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WWF POSITION STATEMENT

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Toothfish

Prop. 39

Australia has proposed the inclusion of Patagonian toothfish *Dissostichus eleginoides* in Appendix II in accordance with Article II 2(a) and the listing of Antarctic toothfish *Dissostichus mawsonii* in accordance with Article II 2(b).

WWF recommendation on toothfish: Support, accompanied by appropriate Annotation and Resolution

Summary

WWF supports the inclusion of Patagonian and Antarctic toothfish in Appendix II, if accompanied by appropriate Annotation and Resolution, because:

- Due to illegal, unregulated and unreported (IUU) fishing, Patagonian toothfish stocks clearly meet the relevant listing criteria;
- Listing would complement and support the relevant fisheries management organisation, the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), in combating IUU fishing through broader application of CCAMLR conservation and management measures:
 - virtually all states involved in toothfish harvest, landing or trade could only trade toothfish caught in compliance with CCAMLR measures, thus tightening trade controls and strengthening incentives to implement the Catch Documentation Scheme (CDS) (see 2i);
 - location of catches could be verified using VMS data by states of port of landing, to combat misreporting of catch to avoid CCAMLR measures (see 2ii);
 - high seas harvest outside the CCAMLR area could be limited, remedying a limitation of the CCAMLR regime (see 2iii);
 - effective measures to ensure compliance would be available (see 2iv).
- Listing would allow transparent global monitoring of trade flows, allowing estimation of IUU and providing important information for management decisions (see 2v);
- Listing would provide assurance to importers and consumers that toothfish bought are legally and sustainably sourced (see 2vi).

Recommendations for implementation, including accompanying Annotation and Resolution, are set out in section 3.



Rationale

1. Patagonian toothfish: Successive stocks depleted by IUU fishing despite strong management efforts within CCAMLR

Toothfish demonstrate the classic characteristics of species vulnerable to over-exploitation: they are large, slow-growing, long-lived species of low fecundity and high market value. Patagonian toothfish can live up to 50 years and grow to two metres long. Patagonian and the smaller, faster growing Antarctic toothfish are fished in the Antarctic and Southern Oceans, in a fishery managed by CCAMLR. Despite the development of innovative and proactive management measures by CCAMLR, toothfish face serious threats from widespread IUU fishing. Due to their remote location, or vigorous enforcement efforts, some toothfish stocks have largely escaped IUU fishing. However, IUU has caused successive devastation of several toothfish stocks over the past decade, and shows no signs of abating. Declines have been both quick and severe: three years of IUU activity led to the collapse and closure of the toothfish stock around Prince Edward and Marion Islands, while the stock around Crozet Island was reduced by 45% over just a few years. To date, depletion of stocks, or increased enforcement efforts, have simply resulted in IUU fishing shifting to target a new stock. While CCAMLR conservation and management measures limit the legal harvest to scientifically justified levels, IUU catch over recent years, as estimated by trade volumes, approaches the level of legal catch (see TRAFFIC report Patagonian toothfish: are conservation and trade measures working? www.traffic.org/toothfish). With reports of custom-built toothfish IUU fishing boats emerging, there is no sign of success in this struggle for sustainable management.

WWF has supported for many years the development of CCAMLR's management regime for toothfish, and most recently, the CDS. This is a trade control scheme developed by CCAMLR to combat trade in illegally caught fish. The main mechanism by which the CDS functions to control toothfish trade is the Dissostichus Catch Document (DCD). This document establishes a "paper trail" which stretches from the fish at time of capture to their final purchase and consumption, allowing (in principle), for verification of legal captures, assessment of trade routes, and verification of trade volumes against catch volumes. However, there are a number of loopholes which currently seriously undermine the effectiveness of the CDS (for full discussion see the TRAFFIC report Uncharted Waters: Implementation issues and potential benefits of listing toothfish in Appendix II of CITES www.traffic.org/news/uncharted_waters.pdf).

The limitations faced by CCAMLR are:

- CCAMLR is limited to a small number of Parties, and does not include many states involved in toothfish harvest, landing and trade;
- CCAMLR conservation and management measures are limited in application to the CCAMLR Convention Area, and so can be avoided through misreporting the location of catches;
- CCAMLR's CDS relies on flag state verification of the legality of catches. Numerous "flags of convenience" states do not rigorously apply this system, allowing IUU fish to receive valid documentation;
- CCAMLR has no compliance measures to encourage effective and consistent application of the CDS.

Without considerable support from other international policy measures, there is little prospect of these limitations being overcome in the near future.

On the basis of IUU fishing, Patagonian toothfish clearly meet the Appendix II listing criterion set out in Res. Conf. 9.24 Annex 2aBi, namely, that "harvesting...has, or may have, a detrimental impact on the species by



exceeding, over an extended period, the level that can be continued in perpetuity.” Antarctic toothfish are very similar as whole fish, and are virtually indistinguishable in processed form, and therefore qualify for listing under the “lookalike” criteria, Article II 2(b).

