

Proposal for a Council Regulation amending Regulation (EC) No 1035/2001 establishing a catch documentation scheme for *Dissostichus* spp.

(2002/C 291 E/13)

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(Submitted by the Commission on 24 July 2002)

EXPLANATORY MEMORANDUM

The Commission for the Conservation of the Antarctic Marine Living Resources (CCAMLR) adopted a Catch Documentation Scheme for *Dissostichus* spp. at its twentieth Annual Meeting in November 1999. The intention with the scheme is to improve monitoring of international trade of *Dissostichus* spp. and to identify the origins of all species imported into or exported from the territories of CCAMLR Contracting Parties. The scheme also makes it possible to determine if *Dissostichus* spp. have been harvested in the Convention Area in a manner consistent with the CCAMLR Conservation measures and to collect catch data in order to facilitate the scientific evaluation of stocks. The scheme applies on all catches of *Dissostichus* spp., regardless if they are taken inside or outside the Convention Area of CCAMLR.

The scheme was implemented into Community law by Council Regulation (EC) No 1035/2001 of 22 May 2001 establishing a Catch Documentation Scheme for *Dissostichus* spp.

At its twentieth Annual Meeting held in November 2001, CCAMLR adopted a number of amendments to improve the functioning of the scheme, in particular to combat misreporting of catches. Catch figures from the entry into force of the scheme had showed a drastic increase of catches taken outside the Convention Area (some 30 000 tonnes compared to some 11 000 tonnes in previous years), especially from FAO Statistical Area 51 in the South West Indian Ocean. The Scientific Committee of CCAMLR found it highly unlikely that *Dissostichus* spp. could be found in Area 51 and concluded that practically all catches declared in this Area represented illegal fishing in the Convention Area.

Conscious that the Catch Documentation Scheme were in fact used to launder illegal catches taken in the Convention Area, CCAMLR decided to strengthen the verification requirements by the use of data reports derived from an automated satellite-linked Vessel Monitoring System (VMS). CCAMLR also introduced a possibility for all States participating in the scheme to request an additional verification by the flag state when *Dissostichus* spp. had been declared as having been caught on the high seas outside the Convention Area. Coupled with this last measure is a resolution urging all States to prohibit such landings and imports if the flag state fails to demonstrate that it verified such a catch document with the use of VMS data. This resolution was proposed by France (on behalf of its overseas territories) and supported by the Community and should, therefore, despite not being a binding legal instrument, also be implemented into Community law.

Other important amendments include the introduction of a procedure to deal with the sale or disposal of seized and confiscated catches and improved export control. Certain technical amendments were also made in the catch document to clarify flag and port state responsibilities and certification declarations. Finally, some minor amendments have been introduced to improve the functioning of the system at Community level.

The Commission proposes that the Council adopt this 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) Council Regulation (EC) No 1035/2001 of 22 May establishing a catch documentation scheme for *Dissostichus* spp. implements the catch documentation scheme adopted by the Commission for the conservation of antarctic marine living resources, hereinafter referred to as 'CCAMLR', at its eighteenth Annual Meeting in November 1999.
- (2) At its twentieth Annual Meeting in November 2001, the CCAMLR adopted a number of amendments to the scheme in order to, *inter alia*, combat misreporting and improve export control and introduced a procedure to deal with the sale or disposal of seized and confiscated catches.
- (3) Regulation (EC) No 1035/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1035/2001 is amended as follows:

1. Article 2 is replaced by the following:

'Scope

1. This Regulation shall apply to all *Dissostichus* spp. falling within TARIC codes 0302 69 88 10, 0302 69 88 20, 0302 69 88 30, 0302 69 88 40, 0302 69 88 90, 0303 79 88 10, 0303 79 88 20, 0303 79 88 30, 0303 79 88 40, 0303 79 88 90 and 0304 20 88 00:

- (a) landed or transhipped by Community fishing vessels; or
- (b) imported into, or exported or re-exported from the Community;

2. This Regulation shall not apply to by-catches of *Dissostichus* spp. taken by trawlers fishing on the high seas outside the CCAMLR area.

