

**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

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 ⁽¹⁾,

Whereas:

- (1) The Convention on the conservation of Antarctic marine living resources, (Convention), was approved by the Community by Council Decision 81/691/EEC ⁽²⁾, 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 living resources through the establishment of a Commission for the conservation and management of Antarctic marine living resources, hereinafter (CCAMLR), and the adoption by the CCAMLR of conservation measures which become binding on the Contracting Parties.
- (3) The Community, as a Contracting Party to the Convention, should 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 ⁽³⁾, 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 ⁽⁴⁾, 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 ⁽⁵⁾, 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 ⁽⁶⁾.

- (6) With a view to implementing the new conservation measures adopted by the CCAMLR, those Regulations 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) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁷⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

1. This Regulation lays down general rules and conditions for the application by the Community of:

⁽¹⁾ Opinion delivered on 16.12.2003 (not yet published in the Official Journal).

⁽²⁾ OJ L 252, 5.9.1981, p. 26.

⁽³⁾ OJ L 261, 20.10.1993, p.1. Regulation as last amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

⁽⁴⁾ OJ L 379, 31.12.1990, p. 45.

⁽⁵⁾ OJ L 6, 10.1.1998, p.1. Regulation as last amended by Regulation (EC) No 2742/1999 (OJ L 341, 31.12.1999, p. 1).

⁽⁶⁾ OJ L 203, 3.8.1999, p. 14.

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23.

- (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, (Convention), operating in the Convention area in waters located beyond the limits of national jurisdictions;
- (b) a system to promote compliance by vessels flying the flag of a non-Contracting Party to the Convention with conservation measures laid down by the Commission for the conservation of Antarctic marine living resources, (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': means the area of application of the Convention as defined in Article 1 thereof;
- (b) 'Antarctic convergence': means 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 °W — 50 °S, 50 °W — 50 °S, 0°;
- (c) 'Community fishing vessel': means 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': means 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': means a fishery for a species using a particular fishing method in a FAO Antarctic statistical subarea, 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': means a fishery that was previously classified as a 'new fishery' as defined in paragraph (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 designated by a Contracting Party to the Convention to implementing the control system referred to in Article 1(1);
- (h) 'CCAMLR system of inspection': means 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': means 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) 'Contracting Party': means a contracting party to the Convention;
 - (k) 'Contracting Party vessel': means a fishing vessel which flies the flag of a Contracting Party to the Convention;
 - (l) 'sighting': means 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;
 - (m) 'IUU activities' means illegal, unregulated and unreported fishing activities in the Convention area;
 - (n) 'IUU vessel': means any vessel engaged in illegal, unregulated and unreported fishing activities in the Convention area.

CHAPTER II

ACCESS TO FISHING ACTIVITIES IN THE CONVENTION AREA

Article 3

Special fishing permit

1. Only Community fishing vessels holding a special fishing permit issued by their flag Member State in accordance with Regulation (EC) No 1627/94⁽¹⁾ shall be authorised, in accordance with the conditions laid down in the permit, to fish, retain on board, tranship and land fishery resources from the Convention area.

2. 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) 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 transmit such 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 of 30 September 1998 concerning the fishing vessel register of the Community⁽²⁾, together with details of 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 provided for in Articles 5, 6, 7 and 8.

5. Member States shall not issue a special fishing permit to vessels intending to engage in longline fisheries in the Convention area that do not comply with the provisions of Article 8(3), second subparagraph, of Council Regulation (EC) No 600/2004 of 22 March 2004 laying down certain technical measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources⁽³⁾.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

⁽¹⁾ OJ L 171, 6.7.1994, p. 7.

⁽²⁾ OJ L 266, 1.10.1998, p. 27. Regulation repealed by Regulation (EC) No 26/2004 (OJ L 5, 9.1.2004, p. 25).

⁽³⁾ See page 1 of this Official Journal.

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 statistical subareas and divisions.

3. Member States shall verify the information referred to in paragraph 2 against data received through the VMS systems operating on board Community fishing vessels. They shall transmit such information to the Commission by computer transmission within two days from the date of its receipt. The Commission shall transmit the information without delay to the CCAMLR 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 soon as possible, with a copy to the Commission, of the name of the vessel, and the time, 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

Access to crab fisheries

1. The flag Member States shall notify the Commission of the intention of a Community fishing vessel to fish for crab in FAO statistical subarea 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 10 working days from the date of notification of the findings. 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 37(2).

Article 6

Access to new fisheries

1. Fishing in a new fishery in the Convention area shall be prohibited except where it has been authorised in accordance with paragraphs 2 to 5.

