



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 601/2004 of 22 March 2004 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

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Community has been a Contracting Party to the Convention on the conservation of Antarctic marine living resources since 1981. Conservation measures adopted under this Convention are binding upon Contracting Parties. It is therefore necessary 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 a set of rules regarding the monitoring of fishing activities. The arrangements for the control of fishing activities in the Convention area have been transposed into Community legislation by Council Regulation (EC) No 601/2004 of 22 March 2004.

This instrument needs to be updated to bring it into line with the amended rules adopted at the CCMLR annual meetings in 2004 and 2005 and with the Community system of catch and effort reporting. Some of the new measures have already been included, on a provisional basis, in the annual TAC and Quota Regulation for 2006. For those measures it is now necessary to create a more permanent basis in Community legislation.

Most of rules introduced since 2004 are aiming at enhancing the monitoring of the vessels, which are authorised to conduct fishing activities in CCAMLR waters, and to combat illegal, unregulated and unreported (IUU) fishing activities in the regulatory area. CCAMLR adopted many of these measures on the basis of proposals prepared by the Community, in cooperation with a number of other CCAMLR Parties. With the presentation of these proposals the Community continued its traditionally active role in fighting IUU fishing, which has become a serious threat for the vulnerable marine environment around the Antarctic Continent.

Other measures adopted in 2004 and 2005 include a prohibition of discharging various forms of waste in order to protect the environment and avoid incidental catches of seabirds. Furthermore, CCALMR decided to introduce a tagging programme with a view to improving the knowledge of the situation and the existing inter-linkages between various toothfish stocks in the Southern Ocean, which constitute the main species subject to commercial fishing activities.

The Commission proposes that the Council adopt the attached Regulation.

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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 Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Council Regulation (EC) No 601/2004 of 22 March 2004 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 implements certain conservation measures adopted by the Commission for the conservation of Antarctic marine living resources, hereinafter referred to as "CCAMLR".
- (2) At its twenty third and twenty fourth Annual Meeting in November 2004 and 2005, the CCAMLR adopted a number of amendments to the conservation measures in order to, *inter alia*, improve licensing requirements, protect the environment, enhance scientific research for *Dissostichus spp.* as well as to combat illegal fishing activities.
- (3) Regulation (EC) No 601/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 601/2004 is amended as follows:

1. Article 3, paragraph 2 is replaced by the following:

¹ OJ C ... p. ...

² OJ C ... p. ...

"The Member States shall transmit to the Commission, by computer transmission, within three days from the date of 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) type of vessel;
- (c) length;
- (d) vessel IMO number (if issued);
- (e) where and when it was built;
- (f) previous flag, if any;
- (g) international Radio Call Sign;
- (h) name and address of vessel's owner(s), and any beneficial owner(s), if known;
- (i) colour photographs of the vessel, which shall consist of:
 - (i) one photograph not smaller than 12 x 7 cm showing the starboard side of the vessel, displaying its full overall length and complete structural features;
 - (ii) one photograph not smaller than 12 x 7 cm showing the port side of the vessel, displaying its full overall length and complete structural features;
 - (iii) one photograph not smaller than 12 x 7 cm showing the stern, taken directly from astern;
- (j) the period for which it is authorised to fish in the Convention area, with the dates on which fishing activities start and end;
- (k) the fishing area or areas;
- (l) the target species;
- (m) the gear used;
- (n) measures taken to ensure tamper-proof operation of the satellite monitoring device installed on board.

Member States shall, to the extent practicable, also communicate to the Commission the following information relating to vessels authorised to fish in the Area of CCAMLR:

- (a) name and address of operator, if different from vessel owner(s);
- (b) names and nationality of master and, where relevant, of fishing master;
- (c) type of fishing method or methods;

- (d) beam (m);
- (e) gross registered tonnage;
- (f) vessel communication types and numbers (INMARSAT A, B and C numbers);
- (g) normal crew complement;
- (h) power of main engine or engines (kW);
- (i) carrying capacity (tonnes), number of fish holds and their capacity (m³);
- (j) any other information (e.g. ice classification) considered appropriate.

