

**Proposal for Council Regulation laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living Resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999**

(2002/C 262 E/18)

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(Submitted by the Commission on 3 July 2002)

**EXPLANATORY MEMORANDUM**

The Community has been a Contracting Party to the Convention on the conservation of Antarctic marine living resources since 1981. It is required to transpose the measures for the conservation and management of fish stocks referred to in the Convention into Community law.

The conservation and management measures adopted by the Commission for the conservation of Antarctic marine living resources (CCAMLR) include numerous rules on the monitoring of fishing activities. Up to now most of these have been transposed into Community law by Council Regulation (EC) No 66/98 of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic and repealing Regulation (EC) No 2113/96 (OJ L 6, 10.1.1998 p. 1).

The arrangements for the control of fishing activities in the Convention area were transposed by Council Regulation (EEC) No 3943/90 of 19 December 1990 on the application of the system of observation and inspection established under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources (OJ L 379, 31.12.1990 p. 45).

The Community rules on controls in the Convention area have been amplified by Council Regulation (EC) No 1721/1999 of 29 July 1999 laying down certain control measures in respect of vessels flying the flag of Non-Contracting Parties to the Convention on the Conservation of Antarctic Marine Living Resources (OJ L 203, 3.8.1999, p. 14).

These three instruments need to be updated to bring them into line with the amendments to the corresponding CCAMLR measures, which have been especially important over the last four years (CCAMLR meetings XVII — 1998 to XX — 2001). Already in 1998, the limits and prohibitions on catches of the species covered by the Convention were transposed as part of the annual TACs and quotas exercise, whereas these limits previously formed part of Regulation (EC) No 66/98, referred to above. With regard to the other measures in that Regulation, major changes have been made, within the CCAMLR, to those concerning access to fishing activities in the area and the various catch and effort reporting systems as regards both the procedures to be followed and the species subject to the individual system for the different fishing areas. In particular, specific rules have been adopted for the crab and squid fisheries.

On the issue of the control system, the CCAMLR has introduced changes designed mainly to distinguish between inspection and scientific observation activities focusing on data collection. This requires a complete recasting of Regulation (EEC) No 3943/90 to take account of the fact that basic responsibility for implementing the inspection arrangements rests with the Member States and that the Commission's responsibility must be at the level of 'monitoring the inspectors', as it undertook to do to the Council and the European Parliament in its Communication on European Community participation in regional fisheries organisations or RFOs, COM(1999) 613 final of 8 December 1999.

Lastly, on the matter of the checks on vessels flying the flag of non-Contracting Parties, Regulation (EC) No 1721/1999 transposes a CCAMLR measure dating from 1998 which was significantly modified in 1999 and consequently also needs to be updated.

The Commission proposal brings together in a single instrument, therefore, all the control provisions applying to fishing by Community vessels in the Convention area. The draft Regulation is made up of seven Chapters:

- General provisions
- Arrangements concerning access to fishing activities in the Convention area
- Catch and effort reporting system
- Control and inspection at sea by vessels flying the flag of a Contracting Party to the Convention
- Control and inspection in port

- Control measures applicable to vessels flying the flag of a Non-Contracting Party to the Convention
- Final provisions.

This proposal is being presented at the same time as a draft Regulation on the technical measures applicable to fishing activities in the Convention area, including requirements concerning fishing gear and the scientific observer scheme.

The two proposals have recourse to 'the Committee procedures' introduced by Council Decision 1999/468/EC of 28 June 1999. The management procedure under Article 4 of that Decision is included for the adoption of measures needed for implementing certain parts of the arrangements.

The Commission proposes therefore that the Council adopt the attached Regulation.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The Convention on the Conservation of Antarctic Marine Living Resources, hereinafter called 'the Convention', was approved by the Community by Council Decision 81/691/EEC <sup>(1)</sup> and entered into force in the Community on 21 May 1982.
- (2) The Convention provides a framework for regional cooperation in the conservation and management of Antarctic marine fauna and flora through the establishment of a Commission for the Conservation and Management of Antarctic Marine Living Resources, hereinafter called the 'CCAMLR', and the adoption by the latter of conservation measures which become binding on the Contracting Parties.
- (3) The Community, as a Contracting Party to the Convention, is required to ensure that the conservation measures adopted by the CCAMLR are applied to Community fishing vessels.
- (4) The measures concerned include numerous rules and provisions for the control of fishing activities in the Convention area which must be incorporated in Community law as special provisions within the meaning of Article 1(3) of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>(2)</sup>, and supplementing the provisions thereof.
- (5) Some of those special provisions have been transposed into Community law by Council Regulation (EEC) No 3943/90 of 19 December 1990 on the application of the system of observation and inspection established under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources <sup>(3)</sup>, by Council Regulation (EC) No 66/98

of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic and repealing Regulation (EC) No 2113/96 <sup>(4)</sup>, and by Council Regulation (EC) No 1721/1999 of 29 July 1999 laying down certain control measures in respect of vessels flying the flag of Non-Contracting Parties to the Convention on the Conservation of Antarctic Marine Living Resources <sup>(5)</sup>.

