Melbourne for an arrest warrant under Admiralty Rules so the Aliza Glacial could be turned over to the Bank.

A list of the documents submitted to the Federal Court of Australia by the Bergensbanken in support of its application for an arrest warrant is appended [Appendix 8.1], along with some notes on the loan and mortgage agreements among these documents prepared by ISOFISH.

An arrest warrant was subsequently issued by the Australian Federal Court despite the fact that the Aliza Glacial was then under arrest under the Australian Fisheries Act 1991. The warrant was duly served, and control of the Aliza Glacial was duly transferred from AFMA to the Admiralty Marshal. She remains under the Marshal's control pending the outcome of Federal Court hearings where AFMA is seeking to ensure penalties which may be decided by local courts for fisheries offences can be imposed on someone.

AFMA lodged an objection seeking a modification to the order such that the Aliza Glacial would be required to remain within Australian territorial jurisdiction pending the outcome of court action under the Fisheries Act and any new owners would be required to accept any liability which might flow from an adverse decision. The Federal Court has recently handed down its order in this case [FC] and has set a hearing date for additional directions for early October.

Admiralty Rules OK?

On 18 September 1998 Justice Ryan of the Federal Court ruled that AFMA's interest in the Aliza Glacial does not constitute "a defect of title to the ship which a purchaser will acquire upon the the sale of the ship ordered by the [Federal] Court on 20 March 1998." [FC]. The Court had previously ordered on 20 March 1998 that the Aliza Glacial be sold on the application of the Bergensbanken. In other words, the Bergensbanken is now free to sell the ship and the person who buys the Aliza Glacial from them need not worry about the outcome of AFMA's prosecution of the Aliza Glacial's officers (which would probably have resulted in the forfeiture of the ship were she still held by AFMA).

The Court concluded that the Admiralty Act should prevail over the Fisheries Act in these circumstances on the grounds that the clash could have reasonably been foreseen when the new Fisheries Act had been introduced in 1991 yet no wording was included to make it explicit that ships arrested under the Fisheries Act could not be arrested under the Admiralty Act. Without legislative direction, the Australian Federal Court has concluded that the ancient precedents entailed by Admiralty Rules should prevail.

The Court has however identified that, in hearing an action under the Admiralty Act, a Court may exercise discretion as to how the competing interests of the Bergensbanken and AFMA in the Aliza Glacial might be reconciled. "That discretion could well be influenced by whether [the Bergensbanken] and the other persons interested in the disposition of the ship pursuant to that action are prepared to agree that the AFMA or the Commonwealth should have recourse to the fund arising from the sale in the event that an order for forfeiture is subsequently made ..." [FC].

In other words, the Court expects the Bergensbanken: to agree to sell the Aliza Glacial and then put the proceeds from that sale into a fund; and to agree terms upon which AFMA would have access to that fund should the Aliza Glacial's officers be convicted of offences under the Fisheries Act. AFMA could thus still exact some penalty from the Bergensbanken. If the Bergensbanken and AFMA cannot agree in time for the directions hearing presently set for 9 October 1998, the Court could decide the issue for them - thus putting both parties under considerable pressure to negotiate and agreed formula for allocating funds from any sale of the Aliza Glacial.

Irrespective of the outcome of the pending directions hearing, Admiralty Rules will have been used successfully by the financial backers of an illegal fishing operation to extract the vessel involved from arrest under a coastal state's national fisheries legislation. Under the terms of the loan and mortgage agreement, the Bergensbanken is obliged to recover what it is owed and to then remit the excess from any sale back to the poachers [BB].

It remains to be seen what the Bergensbanken may be prepared to concede to AFMA but the supremacy of the Admiralty Act over the Fisheries Act has been established. Lawyers for both sides of the case can find no precedent anywhere in the world for this situation [FM].

Admiralty Rules have thus been used successfully to deliver a perverse result. Admiralty Rules is the accumulation of an ancient series of precedents stretching back hundreds of years whereby seagoing ships can be arrested in foreign ports by those in other countries who are owed money by the owners or operators of those ships. This is obviously a very useful and commendable device to discourage shippers from leaving bad debts behind them when they leave port.

Now that poachers, pirates and 'illegal' fishermen have discovered this perverse use of Admiralty Rules - albeit thanks to the Bergensbanken's determination to get their money back [ISO]- **it is important that all countries which are parties to the Brussels International Convention of 1952 on the Unification of Certain Rules relating to the Arrest of Sea-going Ships review their domestic implementing legislation to ensure that it cannot be used to 'rescue' vessels arrested under national fisheries legislation.**

Glacial officers flee Australian justice

Meanwhile, the captain of the Aliza Glacial, (33 year old Argentinian, Fernando Gabriel Miranda) and her fishing master (42 year old Dane, Jakup Andrias Andreassen, from the Faeroe Islands) who were arrested and charged with offences under the Australian Fisheries Act 1991, failed to turn up in court in Perth on 6 July 1998 [FM]. Both had long fled the country to continue their employment with Glacial S.A. [AF].

Warrants were subsequently issued for their arrest and, if they do not surrender to Australian justice within six months, AFMA would have been able to apply to have the Aliza Glacial forfeit to them [FM] - the Bergensbanken has thus contributed directly to Australia not being able to penalise an illegal foreign fishing operation to the full extent allowed by Australian law. This is because AFMA must now negotiate with the Bergensbanken for a share of the spoils from the sale of the Aliza Glacial rather than being able to freely dispose of the vessel.

Insurance job

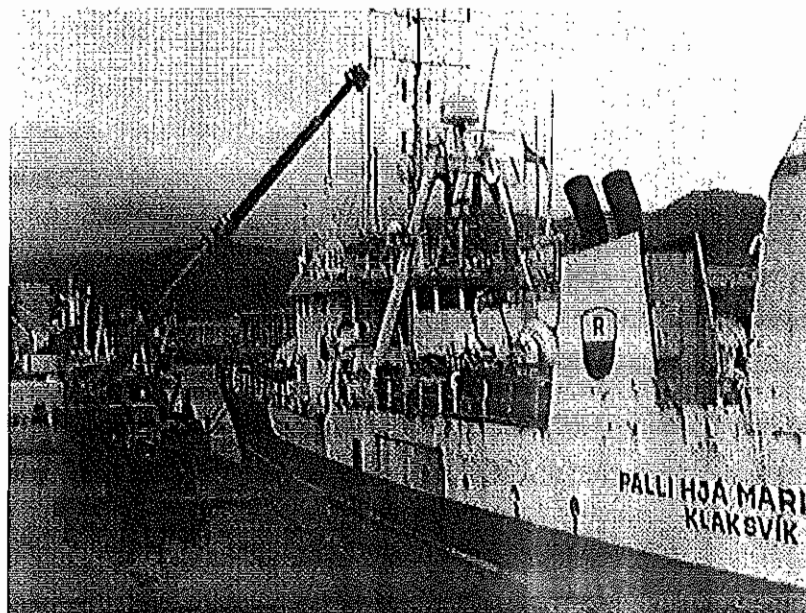
It may be some consolation to Australian authorities that Magne Hisdal, as controller of the Glacial group of companies, is now at some risk of being counter-sued by the insurance company which has insured the Aliza Glacial. The Bergensbanken is understood to be on the verge of triggering a provision in the insurance policy which allows it to claim the total write-off value of the Aliza Glacial once she has been detained for more than a year. That year is up on 7 October 1998. The Bergensbanken should be able to claim from the insurance company for any difference between the amount owed by Hisdal and the amount recovered from the sale of the Aliza Glacial after negotiations with AFMA and subsequent directions from the Australian Federal Court. The insurance company would then have probable cause of action against Hisdal to make good this sum because he put the ship in harm's way by poaching in Australian waters in breach of his insurance policy conditions [ISO].

3.4 The Wages of Sin

While waiting for justice to catch up with him, Magne Hisdal has been enjoying the benefits of the super-profits to be made from 'illegal' fishing for Patagonian toothfish in the Southern Ocean. Last year, he bought a brand new, 42ft. luxury yacht which he originally named the 'Andrea Glacial' in brazen tribute to the source of the money for his purchase. In deference to growing local concerns at his poaching activities, however, he has since changed the name to the more discrete 'Andrea'.



The Cindy (above) and Palluhja Marianna (below), both owned and operated by Oddvar Vea's Cindy Fishing Co., unloading 'illegal' toothfish, Port Louis, Mauritius, February/March 1998 [photographs: ISOFISH]



4. The Cindy Fishing Co.

The Cindy Fishing Co. was originally started by the Norwegians: Terje Kirkeland, Austevoll Havfiske, Helge Mogster, Petter Aune and Oddvar Veia [GA]. Their longliners originally operated under the Danish flag out of the Faeroe Islands, reflecting the large contribution made by Faeroe Islanders to the crews of the Cindy boats [M1]. **Oddvar Veia** remains the only Norwegian shareholder [GA] and is also the Operations Manager of the Cindy Fishing Co. [ISO]. The other Norwegian founding shareholders have all sold out to unknown overseas interests [GA] - but Oddvar Veia remains in charge - it is his operation [ISO]!