For the purpose of this paragraph a by-catch of *Dissostichus* spp. means a quantity of *Dissostichus* spp. repre-

senting no more than 5 % of the total catch of all species and no more than 50 tonnes for an entire fishing trip by a vessel.

3. Subparagraph 2 of paragraph 2 may be amended to apply CCAMLR conservation measures which become obligatory for the Community, in accordance with the procedure laid down in Article 25(3).'

2. In Article 9, paragraph 1 is replaced by the following:

'After having verified, by the use of data reports obtained through an automated satellite-linked Vessel Monitoring System (VMS), that the area fished and the catch to be landed or transhipped as reported by its vessel is accurately recorded and consistent with its authorisation to fish, the Flag Member State shall convey a confirmation number to the master by the most rapid electronic means.

The master shall enter the confirmation number on the catch document'.

3. Article 13 is replaced by the following:

'Article 13

1. Member States shall take the measures necessary to identify the origin of all *Dissostichus* spp. imported into or exported from their territory and to determine whether the *Dissostichus* spp. harvested in the CCAMLR area was caught in a manner consistent with the CCAMLR conservation measures.

2. If a Member State has reasons to believe that landings or imports of *Dissostichus* spp. declared as having been caught on the high seas outside the CCAMLR area consist in actual fact of *Dissostichus* spp. caught in the CCAMLR area, the Member State shall request the Flag State to carry out an additional verification of the catch document by the use of, *inter alia*, data reports provided through an automated satellite-linked VMS.

If the Flag State despite this request fails to demonstrate that the catch document was verified with the use of VMS data, the catch document shall be considered as void ab initio and the importation and exportation of the *Dissostichus* spp. shall be prohibited.

3. Member States shall, without delay, inform the Commission and other Member States of any instance where the results of the additional verification referred to in paragraph 2 indicate that the catches were not caught in a manner consistent with the CCAMLR conservation measures and of the measures taken by the Member State in this regard.'

4. Article 15 is replaced by the following:

'Article 15

1. Member States shall take all necessary measures to ensure that each shipment of *Dissostichus* spp. imported into or exported from their territory is accompanied by the export-validated or re-export-validated catch document or documents corresponding to the total quantity of *Dissostichus* spp. contained in the shipment.

2. Member States shall ensure that their customs authorities or other competent official agents request and examine the documentation of each shipment of *Dissostichus* spp. imported into or exported from their territory in order to verify that it includes the export-validated or re-export-validated catch document or the documents corresponding to the total quantity of *Dissostichus* spp. contained in the shipment. These authorities or agents may also examine the content of any shipment in order to verify the information contained in the catch document or documents.

3. Member States shall inform the Commission of any instance where the results of the verifications referred to in paragraphs 1 and 2 indicate that the documentation requirements set out in this Regulation have not been met.

4. An export-validated *Dissostichus* spp. catch document is one that:

- (a) includes all the information specified in Annex I and all the necessary signatures; and
- (b) includes a certificate signed and stamped by an official agent of the exporting state, attesting to the accuracy of the information contained in the document.'

5. Article 17 is replaced by the following:

'Article 17

The importation and exportation of *Dissostichus* spp. is prohibited if the batch concerned is not accompanied by a catch document.'

6. Article 20 is replaced by the following:

'Article 20

1. The Flag Member State shall convey immediately to the CCAMLR Secretariat, by the most rapid electronic means available, and with a copy to the Commission, the copies referred to in Articles 10 and 12.

2. Member States shall immediately transmit to the Secretariat, by the most rapid electronic means available, and with a copy to the Commission, a copy of the export validated or re-export-validated catch documents as well as the documents referred to in Article 22a.'