- (6) With a view to implementing the new conservation measures adopted by the CCAMLR, the above Regulations should be amended. In order to ensure that Community rules are clearer, they should be repealed and replaced by a single Regulation bringing together the special provisions for the control of fishing activities arising from the Community's obligations as a Contracting Party to the Convention.
- (7) Since the measures needed to implement this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(6)</sup>, they should be adopted in accordance with the management procedure provided for in Article 4 of that Decision,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### GENERAL PROVISIONS

##### Article 1

#### Object and scope

1. This Regulation lays down general rules and conditions for the application by the Community of:
  - (a) control measures applicable to fishing vessels flying the flag of a Contracting Party to the Convention for the Conservation of Antarctic Marine Living Resources, hereinafter called 'the Convention', operating in the Convention area in waters located beyond the limits of national jurisdictions;

<sup>(1)</sup> OJ L 252, 5.9.1981, p. 26.

<sup>(2)</sup> OJ L 261, 20.10.1993, p. 1, as last amended by Council Regulation (EC) No 2846/98 (OJ L 358, 31.12.1998, p. 5).

<sup>(3)</sup> OJ L 379, 31.12.1990, p. 45.

<sup>(4)</sup> OJ L 6, 10.1.1998, p. 1, as amended by Council Regulation (EC) No 2479/98 (OJ L 309, 19.11.1998, p. 1).

<sup>(5)</sup> OJ L 203, 3.8.1999, p. 14.

<sup>(6)</sup> OJ L 184, 17.7.1999, p. 23.

(b) a system to promote compliance by vessels flying the flag of a non-Contracting Party with conservation measures laid down by the Commission for the Conservation of Antarctic Marine Living Resources, hereinafter called the 'CCAMLR'.

2. This Regulation shall apply without prejudice to the provisions of the Convention and shall operate in furtherance of its objectives and principles and the provisions of the final act of the conference at which it was adopted.

#### Article 2

##### Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'Convention area': the area of application of the Convention as defined in Article I thereof;
- (b) 'Antarctic convergence': a line joining the following points along parallels of latitude and meridians of longitude: 50° S, 0°–50° S, 30° E–45° S, 30° E–45° S, 80° E–55° S, 80° E–55° S, 150° E–60° S, 150° E–60° S, 50° O–50° S, 50° O–50° S, 0°;
- (c) 'Community fishing vessel': a fishing vessel flying the flag of a Community Member State and registered in the Community which takes and keeps on board marine organisms taken from marine living resources in the Convention area;
- (d) 'VMS system': a satellite-based vessel monitoring system installed on board Community fishing vessels in accordance with Article 3 of Regulation (EEC) No 2847/93;
- (e) 'new fishery': a fishery for a species using a particular fishing method in a FAO Antarctic sub-area, for which:
  - (i) information on distribution, abundance, population, potential yield and stock identity from comprehensive research/surveys or exploratory fishing have never been submitted to the CCAMLR; or
  - (ii) catch and effort data have never been submitted to the CCAMLR; or
  - (iii) catch and effort data from the two most recent seasons in which fishing took place have never been submitted to the CCAMLR;
- (f) 'exploratory fishery': a fishery that was previously classified as a 'new fishery' as defined in point (e). An exploratory fishery shall continue to be classified as such until sufficient information is available:
  - (i) to evaluate the distribution, abundance and population of the target species, leading to an estimate of the fishery's potential yield;
  - (ii) to review the fishery's potential impacts on dependent and related species, and

(iii) to allow the CCAMLR's Scientific Committee to formulate and provide advice on appropriate harvest catch levels, as well as on effort levels and fishing gear where appropriate;

- (g) 'CCAMLR inspector': an inspector assigned by a Contracting Party to the Convention to implementing the control system referred to in Article 1(1);
- (h) 'CCAMLR control system': the document bearing that name, adopted by the CCAMLR, concerning the control and inspection at sea of vessels flying the flag of a Contracting Party to the Convention;
- (i) 'non-Contracting Party vessel': a fishing vessel which flies the flag of a non-Contracting Party to the Convention and which has been sighted engaging in fishing activities in the Convention area;
- (j) 'sighting': any sighting of a vessel flying the flag of a non-Contracting Party to the Convention by a vessel flying the flag of a Contracting Party to the Convention and operating in the Convention area, or by an aircraft registered in a Contracting Party to the Convention, and overflying the Convention area or by a CCAMLR inspector.