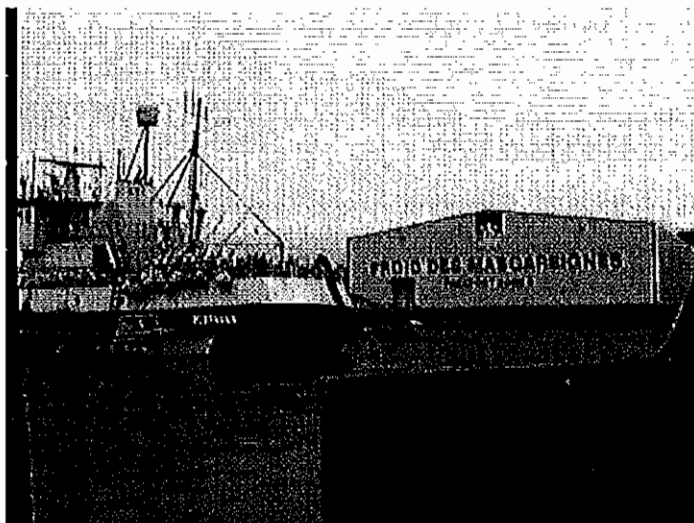
Veia presently operates five large and sophisticated longliners: the **Cindy**, Cevita (renamed **Golden Sun**), Celina (renamed **Golden Eagle**), **Tugvusteinar**, and **Pallihja Mariannu(a)**. They also operate the **Sea Fox**, a large trawler converted to longlining [OK, AF, M1]. Veia's operation is considered to be solely involved in poaching - he has no legitimate fishing operations [ISO].

Like Hisdal, Veia is in the process of reflagging his longliners from Denmark to his chosen flag of convenience state [ISO] - in this case, Vanuatu, in the South Pacific (which is also beginning to earn itself a reputation as a tax haven). The Cindy, Cevita/Golden Sun and Celina/Golden Eagle are Vanuatu flagged while the Tugvusteinar and the Pallihja Mariannu remain Danish flagged. The Sea Fox is Cyprus flagged and registered in Limmassol [CC].

Mauritius - the Pirate Capital

While poaching in CCAMLR waters and EEZs around sub-Antarctic islands in the Indian Ocean sector of the Southern Ocean, the Cindy boats have been using Port Louis, Mauritius, as their base of operations and transshipment point for their 'illegal' catch. In Mauritius, the Cindy boats are serviced by local freezer company, Froid des Mascareignes, owned and managed by Captain M.Y. Betuel. They use the giant Danish shipping company, MAERSK, for shipping their containers of stolen fish [M1].

The Cindy unloading toothfish at the Froid des Mascareignes wharf, Port Louis, February 1998 [photograph: ISOFISH]



Chequered histories

The following notes on the six fishing vessels owned and/or operated by Oddvar Vea's Cindy Fishing Co. are reproduced from ISOFISH Occasional Report No.1 [April 1998] on the role of Mauritius in the 'illegal' toothfish trade:

- **Cindy.** Vanuatu flagged, registered in Port Vila. Pennant no.: KG.21, red hulled, yellow superstructure. Previously named the Nordal Dan - then Danish flagged and registered in Klaksvik, Faeroe Islands. Longliner fitted with blast freezers to allow the production of quality IQF product. Operated and crewed by 'Vikings' [M1].
Sighted by the French in their EEZ on 16 December 1998 [CC].
Came into port with name, call sign and pennant number painted out. The only distinguishing mark was 'Port Vila' as port of registry. Offloaded 205-210 tonnes of Patagonian toothfish at 70 tonnes/day on 24th & 25th February directly into the Froid de Mescareignes freezer facility, Port Louis [M1]. It was reputed to have had good fishing well to the south of Heard Island, possibly on the Banzare bank [AF].
- **Cevita.** Vanuatu flagged, registered in Port Vila. Black hull with white stripe and white superstructure. Identified itself by radio as 'the Golden Sun' when coming into Mauritius. Photographed with the name 'Golden Eagle' painted on when in Port Louis in late February 1998 after unloading [M1]. Assumed to be fitted with blast freezers to allow the production of quality IQF product.
Sighted by the French in their Kerguelen EEZ on 8 December 1997 and again on 13 December [CC].
Name change to **Golden Sun** subsequently confirmed {ISO}.
- **Celina** Vanuatu flagged, registered in Port Vila. Longliner, assumed to be fitted with blast freezers to allow the production of quality IQF product. Not sighted in Mauritius but understood to be working out of Mauritius with the Cindy and Cevita [M1]. Name change to **Golden Eagle** subsequently confirmed {ISO}. Recently arrested and confiscated by the French.
- **Pallihja Marianna** (or Pallihja Mariannu). Danish flagged, registered in Hosvik, Faeroe Islands, previously named the Polar Sea; call sign: OW.2169, pennant no.: KG.691. It is a trawler converted to longline fishing. Blue hulled, white superstructure. Refitted with blast freezers to allow the production of quality IQF product.
Sighted by the French Navy in their Kerguelen EEZ on 25 September 1997. Observed unloading toothfish in Port Louis on 24 February 1998 [M1]. Her licence to fish in South African waters expired on 12 May 1997.
- **Tugvusteinar.** Danish flagged, registered in the Faeroe Islands. Black hulled, white superstructure, with bow thruster. Sighted in Mauritius, late February 1998 [M1].
- **Sea Fox.** Cyprus flagged, registered in Limassol. Previously, the Danish flagged Ran registered in Vagur, Faeroe Islands. It is a large, 65 metre, 500 tonne capacity, converted trawler, refitted with blast freezers to allow the production of quality IQF product. Unloaded 200 t. at Port Louis in early March 1998.
Reputed to have been poaching in the Australian Heard Is. EEZ [M1].

French Justice

When a longliner calling itself 'the Golden Eagle' and claiming to be owned by a Hong Kong based company, Hokota or Hotoka, was arrested by French authorities in July this year, it was ISOFISH files which first allowed French authorities to identify it as the former Celina, owned by the Cindy Fishing Co.

In September 1998, the French courts confiscated the Golden Eagle and fined the operators a record sum of 62 million French francs.

Future poaching plans

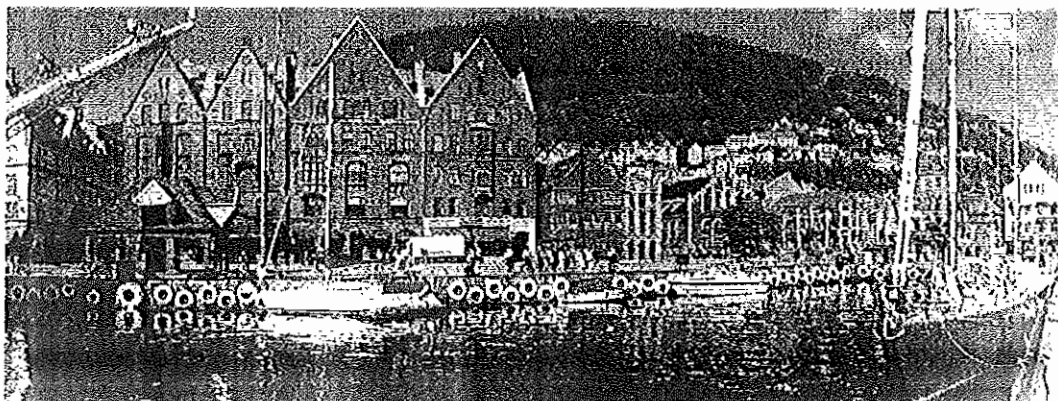
Recent reports indicate that Oddvar Vea is considering pulling out of toothfish poaching in the Indian sector of the Southern Ocean after the Golden Eagle was caught poaching around the Crozet Islands by the French earlier in the year. Now that the French have confiscated her and fined him, Vea will presumably be even keener to avoid French jurisdiction. Apparently, he intends to continue illegal fishing in South American waters.