2. CITES Appendix II listing would complement and support CCAMLR in combating IUU fishing

If appropriately annotated and supported by Resolution, the extension of CITES Appendix II trade controls to toothfish could effectively close many of the loopholes undermining the effectiveness of CCAMLR conservation measures. In particular, CITES listing would greatly increase the impact and effectiveness of the CDS in combating the IUU fishing currently undermining both the legal fishery and the conservation status of toothfish stocks.

i. CITES listing would mean that virtually all states involved in toothfish harvest, landing or trade could only trade toothfish caught in compliance with CCAMLR measures (apart from for catches taken within waters under national jurisdiction outside of the Convention Area)

As CCAMLR is the international body responsible for toothfish management, for catches taken within the CCAMLR area CITES Parties should only issue CITES documentation by reference to CCAMLR management measures. Requirements to issue or verify such documentation would then apply to all ca. 160 CITES Parties, including all flag, port and market states. This contrasts with the current situation, in which only states which have agreed to and are implementing the CDS (24 CCAMLR members, seven acceding states and four non-Contracting Parties) are obliged to ensure traded toothfish are caught in accordance with such measures through verification of the DCD. The many other countries involved in toothfish harvest, landing and trade have no such obligation. Listing would therefore provide a strong incentive for states to implement the CDS, in order to comply with CITES requirements for trade.

Systems to ensure complementarity and lack of duplication of documents could be developed (see section 3 Resolution to accompany a listing, below). For instance, it would be practical and effective for the CCAMLR DCD to be recognised as the unique, acceptable CITES certificate of introduction from the sea. When a shipment is landed, the CITES Management Authority of the state of the port of introduction could ensure that the DCD fulfils the requirements for a non-detriment finding (see 2ii and 2iii, below) and then endorse the DCD as a certificate of introduction from the sea. DCDs endorsed in such a manner could then be attached to or even act in place of export permits, and provide the basis for the required non-detriment finding.

It is important to note that CITES parties can designate an appropriate Management Authority for particular species or taxa: it would facilitate effective implementation of an Appendix II listing if CITES parties designated the national agency currently responsible for harvest and trade in toothfish as the CITES Management Authority for these species.

For catch taken within waters under national jurisdiction outside of the CCAMLR Convention Area, such as from stocks within the EEZs of Chile and Argentina, the relevant coastal state would be responsible for making non-detriment findings for the granting of export permits on the basis of national management measures.

ii. CITES listing would allow verification by the state of port of landing of the location of catches

A key weakness currently undermining CCAMLR management measures is reliance on verification of the legality of catches by flag states. A large proportion of IUU catch is thought to be taken from areas within



CCAMLR jurisdiction (high seas areas or states' EEZs), and misreported as caught outside the Convention Area (particularly Area 51), thus avoiding CCAMLR catch restrictions. Under CCAMLR measures, flag states are obliged to use CCAMLR Vessel Monitoring System (VMS) location data to verify that their ships' catches are not misreported in this way. However, many flag states (particularly "flag of convenience" states) do not rigorously implement these obligations, providing a major pathway for IUU catch to gain valid CCAMLR documentation and enter the market. While importing states can ask for verification of legality from flag states, there is no provision for independent verification.

Verification of the locality of the catch by the state of the port of landing (by data provided from centralised VMS) would provide a powerful tool to combat this form of laundering of IUU fish. IUU fishing is inherently detrimental. One condition for the issue of a certificate of introduction from the sea (or endorsement of a DCD to act as a certificate of introduction from the sea – see above) should therefore be verification of catch location by the CITES Management Authority of the port of landing.

iii. CITES listing would provide a basis for limiting harvest of toothfish from high seas areas outside the Convention Area

Currently, toothfish harvest from high seas areas outside the CCAMLR Convention Area is not subject to any specific conservation or management measures, as CCAMLR has jurisdiction only within the Convention Area. Only 4% of toothfish stocks are thought to lie outside of states' EEZs and the Convention Area. However, a substantial proportion of IUU fish caught inside the CCAMLR area is believed to be "laundered" through being misreported as caught outside the Convention Area (particularly in Area 51), avoiding CCAMLR conservation and management measures, including catch limits and seabird by-catch mitigation measures.

This problem could be effectively addressed through CITES listing. In the absence of a management regime for high seas areas outside the CCAMLR area, there is currently no valid basis for the making of a CITES non-detriment finding for such specimens. Therefore, a further condition for the issue of the certificate of introduction (or endorsement of a DCD to act as a certificate of introduction from the sea – see above) should be verification, by the CITES Management Authority of the state of port of landing, that toothfish are not declared as taken in high seas areas outside the CCAMLR area.

iv. CITES can encourage compliance through effective and established procedures

CCAMLR has limited enforcement capacity of its own, relying on members, acceding states and cooperating non-parties to effectively implement and regulate agreed conservation measures. Control over harvest itself is expensive and difficult in the remote waters where most harvesting takes place, and CCAMLR has recognised through the CDS that effective compliance must be gained by controlling landing, transshipment and trade. However, CCAMLR does not have any procedures under which action can be taken against countries undermining agreed conservation measures. For instance, even if a CCAMLR member is known to be importing IUU fish, no effective action can be taken against them. By contrast, CITES has established compliance measures, based on the application of trade suspensions following a sound, agreed process. These have proven effective in the past in gaining compliance.