#### CHAPTER II

##### ARRANGEMENTS CONCERNING ACCESS TO FISHING ACTIVITIES IN THE CONVENTION AREA

#### Article 3

##### Community participation

1. Only Community fishing vessels holding a special fishing permit issued in accordance with Council Regulation (EC) No 1627/94 by their flag Member State shall be authorised, in accordance with the conditions laid down in the permit, to fish, retain on board, transship and land fishery resources from the Convention area.
2. The Member States shall send the Commission, by computer transmission, within three days following the issue of the permit referred to in paragraph 1, the following information concerning the vessel covered by the permit:
  - (a) the name of the vessel concerned;
  - (b) the period for which it is authorised to fish in the Convention area, with the dates on which fishing activities start and end;
  - (c) the fishing area or areas;
  - (d) the target species;
  - (e) the gear used.

The Commission shall forward this information to the CCAMLR secretariat without delay.

3. The information transmitted to the Commission by the Member States shall include the internal fleet register number as provided for in Article 1 of Commission Regulation (EC) No 2090/98 <sup>(1)</sup>, together with the home port and the names of the owner or charterer of the vessel, and shall be accompanied by the notification that the master of the vessel has been informed of the measures in force for the area or areas where the vessel will be fishing in the Convention area.

4. Paragraphs 1, 2 and 3 shall apply subject to the special provisions laid down in Articles 5, 6, 7 and 8 below.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 4

##### General rules of conduct

1. The special fishing permit referred to in Article 3, or an authenticated copy thereof, shall be carried on board fishing vessels and shall be available at all times for inspection by a CCAMLR inspector.

2. Each Member State shall ensure that all Community fishing vessels flying its flag notify it of their entry to and exit from all ports, their entry to and exit from the Convention area and their movements between FAO Antarctic sub-areas and divisions.

3. Member States shall verify this information against data received through the VMS systems operating on board fishing vessels. They shall forward it to the Commission by computer transmission within two days of receipt. The Commission shall transmit this information without delay to the CCAMLR executive secretariat.

4. In the event of a technical breakdown of the VMS system on board a Community fishing vessel, the flag Member State shall notify the CCAMLR as early as possible, with a copy to the Commission, of the name of the vessel, and the date and position of the vessel when the VMS system ceased to function. As soon as the VMS system is again operational the flag Member State shall inform the CCAMLR thereof without delay.

#### Article 5

##### Special provisions concerning access to crab fisheries

1. Member States shall notify the Commission of the intention of a Community fishing vessel to fish for crab in FAO Antarctic sub-area 48.3. Notification shall be made four months in advance of the date set for the start of the fishery and shall include the internal fleet register number and the research and fishing operations plan of the vessel concerned.

2. The Commission shall examine the notification, check that it complies with the applicable rules and inform the Member State of its findings. The Member State may issue the special fishing permit upon receipt of the findings of the Commission or within ten working days following notification. The Commission shall notify the CCAMLR accordingly, at the latest three months in advance of the date set for the start of the fishery.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 6

##### Special provisions concerning access to new fisheries

1. Fishing in a new fishery in the Convention area shall be prohibited unless it has been authorised in accordance with paragraph 5.

2. The Member State concerned shall notify the Commission not later than four months in advance of the annual meeting of the CCAMLR of the intention of a Community fishing vessel to develop a new fishery in the Convention area.

The notification shall be accompanied by as much of the following information as the Member State is able to provide:

- (a) the nature of the proposed fishery, including target species, methods of fishing, proposed region and any minimum level of catches that would be required to develop a viable fishery;
- (b) biological information from comprehensive research/survey cruises, such as distribution, abundance, demographic data and information on stock identity;
- (c) details of dependent and associated species and the likelihood of them being affected in any way at all by the proposed fishery;
- (d) information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield.

3. The Commission shall forward to the CCAMLR for consideration the information provided in accordance with paragraph 2, together with any other relevant information at its disposal.

4. Once the CCAMLR has taken a decision, the new fishery shall be authorised by the Commission in cases where the CCAMLR has not adopted any conservation measure with regard to the new fishery, or by the Council, acting by a qualified majority on a proposal from the Commission, in all other cases.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

<sup>(1)</sup> OJ L 266, 1.10.1998, p. 27.

*Article 7***Special provisions concerning access to exploratory fisheries**

1. Exploratory fishing in the Convention area shall be prohibited unless it has been authorised in accordance with paragraphs 2 to 6.

2. Each Member State participating in an exploratory fishery or intending to authorise a vessel to participate in one shall prepare a research and fishery operations plan which it shall forward directly to the CCAMLR before a date set by the latter, with a copy to the Commission.