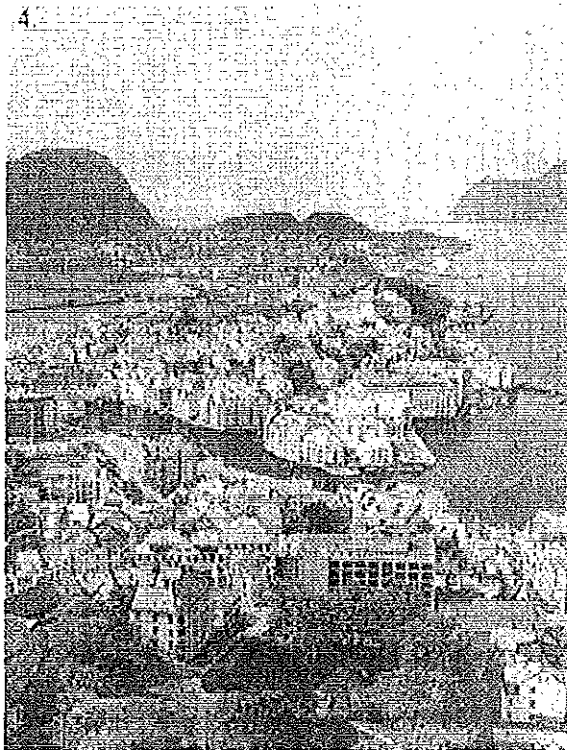
Meanwhile, the Cevita has been renamed the Golden Sun and is reputed to be working out of Namibia. The Cindy is said to be still poaching in French waters around Kerguelen while the Sea Fox is understood to have been pulled out and is presently in Singapore for a refit before being redeployed to Russian waters [ISO].

Nervous bankers

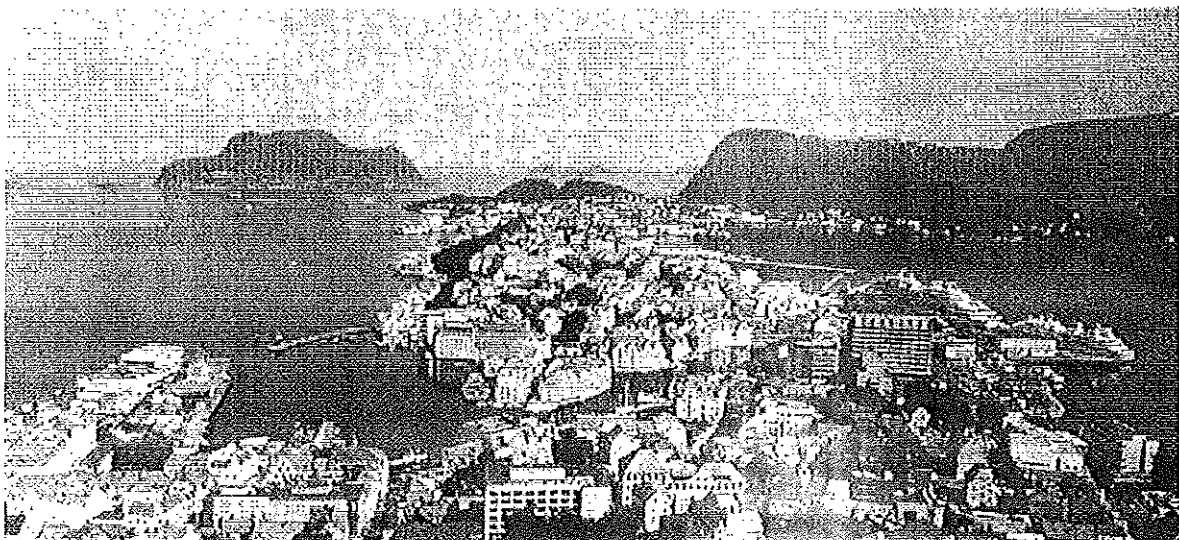
Controversially, Oddvar Vea's poaching operations are reputedly financed by two small Norwegian banks, the regional bank, **Rogalandsbanken**, and his local Sparenbanken. Vea's contact at the Rogalandsbanken is said to be a **Mr Ronnevik** [ISO]. It is understood that neither the senior management nor the investors in these two local banks are aware of their support for Vea's poaching activities.

These banks are generally expected to provide credit to rural landholders and householders. They can be expected to take a dim view of their bank's support for the poaching activities of Vikings in the distant Southern Ocean - if they knew.





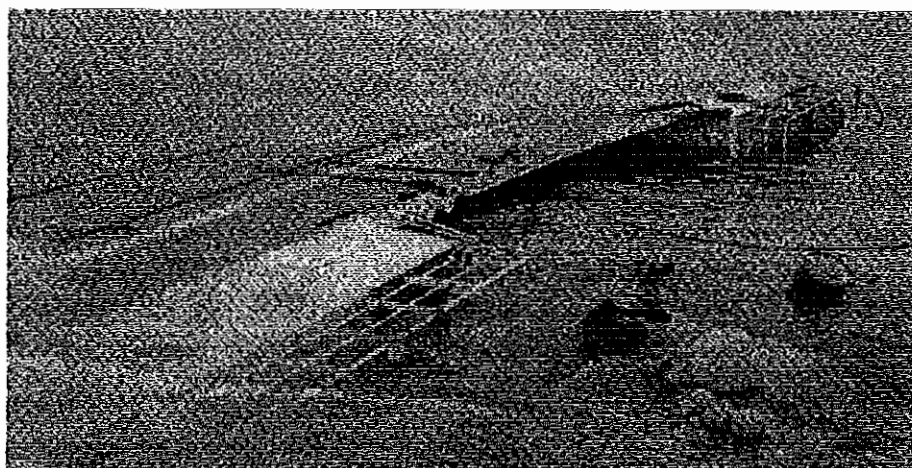
Aalesund – Jan Sjaastad’s home town



5. Norse Seafood Ltd.

Jan Sjaastad is the majority shareholder of, and thus holds a controlling interest in Norse Seafood Ltd. A.S.. The Managing Director is **Ola Standal** who, for many years, worked in the fisheries division for the state-owned bank, **Den norske Bank (DnB)** [ISO].

Norse Seafood Ltd. used to own and operate the **Norse Pride** (before it sank at its moorings in Port Louis in February 1998 and was subsequently sold to local Mauritius interests [M1]).



The Norse Pride sunk at her moorings, Port Louis, 15 February 1998 [Photograph: Le Mauricien]

Norse Seafood Ltd. is considered to be solely a poaching operation, with one commentator noting that 'every cent it earned came from stolen fish' [ISO]. They have recently bought the **Norse Captain** with the insurance money from the Norse Pride and are presently discussing a part-sale of the Norse Captain to New Zealand fishing company, **Sealord**, which would see her deployed longlining for toothfish in the Ross Sea this summer season [ISO]. The exact nature of the relationship with Sealord remains unclear.

A family affair

Norse Seafood Ltd. A.S. was incorporated in Norway on 4 July 1996. The four shareholders were: **Jan Sjaastad**, his two half brothers, **Arve Nerland** and **Erling Nerland**, and Erling's son, **Kjell-Rune Nerland**. The Nerlands provided the deep-sea fishing experience with Arve Nerland being General Manager of Norse Seafood Ltd. with Erling as skipper of the Norse Pride with Kjell Rune as its fishing master. Sjaastad, meanwhile, was brought in to provide the equity needed to purchase the Norse Pride. Sjaastad ended up as the majority shareholder and thus in ultimate control of the company. The Board of Directors of Norse Seafood then consisted of Arve Nerland, Jan Sjaastad and solicitor, **Sverre Larhammer** [ISO].

Sjaastad's money comes from his salmon farming interests (he is known as a bit of a 'hot shot' salmon farmer and his company, **Delfa**, is worth several hundred million Crowns (tens of millions of dollars). Delfa is a significant beneficiary of the Norwegian Government's support programme for the fishing industry. The Government's investment company has invested in Delfa to the extent that it actually owns about a quarter of it [ISO].

It is expected that the Norwegian Government would take a dim view of their support for Sjaastad if they were aware that he had a significant, let alone a controlling, interest in Norse Seafood Ltd while it was engaged in poaching activities in South African, French and Australian waters.

5.1 Whom to Believe?

Within months of original deployment, the Norse Pride had been sighted poaching toothfish within EEZs in the Indian sector of the Southern Ocean. Inevitably, a family falling-out occurred as arguments ensued as to how to respond to government protests at their illegal activities. The minority shareholders in Norse Seafood claim to have wanted to pull out of toothfish poaching when they realised that it was not only illegal but that coastal states were prepared to defend their waters. They claim that Jan Sjaastad exploited his position as controlling shareholder in the company to overrule the minority shareholders and ensure the company remained committed to poaching toothfish [ISO].

Meanwhile, Sjaastad claims that it was his partners who were the poachers while he was the innocent backer [ISO]. This 'spat' between Norse Seafood shareholders has been known to a small group of insiders for some time but now takes on a more important dimension as both New Zealand company, Sealord, and the New Zealand Government must satisfy themselves that Sjaastad has no involvement in or connection with toothfish poaching activities.

To allow commercial dealings between a leading New Zealand fishing company and a Norwegian toothfish poacher would have serious consequences for New Zealand Government credibility in CCAMLR and other Antarctic Treaty System fora.

