



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.06.1998
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98/0204 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

laying down certain control measures in respect of vessels flying the flag of Non-Contracting Parties to the Convention for the conservation of Antarctic Marine Living Resources

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), of which the Community and certain Member States are Contracting Parties, is the regional organisation responsible for fisheries management in Antarctica. This organisation adopted in November 1997 at its XVIth Annual Meeting a conservation measure designed to discourage the development of unregulated and illegal fishing in the CCAMLR Convention Area. In effect, in recent years CCAMLR has witnessed a massive expansion in these fisheries targeting the toothfish species (*dissostichus eleginoides*) with over 80 vessels sighted either fishing illegally in the EEZ's of CCAMLR Contracting Parties or unregulated activity in international waters of the Convention Area.

For a number of years, CCAMLR has pursued a policy of informing Non-Contracting Parties (NCP) where their vessels have been sighted active in the CCAMLR area. It has extended an invitation to those NCPs to adhere to the Convention and/or to abide by the conservation measures adopted by that organisation.

However, in a situation where the unregulated and/or illegal fishing has continued to expand, CCAMLR decided that it was necessary to adopt a Scheme to counteract this development which risks undermining the effectiveness of the conservation measures that CCAMLR has adopted. This Scheme foresees that, in the event that an NCP vessel is sighted active in the CCAMLR area, a mandatory inspection will be carried out on that vessel when it is voluntarily in the ports of Contracting Parties. There is a prohibition of landings and transshipments from this vessel if, in the course of such inspection, it is established that the catch has been taken in contravention of conservation and enforcement measures established by CCAMLR.

This conservation measure will become obligatory with effect from 11 May 1998, in the absence of objections by Contracting Parties.

The Commission proposes that the Council adopt this regulation.

PROPOSAL
FOR A COUNCIL REGULATION (EC) N° /98
of 1998

laying down certain control measures in respect of vessels flying the flag of Non-Contracting Parties to the Convention for the conservation of Antarctic Marine Living Resources

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ¹,

Having regard to the opinion of the European Parliament²,

Whereas the European Community is a Contracting Party to the Convention for the conservation of Antarctic Marine Living Resources, hereafter referred to as the "CCAMLR Convention"³;

Whereas the CCAMLR Convention provides a suitable framework for regional cooperation in the conservation and management of marine living resources through *inter alia* the setting up of a Commission of the Conservation of Antarctic Marine Living Resources, hereafter referred to as "CCAMLR" and the adoption of proposals for conservation and enforcement measures for the marine living resources of the CCAMLR Convention Area, which become binding upon Contracting Parties.

Whereas the practice of operating fishing vessels under the flag of Non-Contracting Parties to CCAMLR as a means of avoiding compliance with conservation and enforcement measures established by CCAMLR remains one of the factors which seriously undermines the effectiveness of such measures and should, therefore, be discouraged;

Whereas CCAMLR has consistently invited the Non-Contracting Parties concerned to either become a member of CCAMLR Convention or to agree to apply the conservation and enforcement measures established by CCAMLR with a view to fulfilling their responsibilities with regard to fishing vessels flying their flag;

¹
²
³ OJ L 252, 5.9.1981, p. 26

Whereas at its XVI Annual Meeting held from 27 October to 7 November 1997, CCAMLR adopted a conservation measure on a "Scheme to Promote Compliance by Non-Contracting Party Vessels with CCAMLR Conservation Measures", the objective of which is to ensure that the effectiveness of conservation and enforcement measures established by CCAMLR is not undermined by Non-Contracting Party vessels,

Whereas this Scheme provides, *inter alia*, for the mandatory inspection of Non-Contracting Party vessels when such vessels are voluntarily in the ports of Contracting Parties, a prohibition of landings and transshipments if, in the course of such inspection, it is established that the catch has been taken in contravention of conservation and enforcement measures established by CCAMLR as well as certain other collateral measures to be taken by Contracting Parties;

Whereas this conservation measure will become obligatory for all Contracting Parties with effect from 11 May 1998 and therefore that it is necessary for the Community to implement it;

Whereas, under the Treaty, the authority over internal waters and ports is exercised by the Member States; whereas, however, as regards access to port facilities in the Community by non-Contracting Party vessels which have been sighted engaging in fishing activities in the Convention Area, it is necessary to enact additional uniform measures at Community level so that the operations of such vessels in Community ports are regulated in order to ensure the effectiveness of the conservation and enforcement measures established by CCAMLR;

HAS ADOPTED THIS REGULATION

Article 1

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

- i) "*fishing activities*" : fishing, fish processing operations, the transshipment of fish or fish products, and any other activity in preparation for or related to fishing in the Convention Area;
- ii) "*Non-Contracting Party vessel*" : a vessel which flies the flag of a Non-Contracting Party to CCAMLR and which has been sighted engaging in fishing activities in the Convention Area;
- iii) "*sighting*" : any observation of a Non-Contracting Party vessel made by a fishing vessel flying the flag of a Contracting Party to CCAMLR and operating in the Convention Area, or by an inspector of the fishery control services of the Contracting Parties assigned to the CCAMLR Inspection System.

The report on a sighting shall in particular comprise information regarding the identification of the vessel, the type of activity the vessel is engaged in and its geographical position.

Article 2

Upon receipt of a report of a sighting by a Community fishing vessel or a Community inspector assigned to the CCAMLR Inspection System, the Commission shall transmit this information without delay to the CCAMLR and, where possible, to the sighted Non-Contracting Party vessel and its Flag State.

Article 3

The Commission shall communicate to all Member States without delay each report on a sighting, which it has received pursuant to Article 2 or by way of a notification from the Secretariat of CCAMLR or another Contracting Party.

Article 4

Community fishing vessels shall not receive transshipments of fish from a Non-Contracting Party vessel.

Article 5

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 transshipped. 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.

3. On the date on which this Regulation enters into force, Member States shall send the Commission a list of the ports referred to in paragraph 2. 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"*.

Article 6

1. Member States shall ensure that each Non-Contracting Party vessel which enters a designated port is inspected by their competent authorities. The vessel may not land or transship any catch until this inspection has been completed.
2. When, in the course of such an inspection, the competent authorities find that the Non-Contracting Party vessel has on board any of the species subject to CCAMLR Conservation Measures, the relevant Member State shall prohibit the landing and/or the transshipment of these species.
3. However, this prohibition shall not apply in the event that the master of the inspected Non-Contracting Party vessel proves to the satisfaction of the competent authorities of the relevant Member State that
 - species retained on board were caught outside the CCAMLR Convention Area; or
 - species retained on board were caught in accordance with the relevant CCAMLR Conservation Measures and requirements under the Convention.

Article 7

Member States shall communicate without delay to the Commission the results of each inspection and, where appropriate, any subsequent prohibition of landings and/or transshipments that was applied as a result of the inspection.

The Commission shall transmit this information without delay to the Secretariat of CCAMLR and as soon as possible to the flag State of the inspected Non-Contracting Party vessel.

Article 8

This Regulation shall enter into force seven days after its publication in the *Official Journal of the European Communities*.

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

Done at

For the Council
The President

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DOCUMENTS

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