The plan shall contain as much of the following information as the Member State is able to provide:

- (a) a description of how the Member State's activities will comply with the data collection plan developed by the CCAMLR Scientific Committee;
- (b) the nature of the exploratory fishery, including target species, methods of fishing, proposed region and maximum catch levels proposed for the forthcoming season;
- (c) biological information from study and research voyages, such as distribution, abundance, demographic data, and information on stock identity;
- (d) details of dependent and related species and the likelihood of them being adversely affected by the proposed fishery;
- (e) information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield.

3. Each Member State participating in an exploratory fishery shall submit annually to the CCAMLR, with a copy to the Commission, before the expiry of the deadline agreed within the CCAMLR the data specified in the data collection plan developed by the Scientific Committee for the fishery concerned.

Where the data specified in the data collection plan have not been forwarded to the CCAMLR for the most recent season in which fishing took place, continued exploratory fishing by the Member State which failed to forward its data shall be prohibited until the relevant data have been presented to the CCAMLR, with a copy to the Commission, and the Scientific Committee has been given an opportunity to review the data.

4. Before a Member State authorises its vessels to participate in an exploratory fishery that is already in progress, that Member shall notify the CCAMLR not less than four months in advance of the next regular meeting of the CCAMLR. The notifying Member State shall not authorise its vessels to enter the exploratory fishery until the conclusion of that meeting.

5. The name, type, size, registration number and radio call sign of each vessel participating in the exploratory fishery shall be notified directly by Member States to the CCAMLR, with a copy to the Commission, at least three months in advance of the start of each fishing voyage.

6. Fishing capacity and effort shall be subject to a precautionary limit set at a level not exceeding that necessary to obtain the information specified in the data collection plan and required to make the evaluations referred to in Article 2(f).

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

*Article 8***Special provisions concerning access to scientific research activities**

1. Member States whose vessels intend to conduct scientific research when the estimated catch is expected to be less than 50 tonnes, including not more than 10 tonnes of *Dissostichus* spp, shall submit directly to the CCAMLR, with a copy to the Commission, the following data:

- (a) the name of the vessel concerned;
- (b) its external identification mark;
- (c) the division and sub-area in which the research is to be carried out;
- (d) the estimated dates of entering and leaving the CCAMLR Convention area;
- (e) the purpose of the research;
- (f) the fishing equipment likely to be used.

2. The Community vessels referred to in paragraph 1 shall be exempt from conservation measures relating to mesh size regulations, prohibition of types of gear, closed areas, fishing seasons and size limits, and reporting system requirements other than those specified in Articles 9(6), and 16(1).

3. Member States whose vessels intend to conduct scientific research where the estimated total catch is expected to be more than 50 tonnes, or more than 10 tonnes of *Dissostichus* spp., shall submit to the CCAMLR for review, with a copy to the Commission, a research programme at least six months in advance of the planned starting date for the research. Until the review process is completed by the CCAMLR and its decision notified, the planned fishing for research purposes shall not proceed.

4. Member States shall report to the CCAMLR, with a copy to the Commission, catch and effort data for each haul resulting from any scientific research subject to the provisions in paragraphs 1, 2 and 3. A summary of the results shall be provided by the Member State to the CCAMLR, with a copy to the Commission, within 180 days of the completion of the research. A full report of the results of the research shall be provided to the CCAMLR, with a copy to the Commission, within twelve months.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## CHAPTER III

## CATCH AND EFFORT REPORTING SYSTEM

## Section 1

*Catch and effort report*

## Article 9

**Catch and effort report**

1. Community fishing vessels shall be subject to three catch and effort reporting systems according to period as referred to in Articles 10, 11 and 12 for the different species and the FAO areas, sub-areas and divisions concerned.

2. The catch and effort report shall contain the following information for the period in question:

- (a) the name of the vessel,
- (b) its external identification mark,
- (c) the total catch of the relevant species,
- (d) the total number of days and hours fished,
- (e) the catches of all species and by-catch species kept on board during the reporting period,
- (f) in the case of longline fisheries, the number of hooks.

3. The masters of Community fishing vessels shall submit a catch and effort report to the competent authorities of the flag Member State at the latest one day after the end of the relevant reporting period.

4. The Member States shall notify the Commission, by computer transmission, at the latest within three days following each reporting period, of the catch and effort report transmitted by each fishing vessel flying their flag and registered in the Community. Each catch and effort report shall specify the reporting period of the catch concerned.

5. The Commission shall forward to the CCAMLR, at the latest within five days following the end of each reporting period, the catch and effort reports received in accordance with paragraph 3.