The New Zealand and Norwegian Governments are urged to conduct their own joint inquiry into Norse Seafood Ltd. before issuing quotas and licences to companies and ships connected to this company. It would appear that all relevant parties would be prepared to cooperate with such an inquiry and it should be able to report back in plenty of time to allow appropriate fishing operations this Antarctic summer season at minimal dislocation to company plans.

The minority shareholders in Norse Seafood claim that they tried to have the company wound up and closed after the sinking of the Norse Pride but that Sjaastad used his dominant position to insist that the company had been established as an international fishing company - and that was what it was going to continue to be! Consequently, Arve Nerland resigned as General Manager and Sjaastad took operational control of the company - or so the disaffected minor shareholders claim [ISO].

Sjaastad, meanwhile, claims that his fellow-shareholders in Norse Seafood were the poachers. Whatever the truth of the matter, that Sjaastad is now in operational control of Norse Seafood Ltd. is not in dispute. To resolve this family dispute, Sjaastad apparently bought out the Nerlands' shareholdings in the company earlier this year and installed **Ola Standal** as General Manager. Standal had previously worked in the fisheries division of Den norske Bank for many years. The beneficial owners of Norse Seafood are now Sjaastad and his children [ISO].

The Blacklist

Meanwhile, the Nerlands are now said to find themselves in the rather invidious position of remaining on an institutional investors' informal 'Blacklist' of people known to be involved in poaching activities [ISO] despite no longer having operational control of the company's activities and while claiming to have tried to prevent Norse Seafood Ltd.'s ongoing involvement in poaching activities [ISO]. There is a significant and serious matter of natural justice here. While ISOFISH is an enthusiastic supporter of the concept of institutional investors and government agencies using blacklists to ensure poachers and those profiting from their activities do not get access to loans and licences, it is important that the right people are fairly blacklisted.

The Blacklist should be formalised and upgraded from a confidential 'gossip' sheet passed around between institutional investors to a standing departmental inquiry, where an open forum is created to ensure natural justice is done. This inquiry would provide a public forum where anyone could apply to have names added to the list and anyone on the list could make submissions to have their name struck off the list.

Not an insurance job

All Norwegian contacts associated with Norse Seafood Ltd. assert that the incident whereby the Norse Pride sank at its moorings in Port Louis in January 1998, shortly after being released from dry dock after a refit, really was an accident. The chief engineer has apparently been blamed for having decided not to reballast her prior to refuelling. Reportedly, she sank at the bunkering wharf before she could be safely ballasted with fuel. Anyway, the insurance company believed this line and were persuaded to pay out on her [ISO]. The identity and fate of this careless engineer remains unknown. The Norse Pride was subsequently sold to local Mauritius businessmen, Henri Boulee and Benoit Lenoir, who are understood to be considering entry into the toothfish trade [M1]. Apparently nothing has been done with the resurrected Norse Pride as yet [ISO].

A chequered history

The following notes on the Norse Pride, the one fishing vessel known to have been acquired and operated by Norse Seafood Ltd. (now wholly owned by Jan Sjaastad and his family with Ola Standal as General Manager) are reproduced from ISOFISH Occasional Report No.1 on the role of Mauritius in the 'illegal' toothfish trade:

- **Norse Pride.** Expected to be Mauritius flagged, registered in Port Louis and may be renamed. Presently Panama flagged, registered in Panama City. Blue hull with white stripe, white superstructure, blue top of bridge; call sign HP.8775, pennant no.: KG 21. Previously named the Polar Sea and Danish flagged, registered in the Faeroe Islands. Very similar in age, size and style to the first Glacial boats (built by the same shipyard) including being fitted with blast freezers to allow the production of quality IQF product. Sighted in the Crozet Is. EEZ on 10 March 1997 and then fishing illegally in the South African EEZ around Marion Is. on 8 April 1997 and, again, in the Australian Heard Is. EEZ on 20 April 1997 [CC]. Landed 240 tonnes in Port Louis earlier in the year [AF] before going into dry dock for a refit. Following this refit, she was refloated without ballast and subsequently turned turtle and sank at her moorings. She has subsequently been raised and sold to local Mauritius interests, Henri Boulee and Benoit Lenoir [M1] who have yet to do anything with her [ISO].

The Norse Captain - Norse Seafood sails again!

After receiving the insurance money from the sinking of the Norse Pride, Norse Seafood Ltd. recently bought a new Class 1 ice strengthened longliner at auction in Pusan, South Korea, from a bankrupt Russian company. They are reputed to have renamed her the **Norse Captain**. She was previously the Russian-owned **Kapitan Kartashov**. She, and her sister ship, the **Kapitan Samoileanko**, were built by the Norwegian company Soviknes Yard (Nos. 110 & 111) [Ph:+47-70.21.23.00; fax:+47-70.21.26.61] in 1993. Length: 47m; beam: 11m. Grt: 1,079 tonnes. Hold capacity: 415 cu.m. [ISO].

Sjaastad's disgruntled ex-minority shareholders claim that Norse Seafood is now entering into a joint venture with New Zealand fishing company, Sealord, to go fishing for toothfish in the waters of the Southern Ocean in the Ross Sea with the Norse Captain using Sealord's New Zealand quota [ISO]. The following information is transcribed from a document supplied by Norwegian contacts with respect to Norse Seafood's plans for the Norse Captain:

"Norse Seafood Ltd. A/S"

"Ownership: Norse Seafood Ltd A/S, Aalesund mainly controlled by Jan Sjaastad and other partners from Aalesund. JS presently owns Delfa Seafood and various fishfarms. The company owned one fishing vessel for fishing in South African waters. The vessel sank after drydocking alongside quay due to a human error during storage, ballast operation. The vessel was insured with Storebrand, Aalesund directly from owners

"Vessel: Name TBA ex "Kapitan Kartashov" built at Soviknes Yard in 1993 building no 110. Technical details are enclosed. Purchase sum around NOK 25 mill and vessel will be upgraded for a significant sum and including costs the estimated overall insured value is presently NOK 50 mill. Upgrading will take place either at Pusan or New Zealand. It is possible they will also purchase sister vessel.

"Trading: Fishing will be in New Zealand waters in a joint venture Sea Lord Fishing (a local company) and they will operate on Sea Lord's fishing licences.

"Crew: Crewing will be a combination of Norwegians and New Zealanders (50/50) 12-14 men per shift."

Sjaastad claims this document is a fabrication and the information therein untrue and that no agreement has been entered into with Sealord [JS]. Meanwhile, Sealord claim merely to be attempting to purchase the Norse Captain from Norse Seafood Ltd.[SL]

As discussed above, it is obviously important that the truth is sorted out as soon as possible to the satisfaction of both the Norwegian and New Zealand governments. **What must be remembered in this context is that the governments of South Africa, France and Norway all protested to the Norwegian government at the illegal activities of Sjaastad and the Nerlands in directing the poaching operations of the Norse Pride in 1996 and 1997.** There is still a reckoning to be had for these activities and both Norway and New Zealand risk a diplomatic incident if they do not hold Norse Seafood Ltd to account for its past.

5.2 Sjaastad forsakes his poaching ways

In a remarkable development in the Norse Seafood saga, Jan Sjaastad has made a public statement assuring ISOFISH that: "Any future operations that I am involved in will only be within an EEZ and if I in the future operate within CCAMLR waters it will be to a Contracted Party." [JS] This is a most welcome contribution to a difficult and delicate situation.

He goes on to say that, "I am recently part owner of a purse-seine vessel which we intend to operate within the Norwegian and Russian EEZs." [JS] which would seem to indicate sensitivity to the implications of the new Norwegian domestic fisheries regulations which allow licencing agencies to withhold fishing licences from those involved in poaching operations in other jurisdictions, including CCAMLR waters [see Appendix 8.4].

It remains unreasonable, however, to expect responsible and aggrieved governments of countries like South Africa, France and Australia to meekly accede to the governments of Norway and New Zealand allowing Norse Seafood Ltd. to 'launder' its profits from poaching in their waters by selling equity in the one vessel it owns to a New Zealand fishing company with legitimate access to toothfish stocks in the Ross Sea – so they can carry on fishing for toothfish as if nothing had happened!

These are not inconsiderable sums of money – Norse Seafood apparently declared a pre-tax profit of some NOK30M [approx. US\$4M] last financial year [ISO] – despite their one and only fishing vessel being sunk, mid year.

Concerned governments and citizens throughout the world can also be expected to take a rather dim view of poachers being 'let off the hook' so easily.