2. Only those vessels that are equipped and configured so that they can comply with all relevant conservation measures adopted by the CCAMLR shall be eligible to participate in a new fishery. Vessels which appear on the CCAMLR IUU vessel list referred to in Article 29 shall not be eligible to participate in a new fishery.

3. The flag Member State 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, the proposed region and any minimum level of catches required to develop a viable fishery;
- (b) biological information from comprehensive research/survey cruises, such as distribution, abundance, population data and information on stock identity;
- (c) details of dependent and associated species and the likelihood of such species 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.

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

5. Where the CCAMLR approves a new fishery, that fishery shall be authorised:

- (a) by the Commission in cases where the CCAMLR has not adopted any conservation measure with regard to the new fishery, or
- (b) by the Council, acting by a qualified majority on a proposal from the Commission, in all other cases.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

Article 7

Access to exploratory fisheries

1. Exploratory fishery in the Convention area shall be prohibited except where it has been authorised in accordance with paragraphs 2 to 7.

2. Only vessels that are equipped and configured so that they can comply with all relevant conservation measures adopted by the CCAMLR shall be eligible for participation in an exploratory fishery.

Vessels which appear on the CCAMLR IUU vessel list referred to in Article 29 shall not be eligible to participate in an exploratory fishery.

3. 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 transmit directly to the CCAMLR before a date set by the CCAMLR, 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 are to 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 comprehensive research or survey cruises, such as distribution, abundance, population data, and information on stock identity;
- (d) details of dependent and related species and the likelihood of such species being adversely affected in any way at all 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.

4. 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 submitted to the CCAMLR for the most recent season in which fishing took place, continued exploratory fishing by the Member State which failed to submit its data shall be prohibited until the relevant data have been submitted to the CCAMLR, with a copy to the Commission, and the CCAMLR Scientific Committee has been given an opportunity to review the data.

5. 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 three months in advance of the annual meeting of the CCAMLR. The notifying Member State shall not authorise its vessels to participate in the exploratory fishery until the conclusion of that meeting.

6. 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 Secretariat, with a copy to the Commission, at least three months in advance of the date of the beginning of each fishing voyage.

7. 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).

8. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

Article 8

Access to scientific research

1. Member States whose vessels intend to conduct scientific research where the estimated catch is expected to be less than 50 tonnes of finfish, including not more than 10 tonnes of *Dissostichus* spp., and less than 0,1 % of a given catch limit for krill, squid and crab, 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 subarea in which the research is to be conducted;

- (d) the estimated dates of entering and leaving the 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 provided for in Article 9(6), and Article 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. or more than 0,1 % of a given catch limit for krill, squid and crab, shall submit to the CCAMLR for review, with a copy to the Commission, a research programme in accordance with standardised guidelines and formats adopted by the CCAMLR's Scientific Committee, at least six months in advance of the planned starting date for the research. The planned fishing for research purposes shall not proceed until the review process is completed by the CCAMLR and its decision notified.

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 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 date of completion of the research. A full report of the results of the research shall be provided to the CCAMLR by the Member State, with a copy to the Commission, within 12 months of the date of completion of the research.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

CHAPTER III

DATA 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 corresponding to the reporting periods as referred to in Articles 10, 11 and 12 for the different species and the FAO statistical areas, subareas 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 concerned;

- (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 within one day from the date of the end of the relevant reporting period referred to in Articles 10, 11 and 12.

4. The Member States shall notify 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 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 transmit to the CCAMLR, at the latest within five days from the date of 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, except where more specific regulations apply to the particular species.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(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. This system shall apply to:

- (a) the fishery for *Electrona carlsbergi* in FAO statistical subarea 48.3;
- (b) the fishery for *Euphausia superba* in FAO statistical area 48 and in FAO statistical 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 37(2).

Article 11

The 10-day catch and effort reporting system

1. For the purposes of the 10-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 one to day 10, day 11 to day 20 and day 21 to the last day of the month.

2. This system shall apply to:

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

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(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 one to day five, day six 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.

2. This system shall apply for each fishing season to:

- (a) the fishery for *Champscephalus gunnari* in FAO statistical sub-area 48.3;
- (b) the fishery for *Dissostichus eleginoides* in FAO statistical sub-areas 48.3 and 48.4;
- (c) the exploratory fisheries for *Dissostichus eleginoides* in all the Convention Area, by fine-scale rectangles as defined in Article 2(d) of Regulation (EC) No 600/2004.

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 37(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 transmit to the competent authorities of the Member State whose flag they fly, for each fishing season, by the 15th 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 following species and areas:

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

2. In the case of the fisheries referred to in paragraph 1, points (b) and (f), 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 the data referred to in paragraphs 1, 2 and 3 to the Commission at the end of each calendar month. The Commission shall transmit that 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 37(2).