6. The catch and effort reporting systems shall apply to species taken for scientific research purposes, whenever the catch within a given period exceeds five tonnes.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## Article 10

**Monthly catch and effort reporting system**

1. For the purposes of the monthly catch and effort reporting system, the reporting period shall be a calendar month.

2. The monthly catch and effort reporting system shall apply to:

- (a) the fishery for *Electrona carlsbergi* in FAO Antarctic sub-area 48.3;
- (b) the fishery for *Euphausia superba* in FAO Antarctic area 48 and in FAO Antarctic divisions 58.4.2 and 58.4.1.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## Article 11

**Ten-day catch and effort reporting system**

1. For the purposes of the ten-day catch and effort reporting system, each calendar month shall be divided into three reporting periods, designated by the letters A, B and C and running from day 1 to day 10, day 11 to day 20 and day 21 to the last day of the month respectively.

2. The ten-day catch and effort reporting system shall apply to:

- (a) the fisheries for *Chamsocephalus gunnari* and *Dissostichus eleginoides* and other deep-water species in FAO Antarctic division 58.5.2;
- (b) the exploratory fishery for the squid *Martialia hyadesi* in FAO Antarctic sub-area 48.3;
- (c) the fishery for the crab *Paralomis* spp. (order Decapoda, sub-order Reptantia) in FAO Antarctic sub-area 48.3, other than that operated during the first phase of the CCAMLR exploratory fishery scheme for that species and sub-area.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## Article 12

**Five-day catch and effort reporting system**

1. For the purposes of the five-day catch and effort reporting system, each calendar month shall be divided into six reporting periods, designated by the letters A, B, C, D, E and F and running from day 1 to day 5, day 6 to day 10, day 11 to day 15, day 16 to day 20, day 21 to day 25 and day 26 to the last day of the month respectively.

2. The five-day catch and effort reporting system shall apply for each fishing season to:

- (a) the fishery for *Chamsocephalus gunnari* in FAO Antarctic sub-area 48.3;
- (b) the fishery for *Dissostichus eleginoides* in FAO Antarctic sub-areas FAO 48.3 and 48.4.

3. Following notification by the CCAMLR of the closure of a fishery in the event of failure to transmit the catch and effort report referred to in this Article, the vessel or vessels concerned shall cease operating immediately in the fishery in question and shall be authorised to resume fishing only where the report or, as appropriate, an explanation of the technical difficulties justifying the failure to present a report has been sent to the CCAMLR.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## Section 2

### **Monthly fine-scale data reporting systems for trawl, longline and pot fisheries**

#### Article 13

#### **Monthly fine-scale catch and effort data reporting system**

1. Community fishing vessels shall forward to the competent authorities of the Member State whose flag they fly, for each fishing season, by the fifteenth day of the month following that in which fishing takes place, fine-scale catch and effort data for the month concerned, concerning, as appropriate, trawling, longlining or pot fishing, for the species and in the areas below:

- (a) *Champscephalus gunnari* in FAO Antarctic division 58.5.2 and in FAO Antarctic sub-area FAO 48.3;
- (b) *Dissostichus eleginoides* in FAO Antarctic sub-areas FAO 48.3 and 48.4;
- (c) *Dissostichus eleginoides* in FAO Antarctic division 58.5.2
- (d) *Electrona carlsbergi* in FAO Antarctic sub-area 48.3;
- (e) *Martialia hyadesi* in FAO Antarctic sub-area 48.3;
- (f) *Paralomis* spp. (order *Decapoda*, sub-order *Reptantia*) in FAO Antarctic sub-area 48.3, other than that fished during the first phase of the CCAMLR exploratory fishery scheme for that species and sub-area.

2. In the case of the fisheries referred to in paragraphs 1(a), and (e), the data shall be reported for each laying of pots, and in other cases for each haul.

3. All catches of target and by-catch species shall be reported for individual species. The data shall include the numbers of seabirds and marine mammals of each species caught and released or killed.

4. Member States shall transmit this information to the Commission at the end of each month. The Commission shall transmit these data to the CCAMLR without delay.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 14

#### **Monthly fine-scale biological data reporting system**

1. Community fishing vessels shall forward to the competent authorities of the Member State whose flag they fly, under the same conditions and for the same fisheries as those referred to in Article 13, representative samples of length composition measurements of the target species and by-catch species taken in the fishery.

2. Length measurements of fish shall be of total length rounded down to the nearest centimetre and representative samples of length composition shall be taken from a single fine-scale grid rectangle (0.5° latitude by 1° longitude). In the event that a vessel moves from one fine-scale rectangle to another during the course of a month, then separate length compositions should be submitted for each rectangle.

3. In the case of data concerning the fishery referred to in Article 13(1)(d), a representative sample shall comprise not less than 500 fish.