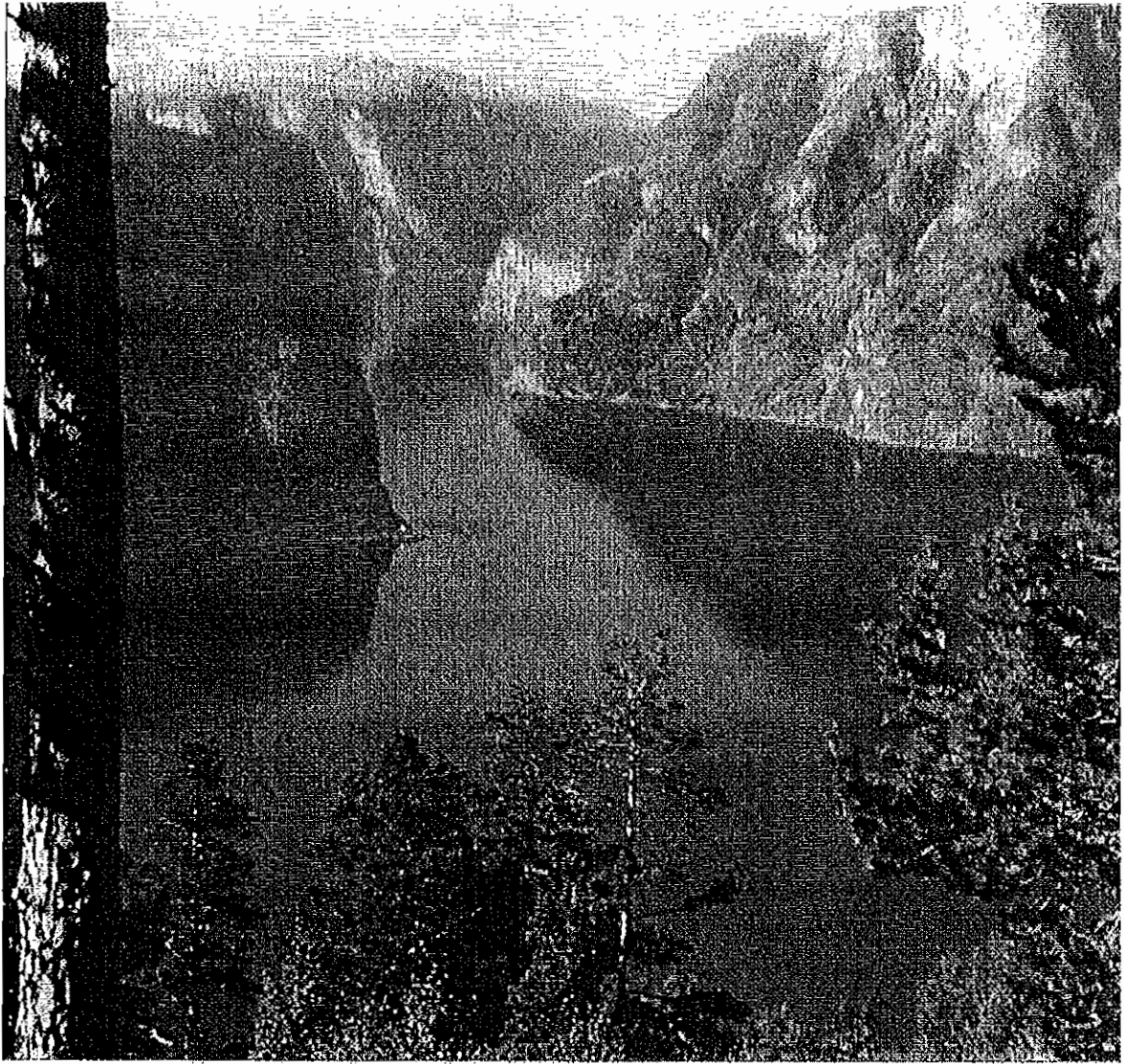
Norway/New Zealand Inquiry called for

While there is no obvious way forward here, it seems that the situation is sufficiently grave to justify the Governments of Norway and New Zealand convening a joint Inquiry at the departmental level to investigate the circumstances and background to the dealings between Norse Seafood and Sealord. Concerned governments, and any other interested parties would then be invited to make representations to the inquiry.

The principal term of reference for such an Inquiry would be to recommend a process for poachers and beneficiaries of poaching activities to be rehabilitated back into the ranks of responsible fishers while ensuring appropriate punishments are meted out to, and penalties exacted from, them.

This is not an occasion for rash or hasty judgement. If the process is too lenient, all the wrong signals will be sent to those irresponsible fishers involved in or contemplating involvement in poaching activities. If the process is too harsh, it will be harder to restore coherence to sustainable toothfish resource management regimes and attempts to save albatrosses from extinction.

Just how strained should the quality of mercy be?



6. Other Countries'

Involvement

6.1 Flags of Convenience

As responsible governments respond to information exposing the involvement of their companies, individuals and ships in 'illegal' fishing operations by pressuring the poachers, their response is simply to reflag their fishing vessels to 'flag of convenience' states - countries prepared to take the money for ship registration fees and to turn a blind eye to what those ships get up to.

With respect to Norwegian poachers, Magne Hisdal has chosen **Panama** as the 'flag of convenience' state for his four Glacial longliners and for his front companies. Jan Sjaastad has also chosen Panama for his Norse Seafood operations. Meanwhile, Oddvar Veia has chosen **Vanuatu** for his Cindy longliners. Oddly, **Denmark** remains the only otherwise responsible state which continues to allow its vessels to be used for 'illegal' fishing for toothfish by the Vikings.

The poachers can do this because the fishing states where they live and work with impunity do not have domestic legislation capable of punishing their nationals and residents for crimes committed within the jurisdiction of other states. While there are laudable reasons for states to be reluctant to legislate for such 'double jeopardy', when it comes to EEZ management beyond the territorial jurisdiction of coastal states, the exercise of such legislative power by fishing states is entirely warranted. Indeed, failure to legislate by fishing states may well come to be construed by coastal states as willful encouragement of poachers.

Japan sets a Good Precedent

Flag of convenience states, like Panama and Vanuatu, deserve to be severely criticised for allowing their international right to register sea-going vessels to be blatantly abused - but fishing states have the right and a duty to control the activities of their citizens wherever they may be. The Japanese Government intends to have regulations in place by 1 January 1994 which will require all Japanese citizens to apply for a licence to fish for tuna within identified tuna fishing areas irrespective of the nationality of the fishing vessel involved. [See Appendix 8.3 for text of the new Regulation.]

This action is being taken in response to growing evidence that irresponsible Japanese tuna companies and fishermen are seeking to circumvent regional fisheries agreements which set quotas and to which Japan is a party - by simply returning to fish the same waters in defiance of the good word of their government by reflagging their fishing vessels. A prime example of such an agreement is the Convention on the Conservation of Southern Blue-fin Tuna [CCSBT] to which Australia and New Zealand are also parties.

Nevertheless, responsible states should be prepared to confront flag of convenience states over their irresponsibility in facilitating 'illegal' fishing by allowing poachers to evade the rather short arm of the law.

6.2 Extraterritorial Jurisdiction

Norway takes its own Steps

Japan is not alone in having decided to enact domestic legislation with extraterritorial application in order to restrain the more egregious of its fishermen. Norway has recently adopted regulations which allow it to withhold domestic fishing licences from its citizens found to have been involved in 'illegal' fishing activities not only within the CCAMLR area but also anywhere beyond Norwegian territorial jurisdiction. [See Appendix 8.4]

Both the Japanese and Norwegian Governments deserve to be congratulated for introducing fisheries regulations with extraterritorial application to curb the more irresponsible of their citizens. States are generally reluctant to enact domestic legislation which applies to their citizens while subject to the jurisdiction of another state. This is an understandably 'touchy' area of international diplomacy and states' reluctance can be well understood. Given the inherently international nature of high seas fisheries, however, and the disregard for laws and rules by 'illegal' fishermen, such aggressive action by responsible states is thoroughly warranted.

Australia has long had extraterritorial control over its citizens under the Marine Mammals Protection Act when it comes to ensuring Australians are not involved in killing such animals. More recently, Australia introduced domestic legislation to allow Australian authorities to control the activities of Australian poachers in South East Asia. A number of other countries have done likewise. This was done in cooperation with, and at the request of, the South East Asian governments concerned.

Stopping 'illegal' fishing for toothfish to conserve fish stocks and save albatrosses is a matter of sufficient seriousness to warrant the use of extraterritorial application of domestic legislation as another powerful tool to help governments restrain and punish their citizens for offences committed in other jurisdictions. All states are thus urged to follow the lead of Japan and Norway.

Proceeds of Crime Legislation

Merely extending the reach of domestic fisheries regulations is not enough, however. As in the case of the new Norwegian regulations, two of the three groups involved in 'illegal' fishing do not have any interests in domestic fishing such that the threat of withdrawal of fishing licences poses no threat to them. What is needed is the adoption of 'proceeds of crime' legislation whereby states can confiscate the assets of people convicted of crimes insofar as those assets were derived from that criminal activity. This legislation needs to be introduced by all CCAMLR member states and extended to ensure the liability of their citizens within their domestic, territorial jurisdiction to asset confiscation for offences committed in other jurisdictions.