v. CITES can provide transparent global monitoring of trade flows

Currently, CCAMLR monitors harvest levels of legal toothfish catch, and estimates levels of IUU catch. CCAMLR catch data can provide highly divergent estimates of harvest level compared to estimates derived from analysis of trade volumes. A recent TRAFFIC report (Patagonian toothfish: are conservation and trade



measures working? see www.traffic.org) analysed global trade in toothfish, and based on these data estimated that IUU fishing was up to four times the level calculated by CCAMLR. Listing of toothfish on Appendix II would require all CITES Parties to report all global trade in reports submitted to the CITES Secretariat. Such trade monitoring would allow ready verification of trade volumes against reported catch volumes, allowing assessment of IUU activity. Furthermore, all these reports are in the public domain, improving transparency.

vi. CITES can boost consumer confidence that the fish they buy are sustainably and legally sourced

Due to the various limitations of the CDS, there is currently no means by which an importer or consumer can be assured that toothfish is harvested legally and in compliance with relevant conservation and management measures. For instance, toothfish harvested illegally within the CCAMLR Area, but declared as caught outside the area, may be accompanied by a valid DCD and legally traded by CCAMLR members. Listing on Appendix II, if accompanied by appropriate Annotation and Resolution, would greatly strengthen control of trade and harvest, providing a sound basis for improved consumer confidence and a sustainable future for the toothfish fishery.

3. Recommendations for implementation

The effectiveness, practicality and conservation management value of a CITES Appendix II listing for toothfish will depend on the means of implementation, which need to be specified by Annotation to the listing and by an accompanying Resolution. In addition, decisions of the Parties regarding the relationship of CITES and the U.N. Food and Agriculture Organisation (FAO) are highly relevant.

i. Annotation to the listing

We recommend that the CITES Parties adopt an annotation to the listing which specifies that:

- CCAMLR is responsible for the development and implementation of scientific and management measures for the conservation and rational use of toothfish within its Convention Area;
- non-detriment findings for international trade in specimens of toothfish caught within the CCAMLR Convention Area, in waters that are not under the jurisdiction of a State, are made on the basis of CCAMLR's conservation measures; and
- entry into force of the listing be delayed by 12 to 18 months enable a range of technical implementation issues to be resolved.

ii. Resolution to accompany the listing

It will be necessary for the Parties to adopt a Resolution that establishes the conditions under which international trade in toothfish should occur within the framework of CITES Appendix II controls. To provide the conservation and management benefits (set out above) associated with a listing of toothfish in Appendix II, we suggest that such a Resolution address the following points:

- (a) Co-operation between CITES and CCAMLR in the management of international trade in toothfish should be encouraged;
- (b) The state of port of landing should be agreed to be the relevant CITES party responsible for the issue of certificates of introduction from the sea;
- (c) The national agency currently in charge of catch of and trade in toothfish should be designated as



- the CITES Management Authority for these species;
- (d) Issue of introduction from the sea certificates: as non-detriment findings would be made on the basis of CCAMLR measures (see Annotation), a valid DCD indicating that toothfish are caught within the Convention Area, should, when endorsed by the CITES Management Authority, be recognised as the unique acceptable certificate of introduction from the sea. Additionally, issue of an certificate of introduction from the sea should be made conditional upon verification of the location of catches by the port state CITES Authority, using VMS data;
 - (e) Issue of export permits for specimens caught within the CCAMLR: a valid DCD, indicating that specimens are caught within the Convention Area, with location of catch verified by the CITES Authority, should be accepted as fulfilling the requirements for issue of an export permit. A system for ensuring complementarity and lack of duplication between CCAMLR and CITES documentary requirements should be decided and applied by all parties: the CCAMLR DCD could either be attached to the export permit or, if suitably endorsed by the Management Authority, act in place of an export permit;
 - (f) High seas catches outside the CCAMLR area: it should be agreed that in the absence of a multilateral management regime for high seas areas outside the CCAMLR area, no scientific basis exists to make non-detriment findings for catches in these areas, and that therefore no introduction from the sea certificates or export permits be issued in respect of trade in such catches;
 - (g) Catches taken within waters under national jurisdiction outside the CCAMLR area: non-detriment findings should be made on the basis of compliance with national management measures such as export quotas.

We note the draft Resolution submitted by Chile (Doc 16.1) on Co-operation between CITES and the Convention on Antarctic Marine Living Resources (CCAMLR) regarding trade in the Patagonian toothfish. While this Resolution promotes necessary co-operation between CITES and CCAMLR, it will lead to substantial improvements in conservation and management of toothfish only if accompanied by listing of toothfish in Appendix II. Such calls for voluntary implementation of the requirements of the CDS requirements, without the global application of CITES implementation and enforcement tools, is likely to be entirely ineffective.



WWF's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by:

- conserving the world's biological diversity
- ensuring that the use of renewable resources is sustainable
- promoting the reduction of pollution and wasteful consumption.

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