4. At the end of each month Member States shall transmit the notifications received to the Commission, which shall forward them to the CCAMLR without delay.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 15

#### **Closure of a fishery on grounds of failure to submit a report**

Where the CCAMLR notifies a Member State that a fishery has been closed on account of failure to submit a report as referred to in Articles 13 and 14, the Member State concerned shall ensure that its vessels operating in that fishery cease fishing immediately.

## Section 3

### **Annual reporting of catches**

#### Article 16

#### **Total catch data**

1. Without prejudice to Article 15 of Regulation (EEC) No 2847/93, Member States shall notify the Commission, by 31 July each year, of the total catches for the preceding year taken by Community fishing vessels flying their flag, broken down by vessel.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 17

##### **Data for catches of crab in FAO Antarctic sub-area 48.3**

1. Community vessels fishing for crab in FAO Antarctic sub-area 48.3 shall forward to the Commission, by 25 September each year, data concerning fishing activities and the catches of crab taken before 31 August of that year.
2. The data concerning catches taken from 31 August each year shall be forwarded to the Commission within two months following the closure of the fishery.
3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 18

##### **Fine-scale catch and effort data for the exploratory squid fishery in FAO Antarctic sub-area 48.3**

1. Community vessels fishing for squid (*Martialia hyadesi*) using a jig in FAO Antarctic sub-area 48.3 shall forward to the Commission, by 25 September each year, the fine-scale catch and effort data for that fishery. The data shall include the numbers of seabirds and marine mammals of each species caught and released or killed.
2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### CHAPTER IV

##### **CONTROL AND INSPECTION AT SEA**

#### Article 19

##### **Scope**

This Chapter shall apply to Community fishing vessels and fishing vessels flying the flag of another Contracting Party to the Convention.

#### Article 20

##### **CCAMLR inspectors appointed by the Member States to carry out inspections at sea**

1. The Member States shall appoint CCAMLR inspectors who may be placed on board any Community fishing vessel or, by arrangement with another Contracting Party, on board a vessel of the latter, engaged in or about to be engaged in the harvesting of marine living resources or in scientific research activities related to fisheries resources in the Convention area.
2. CCAMLR inspectors shall inspect Community vessels in the Convention area for compliance with the applicable conservation measures adopted by the CCAMLR and any other Community conservation or control measures relating to fisheries resources applying to those vessels.

3. CCAMLR inspectors shall be familiar with the scientific research activities to be inspected, the provisions of the Convention and the conservation measures adopted under it. The Member States shall certify the qualifications of each inspector they appoint.

4. Inspectors shall be nationals of the Member State which designates them and, while carrying out inspection activities, shall be subject solely to the jurisdiction of that Member State. They shall be accorded the status of ship's officer while on board and shall be able to communicate in the language of the Flag State of the vessels on which they carry out their activities.

5. Each CCAMLR inspector shall carry an identity document approved or provided by the CCAMLR and issued by the Member State which makes the appointment. This document shall indicate that the inspector has been designated to carry out inspections in accordance with the CCAMLR observation and inspection system.

6. Member States shall forward the names of the inspectors they appoint, with a copy to the Commission, to the CCAMLR secretariat within 14 days of their appointment.

7. Member States shall cooperate with each other and with the Commission in the application of the system.

8. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 21

##### **Determining the activities that may be subject to inspection**

Research activities and the harvesting of marine living resources in the Convention area may be subject to inspection. These activities shall be presumed where a CCAMLR inspector finds that the activities of a fishing vessel meet one or more of the following four criteria and there is no information to the contrary:

- (a) fishing gear is in use, has recently been in use or is ready to be used, e.g.:
  - trawl nets and boards are rigged;
  - baited hooks, baited pots or traps or thawed bait are ready for use;
  - the log indicates recent fishing or fishing in progress;
- (b) fish which occur in the Convention area are being processed or have recently been processed, e.g.:
  - fresh fish or fish waste are present on board;
  - fish are being frozen;



- notes are present with operational or processing information;
- (c) fishing gear from the vessel is in the water, e.g.:
- fishing gear bears the vessel's markings;
  - fishing gear is identical with that on board the vessel;
  - the log indicates that gear is in the water;
- (d) fish (or their products) which occur in the Convention area are stowed on board.