Criminal sanctions needed

While the renegotiation of UNCLOS to formally endorse the right of coastal states to claim 200-mile exclusive economic zones [EEZs] around their coastlines may have included a provision precluding coastal states from making breaches of fisheries regulations within EEZs a criminal offence for licenced operators, there are no such restrictions for penalties for poachers.

Coastal states can - and should - make stealing marine resources from anywhere within their jurisdiction a serious criminal offence. The offence must be serious enough to trigger existing international agreements involving not only cooperation between national police forces but also extradition. Fishing nations, in particular, must be prepared to detain and extradite their citizens wanted for poaching offences by coastal state authorities.

For as long as Norwegian poachers, like Magne Hisdal and Oddvar Veia can walk freely and openly in the streets of their home towns, the Norwegian Government cannot say it is doing enough to stop its citizens being involved in poaching activities within the jurisdiction of coastal states.

6.3 Open Ports

Much of the success of poaching operations in the remote and hazardous Southern Ocean relies on the availability and proximity of well serviced ports. **Mauritius** remains the most glaring problem [M1]. Port Louis not only welcomes poachers but invests in infrastructure designed to service them. This is extremely irresponsible behaviour by a small trading nation looking to become a trade centre for the Indian Ocean.

Ports in **Namibia**, and **Mozambique** are also problematical. Even when port control regulations are introduced, they are not always enforced [ISO]. On the whole, it would be fair to say that southern African states have yet to accept that servicing poachers is not something they should countenance, although South Africa is to be commended for its efforts to clean things up.

As a result of adverse attention in southern Africa, the poachers with Latin American and Spanish connections, at least, have been turning more and more to transshipment at sea. Ports in southern **Chile**, in particular, have been identified as havens for 'illegal' longliners and the refrigerated freighters that service them [ECO]. See ISOFISH Occasional Report No.2 for more on the role of Chilean companies in the 'illegal' toothfish trade.

Time to close ports

Responsible governments can no longer permit poachers to use their ports. **It is time for CCAMLR member governments to require their port and/or customs authorities to refuse entry to vessels carrying toothfish which cannot satisfactorily establish that they were caught in compliance with all relevant licences, including CCAMLR Conservation Measures.**

Entering vessels must also be properly marked in compliance with national and international safety standards and fisheries regulations; and VMS monitoring authorities must be prepared to certify to port authorities that vessels wishing to enter their ports have complied with licence conditions. Vessels known to have been involved in 'illegal' fishing should be excluded from all ports at all times.

Port and/or customs authorities must also be prepared to ensure comprehensive trade records are kept and reported to national authorities and subsequently to the CCAMLR Secretariat for all movements of all consignments of toothfish or toothfish products.

6.4 Open Markets

Market states, geographically and politically remote from any direct involvement in 'illegal' toothfish fishing operations, cannot escape responsibility - it is their consumers who make the poachers rich and provide the motivation for poaching.

Those countries which allow 'illegal' toothfish into their ports often act just as transshipment points, like southern African countries (South Africa, Mauritius, Mozambique and Namibia) as they allow exports of 'illegal' toothfish and fish products to processing and consumer countries.

Other countries, most notably Chile, allow the import of toothfish, their processing in local fish processing plants, and subsequently the re-export of toothfish products to consumer countries. Meanwhile, trading states like Singapore, act as freight transshipment points for container loads of toothfish.

Japan and the USA are the two main consumer nations of concern - although little is known, as yet, of the import levels for the EU, which are expected to be considerable. At least the USA has regulations requiring importers to avoid fish which have not been caught in compliance with CCAMLR Conservation Measures and has recently decided to enforce them - although how this judgement is to be made by importers is far from clear [BC].

Market Controls

The time has also come for responsible market states to close their markets to toothfish products from 'illegal' sources. The key to effective closure of access to markets is comprehensive monitoring of trade flows. All states must require their customs, port and/or fisheries authorities to comprehensively monitor the **trade** in toothfish and derived products and to document and report all imports and exports of toothfish consignments to national authorities and to the CCAMLR Secretariat for analysis.

Imports of toothfish products should be banned from countries which do not implement port and market controls and do not report movements of toothfish products to standards acceptable to the importing country. These standards should be set and agreed by CCAMLR. All traders in toothfish should be required to be licenced and obliged to ensure that the product they handle has been derived from 'legal' fishing operations.

Monitoring trade flows

The problem of monitoring product flows within a country, let alone trade flows between countries is significantly exacerbated by the failure of countries to allocate unique product identification codes to toothfish so that accurate and comprehensive records can be kept. Again, the USA is to be commended for having done this following the 1997 CCAMLR meeting [BC] while the FAO has been frustratingly reluctant to assist by allocating an international code that all countries can use - apparently, the problem is too small for their consideration [FAO].

All states are urged to allocate a unique product code for toothfish products and to publish regular reports on trade in toothfish within their jurisdiction. Again, the USA is to be commended for having started publishing bimonthly trade reports in 1998. Additionally, states should ensure that FAO provides the requisite leadership and coordination.

6.5 Denmark – time to clean up its act

While many countries could be singled out for mention in the context of providing succour and support to Norwegian toothfish poachers, Denmark deserves special mention because of the prominent role played by its citizens in such poaching operations and the continued use of its fishing vessels in poaching activities.

It also seems that Danish authorities are providing **Oddvar Vea's** operations with special protection. The international community is entitled to an explanation as to why Denmark has not taken steps to prevent Oddvar Vea continuing to use the Danish flagged vessels, **Pallihja Marianna** and **Tugvusteinnur** in his toothfish poaching operations within the jurisdiction of friendly governments.

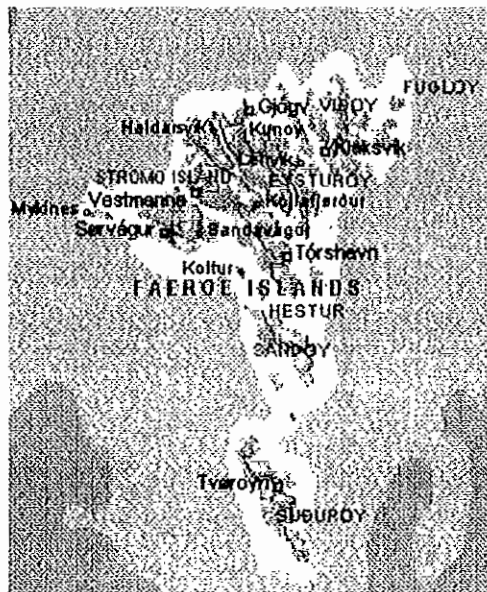
We note that Magne Hisdal has felt obliged to remove his Glacial ships and companies from Argentine jurisdiction as a result of pressure from that government [ISO], yet Oddvar Vea apparently feels under no such pressure to remove his operations from Danish jurisdiction.

We also note that Danish citizen, 42 year old Jakup Andrias Andreassen from the Faeroe Islands, was fishing master of the Aliza glacial when she was arrested in Australian sub-Antarctic waters in October 1997 [AF]. We also note that Andreassen fled Australia while on bail and failed to turn up in court to face charges for offences under the Australian Fisheries Act [FM]. We now understand that Andreassen simply went back to working for Magne Hisdal on one of the other Glacial longliners [ISO] in total disregard of the laws of Australia.

The Danish Government should not be prepared to tolerate such egregious behaviour by its citizens at the behest of Norwegian poachers.

Indeed, Denmark should take immediate steps to introduce regulations equivalent to those introduced by the Government of Japan which would prohibit Danish citizens from working on other nations' fishing vessels without a permit from the relevant Danish minister. These regulations should specifically prohibit Danes from working on fishing vessels in the CCAMLR area other than those which have been licenced by CCAMLR and which comply with CCAMLR Conservation Measures [see Appendix 8.3].