*Article 14***Monthly fine-scale biological data reporting system**

1. Community fishing vessels shall transmit 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). Where a vessel moves from one fine-scale rectangle to another during the course of a month, separate length compositions shall 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 transmit 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 37(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 provided for in Articles 13 and 14, the Member State concerned shall ensure that its vessels participating 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 37(2).

*Article 17***Aggregated data for krill fisheries**

1. Community fishing vessels that have participated in krill fisheries in the Convention area shall transmit, by 1 January each year to the competent authorities of the Member State whose flag they fly, the fine-scale catch and effort data for the previous fishing season.
2. Member States shall aggregate the fine-scale catch and effort data by 10 × 10 nautical mile rectangle and 10-day period, and transmit these data to the Commission by latest 1 March each year.
3. For the purposes of the fine-scale catch and effort data, the calendar month shall be divided into three 10-day reporting periods: day one to day 10, day 11 to day 20 and day 21 to the last day of the month. These 10-day reporting periods shall be referred to as periods A, B and C.
4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

*Article 18***Data for catches of crab in FAO statistical subarea 48.3**

1. Community fishing vessels fishing for crab in FAO statistical subarea 48.3 shall transmit to the Commission, by 25 September each year, data concerning fishing activities and the

catches of crab taken before 31 August of that year. The Commission shall transmit these data to the CCAMLR by 30 September each year.

2. The data concerning catches taken from 31 August each year shall be transmitted to the Commission within two months from the date of the closure of the fishery. The Commission shall transmit these data to the CCAMLR no later than three 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 37(2).

*Article 19***Fine-scale catch and effort data for the exploratory squid fishery in FAO statistical subarea 48.3**

1. Community fishing vessels fishing for squid (*Martialia hyadesi*) in FAO statistical subarea 48.3 shall transmit 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. The Commission shall transmit these data to the CCAMLR by 30 September each year.
2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

CHAPTER IV

CONTROL AND INSPECTION

SECTION 1

CONTROL AND INSPECTION AT SEA

*Article 20***Scope**

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

*Article 21***CCAMLR inspectors designated by the Member States to carry out inspections at sea**

1. The Member States may designate 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 vessels flying the flag of a Contracting Party other than the Community and its Member States in the Convention area for compliance with the applic-

able conservation measures adopted by the CCAMLR and, in the case of Community fishing vessels, for compliance with any Community conservation or control measures relating to fisheries resources applying to those vessels.

3. CCAMLR inspectors shall be familiar with the fishing and 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 designate.
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 designating Member State. That 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 transmit the names of the inspectors they designate, with a copy to the Commission, to the CCAMLR Secretariat within 14 days of their designation.

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 37(2).

Article 22

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. Those 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, including:
 - (i) nets, lines or pots are in the water;
 - (ii) trawl nets and doors are rigged;
 - (iii) baited hooks, baited pots or traps or thawed bait are ready for use;
 - (iv) logbook indicates recent fishing or fishing commencing;
- (b) fish which occur in the Convention area are being processed or have recently been processed, including:
 - (i) fresh fish or fish waste are stowed on board;
 - (ii) fish are being frozen;
 - (iii) operational or product information is available in this respect;
- (c) fishing gear from the vessel is in the water, including:
 - (i) fishing gear bears the vessel's markings;
 - (ii) fishing gear matching that on board the vessel;
 - (iii) the logbook indicates that gear is in the water;
- (d) fish (or their products) which occur in the Convention area are stowed on board.

Article 23

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 37(2).

Article 24

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 by a vessel carrying a CCAMLR inspector, in accordance with Article 23, stop or take other such actions as necessary to facilitate the safe and prompt transfer of the inspector to the vessel, except where 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 referred to in Article 21(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 conservation measures applicable to 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 CCAMLR conservation measures in force.

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 CCAMLR conservation measures in force. They shall record this fact in the report referred to in Article 25(3) and (4).

6. If a vessel refuses to stop or otherwise facilitate transfer of an inspector, or if the master or crew of a vessel interferes with the authorised activities of an inspector, the inspector involved shall prepare a detailed report, including a full description of all the circumstances, and provide the report to the designating State to be transmitted in accordance with the relevant provisions of Article 25.

Interference with an inspector or failure to comply with reasonable requests made by an inspector in the performance of his duties shall be treated by the flag Member State as if the inspector were an inspector of that Member State.

The flag Member State shall report on actions taken under this paragraph in accordance with Article 26.

7. 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 25.

8. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

Article 25

Inspection report

1. Inspections at sea carried out in accordance with Article 24 shall be the subject of an inspection report in the form approved by the CCAMLR 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 together with photographs and video footage to the designating Member State not later than 15 days from the date of his return to port.

3. The designating Member State shall transmit a copy of the inspection form not later than 15 days from the date of its receipt, together with two copies of photographs and video footage to the CCAMLR.

The Member State shall also transmit one copy of the report together with copies of photographs and video footage to the Commission no later than seven days from the date of its receipt together with any supplementary report or information transmitted subsequently to the CCAMLR regarding the inspection report.

4. Any Member State which receives an inspection report or any supplementary reports or information, including reports under Article 24(6), concerning a vessel flying its flag shall transmit a copy to the CCAMLR and shall also transmit a copy to the Commission without delay, enclosing a copy of any comments and/or observations it may have transmitted to the CCAMLR following receipt of such reports or information.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

Article 26

Infringement procedure

1. Where, 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 ensure that appropriate measures are taken against the natural or legal persons responsible for the breach of the measures adopted under the Convention in accordance with Article 25 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾.

2. The flag Member State shall, within 14 days from the date of the laying of charges or the initiation of proceedings relating to a prosecution, 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 in writing to the CCAMLR, on the outcome of the proceedings as referred to in paragraph 1 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 transmit 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 to discourage infringements, 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.

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

SECTION 2

CONTROL AND INSPECTION IN PORT

Article 27

Control and inspection in port

1. Member States shall undertake inspection of all fishing vessels carrying *Dissostichus* spp. which enter their ports.

The inspections shall seek to establish that:

- (a) the catch to be landed or transhipped:
 - (i) is accompanied by the catch document for *Dissostichus* required under Council Regulation (EC) No 1035/2001 of 22 May 2001 establishing a catch documentation scheme for *Dissostichus* spp. ⁽¹⁾; and
 - (ii) it corresponds to the information contained in the document;
- (b) 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 the inspections, 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 or supported illegal, unregulated and unreported fishing activities in the Convention area. Entry into port shall

be refused, save in emergencies, to vessels which fail to declare that they have not taken part in illegal, unregulated and unreported fishing activities or which fail to make a declaration.

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

Inspections shall impose no undue burdens on the vessel or its crew, and shall be guided by the relevant provisions of the CCAMLR system of inspection.

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 transhipment of the catch.

The port Member State shall notify the flag State of its findings 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 referred to in paragraph 1 to which access to port or authorisation to land or tranship *Dissostichus* spp. has been refused. The Member States shall simultaneously transmit a copy of that information to the Commission.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

CHAPTER V

VESSELS ENGAGED IN ILLEGAL, UNREGULATED AND UNREPORTED (IUU) FISHING IN THE CONVENTION AREA

SECTION 1

CONTRACTING PARTY VESSELS

Article 28

IUU activities carried out by Contracting Party vessels

1. 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 vessels appearing on the CCAMLR IUU vessel list;

(f) 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

(g) 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.

⁽¹⁾ OJ L 145, 31.05.2001, p. 1. Regulation as amended by Regulation (EC) No 669/2003 (OJ L 97, 15.4.2003, p. 1).

2. In the case of Community fishing vessels, references to CCAMLR conservation measures in paragraph 1 shall be understood as references to the relevant provisions of Regulation (EC) No 600/2004, the provisions of Regulation (EC) No 1035/2001, or the provisions of the Regulation fixing each year the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required, implementing such measures.

Article 29

Identification of vessels engaged in IUU activities

1. Member States that obtain suitably documented information regarding vessels that fall under one or more of the criteria set out in Article 28, on the basis, *inter alia*, of the application of Articles 19 to 26, shall transmit this information to the Commission by latest 20 April, of the year following that in which the documented vessel activities have taken place.

The Commission shall immediately, and by latest 30 April, transmit to the CCAMLR the information received from Member States.

2. The Commission shall transmit to the Member States, immediately upon receipt from the CCAMLR, the draft list of Contracting Party vessels presumed to have carried out IUU activities.

The Member State or Member States whose vessels appear on the draft list shall transmit to the Commission by latest 1 June, their comments, as appropriate, including verifiable VMS data and other supporting information showing that the vessels listed have not engaged in fishing activities in contravention of CCAMLR conservation measures nor had the possibility of being engaged in fishing activities in the Convention area. The Commission shall transmit such comments and supplementary information to the CCAMLR by latest 30 June.

3. Upon receipt of the draft list referred to in paragraph 2, Member States shall monitor closely the vessels listed in order to track their activities and detect any possible change of name, flag or ownership thereof.