#### Article 22

##### Marking of vessels carrying inspectors

1. Vessels carrying CCAMLR inspectors shall fly a special flag or pennant approved by the CCAMLR to indicate that the inspectors on board are carrying out inspection duties in accordance with the CCAMLR inspection system.
2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 23

##### Inspection procedures at sea

1. Any Community vessel present in the Convention area for the purpose of harvesting or conducting scientific research on marine living resources shall, when given the appropriate signal in the International Code of Signals in accordance with Article 22 above by a vessel carrying a CCAMLR inspector, stop or take other such actions as necessary to facilitate the safe and prompt transfer of the inspector to the vessel, unless the vessel is actively engaged in harvesting operations, in which case it shall do so as soon as practicable.
2. The master of the vessel shall permit the inspector, who may be accompanied by assistants, to board the vessel. On boarding a vessel, an inspector shall present the document described in Article 20(5). Inspectors shall be provided appropriate assistance by the master of the vessel in carrying out their duties, including access as necessary to communications equipment.
3. The inspection shall be carried out so that the vessel is subject to the minimum interference and inconvenience. Inquiries shall be limited to the ascertainment of facts in relation to compliance with the CCAMLR measures in effect for the flag State concerned.
4. Inspectors shall have the authority to inspect catches, nets and other fishing gear as well as harvesting and scientific research activities, and shall have access to records and reports of catch and location data insofar as necessary to carry out their functions. Inspectors may take photographs

and/or video footage as necessary to document any alleged breach of conservation measures in force adopted by the CCAMLR.

5. CCAMLR inspectors shall affix an identification mark approved by the CCAMLR to any net or other fishing gear which appears to have been used in breach of the conservation measures in force. They shall record this fact in the report referred to in Article 24.

6. Before leaving the vessel that has been inspected, the CCAMLR inspector shall give the master of that vessel a copy of the completed inspection report referred to in Article 24.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 24

##### Inspection report

1. Inspections at sea carried out in accordance with Article 23 shall be the subject of an inspection report drawn up as follows:
  - (a) CCAMLR inspectors shall report on any alleged breach of the conservation measures in force. Inspectors shall allow the master of the vessel being inspected to comment, on the inspection report form, about any aspect of the inspection;
  - (b) inspectors shall sign the inspection report form. The master of the inspected vessel shall be invited to sign the inspection report form to acknowledge receipt of the report.
2. The CCAMLR inspector shall provide a copy of the inspection form along with photographs and video footage to the designating Member State not later than 15 days following his/her return to port.
3. The Member State which appointed the CCAMLR inspector shall forward a copy of the inspection form not later than 15 days from its reception along with two copies of photographs and video footage to the CCAMLR. It shall also forward one copy of this material to the Commission not later than seven days from receipt together with any supplementary report or information that it would have transmitted subsequently to the CCAMLR regarding the inspection report.
4. Any Member State which receives an inspection report concerning a vessel flying its flag shall notify the Commission thereof without delay, enclosing a copy of any comments and/or observations it may have forwarded to the CCAMLR following receipt of the inspection report and, where appropriate, any supplementary report or information received later.
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## Article 25

**Infringement procedure**

1. If, as a result of inspection activities carried out in accordance with the CCAMLR inspection system, there is evidence of breach of the measures adopted under the Convention, the flag Member State shall take steps to prosecute and, if necessary, impose penalties.
2. The flag Member State shall, within fourteen days of the laying of charges or the initiation of proceedings, inform the CCAMLR and the Commission, and keep them informed of the progress of the proceedings and their outcome.
3. The flag Member State shall at least once a year report to the CCAMLR, in writing, about the outcome of the proceedings and the penalties imposed. If the proceedings have not been completed, a progress report shall be made. When proceedings have not been launched, or have been unsuccessful, the report shall contain an explanation. The flag Member State shall send a copy of the report to the Commission.
4. Penalties provided for by flag Member States in respect of infringements of CCAMLR conservation measures shall be sufficiently severe as to effectively ensure compliance with those measures and shall seek to deprive offenders of any economic benefit accruing from their illegal activities.
5. The flag Member State shall ensure that any of its vessels which have been found to have contravened a CCAMLR conservation measure do not carry out fishing operations within the Convention area until they have complied with the penalties imposed.
6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## CHAPTER V

**CONTROL AND INSPECTION IN PORT**

## Article 26

**Control and inspection in port**

1. Member States shall carry out checks on Community fishing vessels and on those flying the flag of another Contracting Party to the Convention which are intending to land or transship *Dissostichus* spp. at their ports.

The checks shall seek to establish that the catch to be landed or transhipped is accompanied by the catch document for *Dissostichus* required under Council Regulation (EC) No 1035/2001<sup>(1)</sup>, that it corresponds to the information contained in the document and, where the vessel has engaged in harvesting activities in the Convention area, that they are in compliance with the CCAMLR conservation measures.

2. To facilitate checks, the Member States shall require the vessels concerned to provide advance notice of their entry into

port and to declare in writing that they have not engaged in unlawful, unregulated and unreported fishing activities in the Convention area or have not provided support for activities of this type. Entry into port shall be refused, save in emergencies, to vessels which fail to declare that they have not taken part in unlawful, unregulated and unreported fishing activities or which fail to forward their declaration.

In the case of vessels authorised to enter port, the competent authorities in the port Member State shall carry out their checks as rapidly as possible and at the latest within 48 hours following entry into port.