The Faeroe Islands – Viking country but Danish territory



7. References & Sources

Unless otherwise specified, all sources are memos from, or records of conversation with, individuals or people from the organisations identified below:

- AF - Austral Fisheries, Australia's principal (and presently only) company with a licence to fish for toothfish, based in Fremantle, W.A.
- BB - Bergensbanken, a small provincial Norwegian bank, (information derived from papers tabled in the Federal Court, Melbourne, by Bergensbanken to support an application for an arrest warrant for the Aliza Glacial).
- BC - Beth Clark, Director of The Antarctica Project, the Washington-based NGO which provides secretariat support for ASOC (the Antarctic & Southern Ocean Coalition of conservation NGOs).
- BS - BATOStar, a Cape Town based fishing company. One of two licenced by the South Africans to fish for toothfish in their sub-Antarctic EEZs and CCAMLR waters.
- CC - Information derived from papers prepared for CCAMLR meetings and subsequently made available to ISOFISH by the originating governments.
- ECO- Ecoceano, a Santiago-based conservation NGO specialising in marine issues
- FAO- The Food and Agriculture organisation of the United Nations (FAO), based in Rome.
- FC - Federal Court of Australia. Order by Justice Ryan, 18 September 1998, Case No.VG 164 of 1998 (22 pp.)
- FM - AFMA, the Australian Fisheries Management Authority, responsible for administration of the Commonwealth Fisheries Act, 1991, including enforcement and compliance.
- GA - Gunnar Album, report on Norwegian involvement in illegal longlining for Patagonian toothfish for Friends of the Earth, Norway, October 1997.
- HC - High Court of Australia, Ravenor Overseas Inc v Readhead [HCA 17, 11 March 1998]
- ISO - Information derived from confidential ISOFISH sources.
- JS - Jan Sjaastad, owner of Norwegian fishing company, Norse Seafood Ltd.
- JW - John Williamson, Hobart-based refrigeration engineer and ice manufacturer.
- M1 - ISOFISH Occasional Report No.1, 'the involvement of Mauritius in the trade in Patagonian toothfish, April 1998
- OK - Ocean King, a US fish trader importing toothfish into West Coast USA.
- SL - Sealord, a major New Zealand fishing company presently upgrading its Southern Ocean operations.
- SM - Sapmer, a major French fishing company interested in entering the toothfish fishery.

8. Appendices

8.1 The Aliza Glacial saga

8.1.1: List of Documents submitted by Bergensbanken to the Registrar of the Federal Court in Melbourne on 19 February 1998 in support of an application for an arrest warrant under Admiralty Rules at an ex parte hearing [Case No.: VG 53 of 1998]:

A copy of the Affidavit, sworn on 19 February 1998, to support the application for an arrest warrant on Admiralty Rules form 13

A copy of the writ issued by the Federal Court Registrar on 20 February 1998 (which was subsequently nailed to the Aliza Glacial).

A copy of the arrest warrant taken out by Mallesons Stephen Jaques on 20 February 1998 (and subsequently served on the Admiralty Marshal in Perth on 23 February 1998.

GWO-01 - A copy of the Certificate of Preliminary Registration of the ship's ownership by Ravor Overseas Inc. in Panama at 11.50 am on 14 October 1997, issued by the Panamanian Consul-General in London on 14 October 1998. [11.50 am in Panama is 4.50 pm in London.]. [this documents the initial registration of the ship's ownership - it does not certify that the ship is registered.]

GWO-02 - A copy of the Loan Agreement between Ravor and Bergensbanken (undated but actioned by the promissory note signed on 3 July 1997 - see GWO-05).

GWO-03 - A copy of the Mortgage Agreement between the Bergensbanken ASA and Ravor Overseas Inc. accepted by both parties on 14 October 1997, including a copy of a certificate of verification of the signatures of the lawyers for Ravor and Bergensbanken who had signed the Mortgage agreement from Richard Saville of London notary public, Saville & Co. signed on 14 October 1997 and a certificate from the Panamanian Consul-General in London confirming Richard Saville as the notary public authorised to act for the Consulate-General.

GWO-04 - A copy of the Certificate of Preliminary Registration of the ship's mortgage in Panama at 11.53 am on 14 October 1998, issued by the Panamanian Consul-General in London on 14 October 1998. [11.53 am in Panama is 4.53 pm in London.]

GWO-05 - A copy of the Promissory Note signed by Ravor's lawyer on 3 July 1997 acknowledging the loan from the Bergensbanken

GWO-06 - A copy of the formal notice served on the Norwegian agents for Ravor, Crown Hill Chartering AS, by the Bergensbanken on 28 January 1998.

8.1.2: A summary of the main elements of the Bergensbanken/Ravenor Overseas Ltd. Ship Mortgage Agreement for the Aliza Glacial

'Total Loss' is defined to include: "capture, seizure, arrest, detention or confiscation of the vessel by any government ... unless the vessel be released ... within one month ..". [GWO-03, Clause 1(A), p.4].

"not to employ the Vessel .. otherwise than in conformity with the terms of the instruments of **insurance** .. without first obtaining the consent to such employment of the insurers and complying with such requirements as to extra premium .." [5(A)(vii)].

".. in the event of **arrest** of the Vessel pursuant to legal process ... to procure the release of the Vessel from such arrest or detention forthwith ... by providing bail or otherwise as the circumstances may require." [5(G), p.9].

"Not to employ the Vessel ... in any trade or business which is unlawful under any relevant jurisdiction ... or in carrying illicit .. goods .. which may render her liable to ... confiscation;" [5(H), p.10].

"in the event that the provisions of Clause 5(G) .. shal not be complied with, the Mortgagee shall be at liberty to ... take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Vessel." [[6(B)(iii), p.14].

Clause 7(C) identifies "The Vessel becomes a Total Loss" (emphasis in agreement) as one of the circumstances under which the bank can enforce its security immediately [p.14].

8.1.3: A summary of the main elements of the Loan Agreement between the Bergensbanken and Ravenor Overseas Ltd.

Ravenor's address for the purpose of written communication is c/- Crown Hill Chartering AS in Kokstad, Norway - no bits of paper from the bank needed to go to Panama.[p.3].

The interest periods began on 2 September 1997 - the first payment was thus due on 16 September. There is no evidence that any interest was ever paid yet the bank chose not to trigger the default provisions until 28 January 1998 (when it was acknowledged that accumulated as well as current interest was due [see Application for Arrest Warrant, Admiralty Rules Form 13]).

There is no evidence of a 'Management Agreement' having been entered into between Ravenor and its agent, Crown Hill Chartering, despite it being required by the loan agreement.

Under Clause 3.01(e), Ravenor warrants that '**at the time of signing of this Agreement ..[it is not the] subject of any actual, pending or threatened legal proceedings .. which.. may have a material adverse effect on its financial condition.**' [p.7].

No documentation has been provided to establish that the conditions precedent to releasing the loan set out in Clause 4.01(b), namely: (i) the consitutional documents of Ravenor Overseas Inc., (ii) the resolution of the shareholder of Ravenor (Cavan Shipping) approving the agreement, and (iii) the resolution of Ravenor's Board of Directors approving it, have been met.

No documentation has been provided to establish that the conditions precedent in Clauses 4.01(h),(j)&(k) have been met. (h) refers to a copy of the Management Agreement between Ravenor and its Norwegian agent, Crown Hill Chartering; (j) refers to the sale agreement for the Aliza Glacial; and (k) refers to the protocol of delivery and acceptance of the Vessel.

Clause 4.02 establishes that the bank's obligations to make the loan available are subject to having "... approved the employment and the activities of the Vessel."

Similarly, Ravenor, in serving the loan drawdown notice on the Bergensbanken was required by Clause 5.02 to warrant that the arrangements agreed to in Clauses 3 & 4 when the loan agreement was signed on 3 July 1997 were still in effect on 2 September and 2 October 1997. Inter alia, Ravenor warranted that it had obtained "all approvals required from any relevant government ... were in full force and effect." [Clause 3.01(c), p.7].

In Clause 5.03, the agreement makes it clear that "to the extent that the Loan has not been drawn within (sic) 20 September 1997, the Bank's commitment to advance the Loan shall terminate and the Loan shall not be available for drawing." Nevertheless, full half of the available money was drawn down on 2 October, two weeks after the facility was supposed to have closed.

Clause 6.02 [p.11] provides for the bank to charge interest at penalty rates on any outstanding money that Ravenor owes if it misses any of its loan payment deadlines.

Clause 7.01 requires the Loan to "be repaid in one (1) amount falling due three (3) months after the Drawdown Date." Three months from 2 October 1997 is 2 January 1998.

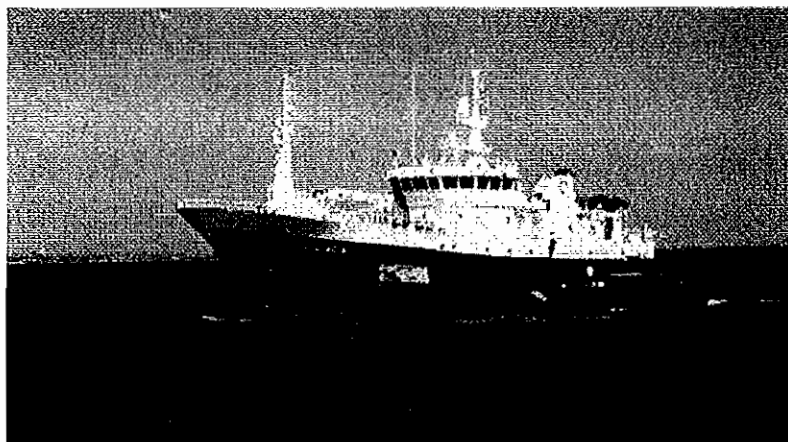
Clause 12.01(a) requires Ravenor to tell the bank when any events of default occur - like having been arrested for more than a month [see Clause 13.01(h)]. There is no evidence that any such notification was given.

