

Rogues Gallery

The new face of IUU fishing for toothfish

COLTO, October 2003



Introduction

While the overall level of IUU* fishing for toothfish may have gone down in the late 1990s after its peak in 1996/97 (of about 40,000 tonnes per annum [tpa] based on estimates of IUU fishing effort or about 60,000 tpa based on trade information), increasing efforts by governments, licenced operators and the wider community to eliminate IUU fishing in the Southern Ocean have been unable to stop levels of IUU fishing increasing again over the last three years.



The Russian-flagged *Strela*, identified in 2002 as part of the Pacific Andes Alphabet Boats group, photographed brazenly engaged in IUU fishing in CCAMLR Division 58.5.2 in June 2003.

Official estimates presented to CCAMLR's 2002 meeting (based on observed IUU fishing effort) was that 10,900 tonnes of toothfish was caught by IUU fishers in the CCAMLR Area in 2001/02 and a further 14,700 tonnes was reported as having been caught on the High Seas (mostly FAO Statistical Areas 51 & 57 (southern Indian Ocean)). This makes an estimated total of 25,600 tpa of toothfish caught in IUU operations in 2001/02 (compared to 18,800 tpa in 1999/2000 and 28,100 tpa in 2000/01).

It is hard to escape the conclusion that toothfish poachers have had little trouble finding ways around the measures taken by governments to restrain them in the last five years. **We have positively identified 42 (forty-two) separate boats as having been involved in IUU fishing or in support of IUU fishing in the last two years.** The true number is certainly more than this.

Why everyone should be concerned

New measures and greater government commitment to implementation and enforcement of existing measures will be needed to confront this ongoing threat to sustainability of commercial toothfish stocks and to the survival of southern hemisphere albatross populations.

As the CCAMLR Scientific Committee noted in its 2002 report to the Commission, "continued IUU pressure would increase the potential for catastrophic and precipitous declines in stock biomass." [p.20]

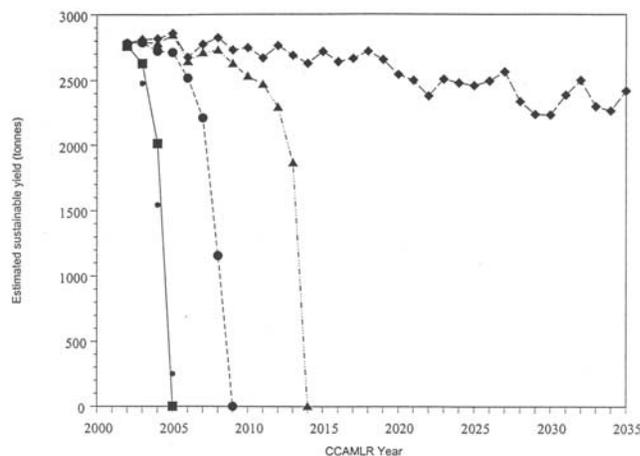


Figure 4 from the 2002 CCAMLR Scientific Committee Report showing estimates of future sustainable yield of toothfish (compared to 2001 sustainable yield [SY] estimates) at different levels of IUU fishing: \uparrow 33% of 2001 SY; \blacktriangle 100% of 2001 SY; \bullet 200% of 2001 SY; and \blacksquare 400% of 2001 SY.

The Scientific Committee went on to say "toothfish (estimated) levels of mortality remain entirely unsustainable for populations of albatrosses, giant petrels and white-chinned petrels ... many of which are declining at rates where extinction is possible." [p.37]. Based on the CCAMLR Scientific Committee's approach, we have estimated the IUU/Sustained yield ratio for the Indian Ocean sector to have been in excess of 200% for both 2000/01 and 2001/02, indicating likely collapse of toothfish stocks on the Kerguelen Plateau to commercially non-viable levels within just a few years, unless the poachers are stopped.

Syndicates & Mutual Societies

– loveable rogues turn to organised crime

Since Pacific Andes set up its centrally controlled operation, as first described and exposed in Austral Fisheries' 'Alphabet Boats' report prepared for the 2002 CCAMLR meeting, there is mounting evidence that a loose network of Spanish fishers, including both those already involved in toothfish poaching and new entrants, have been organizing themselves to pool resources, share services, and exploit regulatory or government weaknesses.