7. Article 22 is replaced by the following:

'Article 22

By 15 March, 15 June, 15 September and 15 December of each year at the latest Member States shall report to the Commission data drawn from the catch documents on the origin, destination and quantity of *Dissostichus* spp. imported into or exported from their territory.

Each year the Commission shall forward the data concerning the origin and the quantity to the CCAMLR Secretariat.'

8. The following Chapter VIa is inserted:

'CHAPTER VIa

SALE OF SEIZED OR CONFISCATED FISH

Article 22a

If a Member State has cause to sell or dispose of seized or confiscated *Dissostichus* spp., it shall issue a specially validated catch document. This catch document shall include a statement specifying the reasons for that validation and describe the circumstances under which the seized or confiscated fish are moving into trade. Member States shall ensure that no financial benefit from the sale or disposal of this fish accrue to the perpetrators of the illegal fishing activities.'

9. In Article 24, the first paragraph is replaced by the following:

'The measures necessary for the implementation of Article 8(2)(d), Article 9, Article 10(3), Article 11, Article 12(3), Article 13(2) and Article 15 shall be adopted in accordance with the procedure referred to in Article 25 (2).'

10. Annex II is replaced by the text in the Annex to this to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of 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.

ANNEX

DISSOSTICHUS CATCH DOCUMENT							V 1.3
Document Number:						Flag State Confirmation Number	
PRODUCTION SECTION							
1. Issuing Authority of Document Name			Address			Tel. Fax	
2. Fishing Vessel Name			Home Port & Registration Number			Call Sign	IMO/Lloyd's Number (if issued)
3. Licence Number (if issued)				Fishing dates for catch under this document			
				4. From		5. To	
6. Description of Fish (Landed/Transhipped)					7. Description of Fish Sold		
Species	Type	Estimated Weight to be Landed (kg)	Area Caught	Verified Weight Landed (kg)	Net Weight Sold (kg)	Recipient name; address, telephone, fax and signature	
						Recipient Name:	
						Signature:	
						Address:	
						Tel:	
						Fax:	
Species: TOP <i>Dissostichus eleginoides</i> TOA <i>Dissostichus mawsoni</i> Type: WHO Whole; HAG Headed and Guttled; HAT Headed and tailed; FLT Filet; HGT Headed, gutted, tailed; OTH Other (specify)							
8. Landing/Transshipment Information: I certify that the above information is complete, true and correct to the best of my knowledge. If any <i>Dissostichus</i> spp. was taken in the Convention Area, I certify that it was caught in a manner: <input type="checkbox"/> (*) consistent with CCAMLR conservation measures <input type="checkbox"/> (*) not consistent with CCAMLR conservation measures							
Master of Fishing Vessel or Authorised Representative (print in block letters)			Signature and Date		Landing/Transshipment Port and Country/Area		Date of Landing/ Transshipment
9. Certificate of Transshipments. I certify that the above information is complete, true and correct to the best of my knowledge.							
Master of Receiving Vessel		Signature		Vessel Name		Call Sign	IIMO/Lloyds Number (if issued)
Transshipment within a Port Area: countersignature by Port Authority if appropriate.							
Name		Authority		Signature		Seal (Stamp)	
10. Certificate of Landing: I certify that the above information is complete, true and correct to the best of my knowledge.							
Name	Authority	Signature	Address	Tel.	Port of Landing	Date of Landing	Seal (Stamp)
11. EXPORT SECTION				12. Exporter Declaration: I certify that the above information is complete, true and correct to the best of my knowledge.			
Description of Fish			Name	Address		Signature	Export Licence (if issued)
Species	Product type	Net weight					
13. Export Government Authority Validation: I certify that the above information is complete, true and correct to the best of my knowledge.							
Name/Title		Signature		Date		Seal (Stamp)	
Country of export						Export reference number	
14. IMPORT SECTION							
Name of Importer			Address				
Point of Unloading:			City		State/Province		Country

(*) Tick if applicable.