Clause 12.01(h) allows the bank to have the vessel independently valued. There is no evidence that such valuations were carried out.

Clause 13.01 lists the various circumstances which constitute an Event of Default - Ravenor certainly gave the bank numerous opportunities to choose its grounds and timing to declare a default.

The Aliza Glacial under arrest, Fremantle, Western Australia

[photograph: Austral Fisheries]



8.2 States Party to the 1952 Brussels Convention for the Unification of Certain Rules for the Arrest of Sea-going Ships

Signatory States

Federal Republic of Germany	Belgium	Brasil
Denmark	Egypt	Finland
France [1]	Greece	Italy
Lebanon	Monaco	The Netherlands
Nicaragua	Norway	Portugal
Spain	United Kingdom [1]	Yugoslavia

Acceding states

Algeria	Antigua & Barbuda	Bahamas	Belize
Benin	Borneo	Burkina Faso	Cambodia
Cameroon	Central African Republic	Chad	Comores Islands
Congo	Costa Rica	Croatia	Cuba
Djibouti	Dominica	Fiji	Gabon
Grenada	Guinea	Guyana	Haiti
Ireland	Ivory Coast	Kiribati	Luxembourg
Morocco	Mauritania	Niger	Nigeria
Paraguay	Poland	Romania	St.Lucia
St.Christopher/Nevis	St.Vincent & Grenadines	Sarawak	Senegal
Seychelles	Slovenia	Solomon Islands	Sudan
Sweden	Switzerland	Syria	Togo
Tonga	Tuvalu	Zaire	

[1] Including overseas territories

[Also, Lettonie, Maurice, Republique Malagache & Saint Siege]

Convention text available

The text of the 1952 Brussels Convention is available on request from ISOFISH.

8.3. New Japanese Regulation to Licence Tuna Fishermen

The following text was received by ASOC from the Embassy of Japan, Washington, USA on 1 October 1998:

"MEASURES TO PROHIBIT JAPANESE NATIONALS FROM ENGAGING IN TUNA FISHERY ON BOARD FOREIGN FISHING VESSELS

"Background

"While tuna resources are managed by regional fishery organizations, the problem of unregulated fishing by non members (both countries and entities) to these organisations has been becoming serious. In recent years, it came to the attention of the Government of Japan that Japanese nationals engage in fishing on board vessels of non members including those fishing under the flag of convenience.

"The Commission for the Conservation of Southern Bluefin Tuna and the International Commission for the Conservation of Atlantic Tunas have adopted a resolution on the fishing activities of non members. It calls for a restriction (prohibition) on the involvement of nationals of the member countries in the fishing activities of non members.

"Accordingly, the Government of Japan has introduced a new regulation prohibiting Japanese nationals from engaging in the fishing activities of non members.

"Content of Regulation

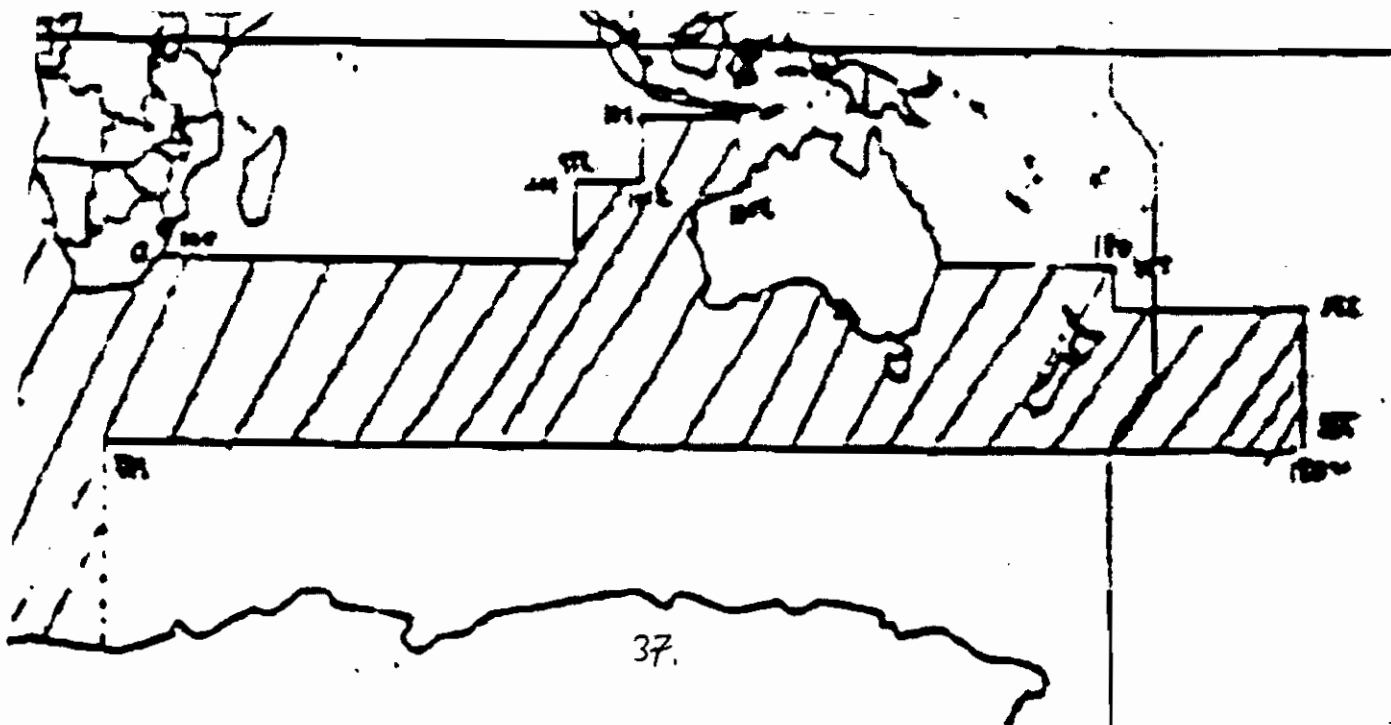
"The Ministry (Agriculture, Forestry and Fisheries) ordinances on licensing and enforcement of the fisheries designated by the Minister are amended as follows:

"The following provision has been added as Article 98.2:

"1. Except as permitted by the Minister, Japanese nationals shall not engage in tuna or billfish fishing on board foreign vessels in the designated area (see the shaded area in the attached map).

"2. The above provision will come into force on January 1, 1999."

[The shaded area on the map attached to the regulation covers the entire Atlantic Ocean (including the Caribbean and Mediterranean Seas) and the additional waters shown below]



8.4 New Norwegian extraterritorial fisheries regulations

Set out below are some pertinent extracts from the new Norwegian fisheries regulations to implement CCAMLR Conservation Measures which came into force on 13 March 1998:

“1. Scope

“These regulations apply to Norwegian nationals and persons resident in Norway who are engaged in fishing operations with Norwegian vessels in maritime waters in the Southern Hemisphere to which [CCAMLR] applies...”

“2. Participation

“It is prohibited to carry out fishing operations such as are mentioned in section 1 without first obtaining a licence from the Directorate of Fisheries.”

“10. Penal measures

“Any person who wilfully or negligently violates provisions set out in these regulations or issued pursuant thereto is subject to a penalty ...”

Set out below are some pertinent extracts from the new Norwegian fisheries regulations which came into effect on 4 March 1998:

“REGULATIONS RELATING TO THE REGULATION OF FISHERIES IN WATERS OUTSIDE THE FISHERIES JURISDICTION OF ANY STATE

“1. Scope

“These regulations apply to Norwegian nationals and persons resident in Norway who are engaged in fishing operations with Norwegian vessels in waters outside the fisheries jurisdiction of any state for stocks that are not regulated by Norwegian authorities.

“2. Participation

“It is prohibited to carry out fishing operations such as are mentioned in section 1 without first obtaining authorization to register the vessel with the Directorate of Fisheries. Such registration is valid for one calendar year.”

“4. Authority to remove vessels from the register

“The Directorate of Fisheries may remove vessels from the register if the owner or user of the vessel has contravened the regulations in force for the area set out in section 1, or if conservation or management measures laid down by regional or subregional fisheries management organizations or arrangements have been contravened.”

“7. Penal measures

“Any wilful or negligent violation of provisions set out in these regulations or issued pursuant thereto is subject to a penalty ...”