The traditionally independent deep sea fishers, often romanticized as 'loveable rogues' by the wider community, have set up sophisticated business arrangements between themselves, equivalent to conventional business syndicates and mutual societies, to maximize profit and spread risk in the pursuit of illegal activities.

* *Illegal, Unregulated & Unreported*

This is what is conventionally known as ‘organised crime’ and it is important that we call it for what it is, and that governments respond in an appropriate and commensurate way.

While the toothfish fishery is small in global fisheries terms, just one year’s haul of 26,000 tonnes of stolen toothfish is worth about US\$150 million landed (HGT) and US\$375 million, wholesale. This is a significant level of commercial benefit for any illegal activity, let alone stealing fish.

The Galician Syndicate

This syndicate, or mutual society, includes a number of deep sea fishing vessel owners and operators from Galicia, in north-west Spain. While they have been known to have been involved in toothfish poaching from the beginning, the extent to which they have been cooperating to plan operations, share opportunities and spread risk appears remarkable.

The main players in the Galician Syndicate seem to be:

- Antonio Vidal and his son Toño, based in Riveira La Coruña, owning and/or controlling a group of Spanish and Uruguayan registered companies (including Navalmar SA, Iliad SRL, Lingont SA, Plestin SA, Kessel SA & Fadilur SA); and
- Florindo Gonzalez Corral and Florindo Gonzales Otero, based in Orense, the owner/operators of Pesca Cisne SA, and Arcosmar SA registered in (Spain and Chile).

The following list of 26 boats, in alphabetical order (with previous names and current flag state in brackets), includes those beneficially owned and operated by Spaniards thought to be members of the Galician Syndicate. The two newest boats in the group have yet to fish, but have been Registered and flagged to the USA and have applied to fish in CCAMLR waters in 2003/04. One of the boats, the Amanda 1 is a reefer/carrier vessel – all the others are fishing boats. Of the remaining 23 vessels, 5 of them have been apprehended by coastal states (marked with a * below, the Arvisa, Lince, Noemi, Viarsa and the Viola). The remaining 18 are still active:

Alos (ex Lena, Cap George, Conbaroya III) (Ghana);
Amanda 1 (Panama – reefer/carrier vessel)
America No.1 (ex Caroline Glacial) (USA – yet to fish);
American Warrior (ex Christina Glacial) (USA – yet to fish);
Arcos (Argentina);
Atlantic 52 (Uruguay);
Carran (Uruguay);
Castor (ex- Salvora, apprehended by Australia in 1997/98);
Cisne Azul (see Inca, aka Viking)
Cisne Rojo (see Lince)
Dorita (Uruguay);
Elqui (Uruguay);
Eternal* (ex Arvisa, Camouco) (Uruguay);
Inca (ex-Viking, ex- Cisne Azul) (Belize)
Jara (Belize) (maybe transhipping only, not fishing?)
Lince* (ex Cisne Rojo);
Lucky Star (ex Praslin, Big Star) (Unknown);
Lugal Pesca (Uruguay);

Noemi* (Belize);
Piscis (Uruguay ?);
Punta Ballena (Uruguay);
Santo Antero (Portugal);
Tiphon 1 (ex- Rubin) (Togo)
Vega (ex Ons, Liberty, Iber 1) (Belize);
Viarsa* (aka Viarsa 1) (Uruguay);
Viola* (Uruguay);



Galician Syndicate vessel, Viarsa, fleeing for its home port of Montevideo before being apprehended by Australian authorities following a month long ‘hot pursuit’ after being allegedly found IUU fishing in the Australian Heard Island EEZ in August 2003.

With many of the fishing vessels involved in the Syndicate registered in Uruguay, it is apparent that the Syndicate’s success at IUU fishing is predicated upon maintaining a compliant attitude on the part of relevant Uruguayan authorities and some officials.

The apparent preparedness of Uruguayan officials to allow known poachers to remain on their shipping and fishing registers, to generate valid CCAMLR toothfish catch documentation by certifying IUU catches in foreign ports, and to accept obviously bogus VMS positional data, is very worrying indeed.

The Galician Syndicate also seems to be relying significantly on Pacific Andes and its China based fish processing, and global marketing and distribution capacity for its ultimate commercial success.