The Commission shall transmit such information to the CCAMLR Secretariat without delay.”

2. Article 4, paragraph 3 is replaced by the following:

"Member States shall verify the information referred to in paragraph 2 against data received through the VMS systems operating on board. They shall transmit this to the CCAMLR Secretariat by computer transmission within two days from the date of its receipt."

3. A new Article 7a shall be inserted. It shall read as follows:

*“Article 7a
Special requirements for exploratory fisheries*

Fishing vessels participating in exploratory fisheries shall be subject to the following additional requirements:

- (a) vessels shall be prohibited from discharging:
 - (i) oil or fuel products or oily residues into the sea, except as permitted in Annex I to MARPOL 73/78 (International Convention for the Prevention of Pollution from Ships);
 - (ii) garbage;
 - (iii) food wastes not capable of passing through a screen with openings no greater than 25 mm;
 - (iv) poultry or parts thereof (including egg shells);
 - (v) sewage within 12 nautical miles of land or ice shelves, or sewage while the ship is travelling at a speed of less than 4 knots; or
 - (vi) incineration ash.

- (b) no live poultry or other living birds shall be brought into Subareas 88.1 and 88.2 and any dressed poultry not consumed shall be removed from Subareas 88.1 and 88.2;
- (c) fishing for *Dissostichus spp.* in Subareas 88.1 and 88.2 shall be prohibited within 10 nautical miles of the coast of the Balleny Islands.”

4. A new Article 7b shall be inserted. It shall read as follows:

*“Article 7b
Tagging programme*

Each fishing vessel participating in the exploratory fisheries shall implement a tagging programme as follows:

- (a) *Dissostichus spp.* individuals shall be tagged and released at a rate of one individual per tonne of green weight catch throughout the season in accordance with the CCAMLR Tagging Protocol. Vessels shall only discontinue tagging after they have tagged 500 individuals, or leave the fishery having tagged one individual per tonne of green weight caught;
- (b) the programme shall target individuals of all sizes in order to meet the tagging requirement of one individual per one tonne of green weight catch. All released individuals shall be double-tagged and releases shall cover as broad a geographical area as possible;
- (c) all tags shall be clearly imprinted with a unique serial number and a return address so that the origin of tags can be retraced in the case of recapture of the tagged individual;
- (d) all recaptured tagged individuals (i.e. fish caught that have a previously inserted tag) shall not be re-released, even if it was at liberty for only a short period;
- (e) all recaptured tagged individuals shall be biologically sampled (length, weight, sex, gonad stage), an electronic photograph taken if possible, the otoliths recovered and the tag removed;
- (f) all relevant tag data and any data recording tag recaptures shall be reported electronically in the CCAMLR format to CCAMLR within three months of the vessel departing these fisheries;
- (g) all relevant tag data, any data recording tag recaptures, and specimens from recaptures shall also be reported electronically in the CCAMLR format to the relevant regional tag data repository as detailed in the CCAMLR Tagging Protocol.”

5. Article 9, paragraph 4 and 5 are replaced by the following:

"The Member States shall notify the CCAMLR, with a copy to the Commission, by computer transmission at the latest within three days from the date of the end of each

reporting period, of the catch and effort report transmitted by each fishing vessels flying their flag and registered in the Community. Each catch and effort report shall specify the reporting period of the catch concerned."

6. Article 13, paragraph 4 is replaced by the following:

"Member States shall transmit the data referred to in paragraphs 1, 2 and 3 to the CCAMLR at the end of each calendar month, with a copy to the Commission."

7. Article 14, paragraph 4 is replaced by the following:

"At the end of each month Member States shall transmit the notification received to the CCAMLR."

8. Article 16, paragraph 1 is replaced by the following:

"Without prejudice to Article 15 of Regulation (EEC) N° 2847/93, Member States shall notify the CCAMLR, 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, with a copy to the Commission."