4. The Commission shall transmit to the Member States, immediately upon receipt from the CCAMLR, the list of Contracting Party vessels appearing in the provisional IUU vessel list. Member States shall submit to the Commission any additional comments or information regarding the listed vessels, at least two months in advance of the following

CCAMLR Annual Meeting. The Commission shall immediately transmit such additional comments and information to the CCAMLR.

5. The Commission shall notify member States each year the IUU vessel list adopted by the CCAMLR.

Article 30

Measures in respect of Contracting Party vessels

1. 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.

2. 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 transshipment or joint fishing operations with 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 *Dissostichus* spp. from vessels appearing in the IUU vessel list;

3. Member States shall not validate the export or re-export documents accompanying a shipment of *Dissostichus* spp. under the relevant provisions of Regulation (EC) 1035/2001 when the shipment concerned is declared to have been caught by any vessel included in the IUU vessel list.

4. The Commission shall collect and exchange with other Contracting Parties or cooperating non-Contracting Parties, entities or fishing entities, any appropriate information which is suitably documented with a view to detect, control and prevent the use of false import/export certificates regarding fish from vessels appearing in the IUU vessel list.

SECTION 2

NON-CONTRACTING PARTY VESSELS*Article 31***Measures in respect of Contracting Party nationals**

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

- (a) ensure that nationals subject to their jurisdiction do not support or engage in IUU fishing, including engagement on board vessels appearing in the IUU list referred to in Article 29;
- (b) identify those nationals who are the operators or beneficial owners of vessels involved in IUU fishing.

Member States shall ensure that penalties for IUU fishing applied to nationals under their jurisdiction are of sufficient severity to effectively prevent, deter and eliminate IUU fishing and to deprive offenders of the benefits accruing from such illegal activity.

*Article 32***IUU activities carried out by non-Contracting Party vessels**

1. A non-Contracting Party vessel which has been sighted engaging in fishing activities in the Convention area or which has been denied port access, landing or transshipment in accordance with Article 27 shall be presumed to have carried out IUU activities that have undermined the effectiveness of the CCAMLR conservation measures.

2. In the case of transshipment activities inside or outside the Convention area, involving the participation of a sighted non-Contracting Party vessel, the presumption that the effectiveness of the CCAMLR conservation measures has been undermined shall apply to any other non-Contracting Party vessel which was engaged in those activities with that vessel.

*Article 33***Inspection of non-Contracting Party vessels**

1. Member States shall ensure that each non-Contracting Party vessel as referred to in Article 32 that enters their ports is inspected by their competent authorities in accordance with Article 27.

2. Vessels inspected pursuant to paragraph 1 shall not be allowed to land or tranship any fish species subject to CCAMLR conservation measures which it may be holding on board except where the vessel establishes that the fish were caught in compliance with such measures and the requirements under the Convention.

*Article 34***Information on non-Contracting Party vessels**

1. A Member State which sights the non-Contracting Party vessel or denies it port access, landing or transshipment under Articles 32 and 33 shall attempt to inform the vessel that it is presumed to be undermining the objective of the Convention and that this information will be transmitted to all Contracting Parties, to CCAMLR, and to the flag State of the vessel.

2. Member States shall immediately transmit to the Commission the information regarding sightings, denial of port access, landings or transshipments, and the results of all inspections conducted in their ports, and any subsequent action they have taken in respect of the vessel concerned. The Commission shall transmit this information immediately to the CCAMLR.

3. Member States may at any time submit to the Commission for immediate transmission to CCAMLR any additional information, which may be relevant for the identification of non-Contracting Party vessels that might be carrying out IUU fishing activities in the Convention Area.

4. The Commission shall notify to the Member States each year the non-Contracting Party vessels appearing in the IUU vessel list adopted by CCAMLR.

*Article 35***Measures in respect of non-Contracting Party vessels**

Article 30(1), (2) and (3) shall apply *mutatis mutandis* to the non-Contracting Party vessels listed in the IUU vessel list referred to in Article 34(4).

CHAPTER VI

FINAL PROVISIONS

*Article 36***Implementation**

The measures necessary for implementing Articles 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 21, 23, 24, 25, 26, and 27 shall be adopted in accordance with the procedure referred to in Article 37(2).

*Article 37***Committee procedure**

1. The Commission shall be assisted by the Committee set up under Article 30 of Regulation (EC) No 2371/2002.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

*Article 38***Repeal**

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

2. References made to the repealed Regulations shall be construed as being made to this Regulation.

*Article 39***Entry into force**

This Regulation shall enter into force on the seventh 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, 22 March 2004.

For the Council

The President

J. WALSH