The Ng family’s Pacific Andes’ controlled group still prospering

Pacific Andes’ ‘Alphabet Boats’ group is still operational, although apparently reduced over 2002. Of the 13 boats identified last year, two (Lena and Volga) have been apprehended and three more have been identified.

All but one of the remaining 14 have been observed or reported to have been active in toothfish fisheries since CCAMLR XXI.

The full list of 14 involves:
Austin (Russia);
Boston (Russia);

Champion 1 (aka Champion) (Russia);
Darwin (aka Darvin 1) (Bolivia);
Florence (aka Florens 1) (Russia);
Isabel (Bolivia);
Jackson (Russia);
Neva (Russia);
Eva (aka Eva 1) (Russia);
Strela (ex Hunter) (Russia);
Ural (Russia);
Volna (Russia);
Yantar (Russia);
Zarya (ex Georgia) (Russia).

It is clear that ongoing support from within Russia and China is a major contributing factor to the success of the Pacific Andes group. The preparedness of Russian officials to flag poachers' vessels is a matter of on-going concern

Recent analysis of IUU activities suggests that publicity and diplomatic pressure is forcing Pacific Andes to reorganize some of its operations away from its base in Indonesia, using transshipments and/or landings to Singapore, Hong Kong, Port Kelang (Malaysia) and other Asian ports closer to its factories in Mainland China. That Singapore and Hong Kong seem to have meekly allowed this to happen is a new cause for concern, however.

Similarly, China continues to allow Pacific Andes, as a Hong Kong based company, to engage in organized crime at the global scale and to allow the company to 'launder' large quantities of toothfish through its fish factories in Mainland China. There is no evidence of high level Chinese government support for Pacific Andes' activities, but the lack of containment action, despite widespread publicity exposing their operations, is a matter of growing concern.

Other active Toothfish Poachers

We have identified an additional 5 fishing vessels recently involved in IUU toothfish fishing which do not seem to fit as part of the Galician Syndicate. These are:

Bonanza 707 (Korea);
Golden Sun (ex Celine) (Korea);
Sherpa Uno (Uruguay)
Sorg (Unknown);
Yeong Seong (aka Yonsong 829) (Korea).

It is of concern to note the presence of a number of Korean flagged vessels. Additional evidence of their using a reefer and of FAO statistics of landings in Korea and subsequent Korean exports of toothfish and toothfish products, indicates that involvement of Korean interests may have become a systemic part of IUU fishing activities in the Southern Ocean. Unless Korean Government officials can move fast to stem the tide of IUU fishing activities, it can be seen they may also be considered complicit in IUU fishing for toothfish.



The Alos found brazenly fishing illegally by Austral Fisheries' licenced vessel, Southern Champion, in the Australian Heard Island EEZ (September 2003)

Old Dogs – New Tricks

The CCAMLR toothfish Catch Documentation Scheme [CDS] has been generally successful in creating paper chains to track the landing of toothfish and subsequent trade. It is important to remember, however, that the CDS was never expected to prevent all IUU product from entering trade. It was designed as part of a group of actions to eliminate IUU fishing, if only by making "improper" flag state or port state behaviour, and trade in toothfish from suspect sources more transparent, thus allowing port and market states and CCAMLR to take appropriate action – if they are willing and able.

The overall system of CCAMLR Conservation Measures to prevent toothfish poaching remains under severe pressure from the poachers who have developed a whole toolbox of tricks, including three principal areas: exploitation of loopholes while participating in the CDS; avoidance of such participation; and sophisticated use of international law to minimize exposure to losses.

While the Pacific Andes group pioneered the use of the FAO Statistical Area 51 & 57 loophole in 2001 (simply misreporting catches as coming from outside the CCAMLR Area), the Galician Syndicate has gone one better – generating bogus satellite vessel monitoring (VMS) positional data (faking positions in support of such misreporting). The USA is to be congratulated for promptly regulating to forbid imports of toothfish from FAO Areas 51 & 57 to at least close this loophole where the US market is concerned.

The important point to remember here is that **the successful exploitation of such loopholes requires sophisticated, often active, complicity on the part of flag state officials. This is why it is of such concern at the number of poachers who have flagged their vessels to Uruguay or Russia (CCAMLR members) rather than just using any old flag of convenience as was customary.**

The continued involvement of Belize as a flag of convenience state is disappointing, as efforts to curtail such complicit activity by other states (such as Panama and Honduras) have been notably successful in 2003.