Checks shall not unduly inconvenience vessels or crew, and shall comply with the relevant provisions of the CCAMLR inspection system.

3. Where there is evidence that the vessel has fished in breach of the CCAMLR conservation measures, the competent authorities in the port Member State shall not authorise the landing or transshipment of the catch.

The port Member State shall notify the flag Member State of the findings of the checks and cooperate with it in carrying out an investigation into the alleged breach and, where appropriate, applying the penalties provided for under national law.

4. Member States shall notify the CCAMLR at the earliest opportunity of any vessel covered by this Article to which access to port or authorisation to land or transship *Dissostichus* spp. has been refused. They shall transmit a copy of that information to the Commission at the same time.
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## CHAPTER VI

**CONTROL MEASURES APPLICABLE TO VESSELS OF A NON-CONTRACTING PARTY TO THE CONVENTION**

## Article 27

**Sighting at sea**

1. Any vessel of a Non-Contracting Party to the Convention sighted while engaging in fishing in the Convention area shall be presumed to have undermined the effectiveness of CCAMLR conservation measures. In the case of transshipment activities involving the participation of a vessel of a Non-Contracting Party sighted inside or outside the Convention area, the presumption that the effectiveness of the CCAMLR conservation measures has been undermined shall apply to any other vessel of Non-Contracting parties which was engaged in those activities with that vessel.

2. Member States shall transmit to the CCAMLR without delay reports of any such sightings, with a copy to the Commission.

<sup>(1)</sup> OJ L 145, 31.5.2001, p. 1.

3. A Member State which observes the vessel of a Non-Contracting Party shall seek to inform it that it has been observed engaging in fishing activities in the Convention area and, consequently, that it is presumed to have undermined the objective of the Convention, and also that this information will be notified to all Contracting Parties to the Convention and to the vessel's flag State.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

#### Article 28

### Prohibition of transshipment

Community fishing vessels shall not receive transshipments of fish from a non-Contracting Party vessel which has been sighted and reported as having engaged in fishing activities in the Convention area.

#### Article 29

### Inspection in port

1. The master of a non-Contracting Party vessel who wishes to enter a port in a Member State shall notify the competent authorities in that Member State at least 72 hours in advance of the estimated time of arrival there, the origin of the catch on board and, where appropriate, the vessel or vessels from which catches have been transhipped. The vessel may not enter the port unless the competent authorities of the relevant Member State have acknowledged receipt of the required prior notification.

2. Except for cases of *force majeure* or distress, non-Contracting Party vessels may only enter those ports which have been designated by the Member States for the purposes of this Regulation.

On the date on which this Regulation enters into force, Member States shall send the Commission a list of the ports designated for that purpose. They shall notify the Commission of any subsequent changes to that list. The Commission shall publish the list of ports and changes hereto in the C series of the *Official Journal of the European Communities*.

3. Member States shall ensure that each non-Contracting Party vessel as referred to in Article 27(1) which enters a designated port is inspected by their competent authorities and is prevented from landing or transshipping any catch until this inspection has been completed. Inspections shall cover, *inter alia*, the vessel documents, fishing log, fishing gear, species held on board and any other information, such as data from a VMS system, concerning the activities of the vessel in the Convention area.

4. When, in the course of an inspection pursuant to paragraph 3, a non-Contracting Party vessel is found to have species on board subject to CCAMLR conservation measures,

the landing and transshipment of those species shall be prohibited, unless the master of the vessel can show that the species were caught outside the Convention area, or in accordance with all the relevant conservation measures and the principles of the Convention.

5. The results of all inspections of vessels of non-Contracting Parties carried out at the Member States' ports and of any action that follows shall be transmitted without delay to the CCAMLR, with a copy to the Commission.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

## CHAPTER VII

### FINAL PROVISIONS

#### Article 30

### Implementation

The measures necessary for implementing Articles 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 20, 22, 23, 24, 25, 26, 27 and 29 shall be adopted in accordance with the management procedure referred to in Article 31(2).

#### Article 31

### Committee

1. The Commission shall be assisted by the Committee set up under Article 17 of Council Regulation (EEC) No 3760/92<sup>(1)</sup>.

2. Where reference is made to this paragraph, the management procedure provided for in Article 4 of Decision 1999/468/EC shall apply, subject to the provisions of Article 7 thereof.

3. The period referred to in Article 4(3) of Decision 1999/468/EEC shall be [one] month.

#### Article 32

### Repeal

Regulations (EEC) No 3943/1990, (EC) No 66/98, and (EC) No 1721/1999 are hereby repealed.

#### Article 33

### Entry into force

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Community*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

<sup>(1)</sup> OJ L 389, 31.12.1992, p. 1.