9. Article 17, paragraph 2 is replaced by the following:

"Member States shall aggregate the fine-scale catch and effort data by 10 x 10 nautical mile rectangle and 10-day period, and transmit these data to the CCAMLR by latest 1 March each year, with a copy to the Commission."

10. Article 18, paragraph 1 is replaced by the following:

"Community fishing vessels fishing for crab in FAO statistical subarea 48.3 shall transmit to the CCAMLR, by 25 September each year, data concerning fishing activities and the catches of crab taken before 31 August of that year, with a copy to the Commission."

11. Article 18, paragraph 2 is replaced by the following:

"The data concerning catches taken from 31 August each year shall be transmitted to the CCAMLR within two months from the date of the closure of the fishery, with a copy to the Commission."

12. Article 19, paragraph 1 is replaced by the following:

"Community fishing vessels fishing for squid (*Martialia hyadesi*) in FAO statistical subarea 48.3 shall transmit to the CCAMLR, by 25 September each year, the fine-scale catch and effort data for that fishery, with a copy to the Commission."

13. Article 28, paragraph 1 is replaced by the following:

"For the purposes of this section, a Contracting Party vessel may be presumed to have carried out IUU activities that have undermined the effectiveness of the CCAMLR conservation measures where it has:

- (a) engaged in fishing activities in the Convention area without the special fishing permit referred to in Article 3 or, in the case of a vessel which is not a Community fishing vessel, a licence issued in accordance with the relevant CCAMLR conservation measures, or in violation of the conditions of such permit or licence;
- (b) failed to record or to declare its catches made in the Convention area in accordance with the reporting system applicable to the fisheries they engaged in, or made false declarations;
- (c) fished during closed fishing periods or in closed areas in contravention of CCAMLR conservation measures;
- (d) used prohibited gear in contravention of applicable CCAMLR conservation measures;
- (e) transhipped or participated in joint fishing operations with, supported or re-supplied vessels appearing on the CCAMLR IUU vessel list;
- (f) failed to provide a valid catch document for *Dissostichus spp.* when required under the provisions of Regulation (EC) No 1035/2001;
- (g) engaged in fishing activities contrary to any other CCAMLR conservation measures in a manner that undermines the attainment of the objectives of the Convention as set out in Article XXII of the Convention; or
- (h) engaged in fishing activities in waters adjacent to islands within the Convention area over which the existence of State sovereignty is recognised by all Contracting Parties in a manner that undermines the attainment of the objectives of the CCAMLR conservation measures.”

14. Article 30, paragraph 1 is replaced by the following:

“Member States shall take all necessary measures in accordance with national and Community law, in order that:

- (a) no special fishing permit referred to in Article 3 is issued to Community fishing vessels appearing in the IUU vessel list to fish in the Convention Area;
- (b) no licence or special fishing permit is issued to vessels appearing in the IUU vessel list to fish in waters under their sovereignty or jurisdiction;
- (c) their flag is not granted to vessels appearing in the IUU vessel list;
- (d) vessels appearing in the IUU vessel list that enter their ports voluntarily are inspected in port in accordance with Article 27;
- (e) importers, transporters, and other sectors concerned are encouraged to refrain from dealing with and from transhipping of fish caught by vessels in the IUU vessel list.”

15. Article 30, paragraph 2 is replaced by the following:

“The following activities shall be prohibited:

- (a) by derogation of Article 11 of Regulation (EEC) 2847/93, for Community fishing vessels, support vessels, mother-ships and cargo vessels, to participate in any transhipment or joint fishing operations with, support or re-supply vessels appearing on the IUU vessel list;
- (b) for vessels appearing in the IUU vessel list that enter ports voluntarily, to land or tranship therein;
- (c) to charter vessels appearing on the IUU vessel list;
- (d) to import, export, or re-export *Dissostichus spp.* from vessels appearing in the IUU vessel list.”

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels,

For the Council
The President