This is where the syndicate approach is most valuable to illegal operators – pooling efforts to establish and maintain ongoing support to illegal operators for active complicity by government officials that can then be exploited by many. The complicity can involve such things as being prepared to issue DCDs for IUU fish, to accept bogus VMS traces, to certify IUU catches in both home and foreign ports, to allow transfer pricing of product (ie recording lower sales values for fish to avoid taxes in the flag state), to take ITLOS legal action against coastal states, and to run ‘interference’ at international meetings.

A number of port states with open port traditions and/or weak institutions (‘ports of convenience’ states, like China, Kenya, Mauritius, Mozambique, Namibia, Singapore, Uruguay) can then be abused either by simply accepting flag state documentation at face value when allowing and documenting landings, thus making IUU trade more transparent, or by evading officialdom completely when unloading frozen fish or containers in the huge, sprawling ports of Asia.

It is notable, and commendable, that the port states of Mauritius, Mozambique and Namibia have taken considerable steps to rectify these loopholes in 2002 and 2003. What is disappointing is the lack of action by others like China and Singapore.

Transshipping at sea has become more fashionable among toothfish poachers to avoid such transparency. The ‘open port’ loophole means that the CDS is likely to be ineffective at identifying and tracking toothfish trade resulting from transshipment at sea unless port states inspect the majority of containers being landed, to verify their contents. **Once the toothfish have been transhipped to a reefer, as a small part of a huge manifest destined for multiple ports in Asia, the effective exercise of port state control in many of these ports becomes impractical.** This is a huge loophole in the CCAMLR CDS.

Meanwhile, the Galician Syndicate, Pacific Andes, and the Russian government, continue to use the legal services of Andrew Tetley from the New Zealand law firm, Wilson & Harle to represent them when their boats and their crews run foul of coastal states.

Russian delegates to CCAMLR in 2002, were even prepared to formally notify CCAMLR of Pacific Andes controlled boats to allow them to operate legitimately in toothfish fisheries within the CCAMLR Area. When damning evidence of the Pac Andes boats was provided for two of the four boats that Russian delegates had notified, they withdrew them, leaving another two boats from the Pac Andes group in place. This is a dangerous development that many, otherwise proper, states are exposed to by virtue of not having policies, rules and regulations that allow them to exercise discretion to prevent such “official facilitation” of known poachers.

Spain to the rescue

The persistent and pervasive involvement of Spanish nationals, as beneficial owners of IUU operators, and as officers of IUU fishing vessels, is glaringly obvious, and the Spanish government has responded positively.

One measure of particular note is Royal Decree 1134/2002 (31 October 2002) allowing action to be taken against Spanish citizens found to be involved in, or with, IUU fishing activities, under quite broad circumstances.

All eyes are on the Spanish Government to see if the power and applicability of the new Decree will be tested for the first time, in dealing with Spaniards known to be involved with the Viarsa (apprehended by Australian authorities in August 2003) and the Alos (photographed illegally fishing in the Australian EEZ in September 2003).

COLTO – industry self help

In response to the serious threat posed to legitimate fishers by the poachers, COLTO (the Coalition of Legal Toothfish Operators) has been established with a key objective to assist CCAMLR governments to rid themselves of the scourge of IUU fishing in the Southern Ocean and the governance problems that go with it. COLTO is also keen to support and encourage coastal states to increase and improve their intelligence, surveillance and enforcement capabilities in the Southern Ocean in a cost effective manner – a daunting task at the best of times.

COLTO currently has 28 member companies in ten countries and has applied for CCAMLR observer status to improve its capacity to work with and assist member governments. Through its own networks and its ‘wanted’ reward scheme, COLTO is developing a remarkable information network and resultant store of data and information. This report is largely based on information gathered through these networks and we urge all stakeholders in securing sustainable fisheries to contribute by joining COLTO, by becoming an associate member, or by providing and exchanging information. Good information from reliable contacts remains the most valuable weapon against the toothfish poachers.

This brochure is a summary report on the boats, people, companies and governments currently understood to be involved in toothfish poaching. More details are available on the COLTO website at www.colto.org, or by contacting COLTO at colto@colto.org

