

ILLEGAL, UNREPORTED AND UNREGULATED FISHING IN THE CONVENTION AREA

5.1 The Commission considered information provided by SCOI regarding IUU fishing in the Convention Area presented by the SCOI Chair, Ms F. Wong (New Zealand).

5.2 The Commission noted information presented by SCOI on the level of IUU fishing in the Convention Area (Annex 5, paragraphs 2.1 to 2.23) which, in particular, indicated that the estimated IUU total landings of toothfish at Port Louis, Mauritius, was 3 500 tonnes. Further information received by SCOI from Mauritius (SCOI-00/27), indicated that some 9 000 tonnes of *D. eleginoides* had been landed between January and October 2000, much of it (though not all) likely to be IUU, and largely from Area 58.

5.3 The extremely high level of seabird mortality was of great concern and, as a result of IUU longline fishing, the populations of several albatross and petrel species were facing significant decline (Annex 5, paragraph 2.4).

5.4 The Commission welcomed Chile's initiative to host the recent 'International Conference on Monitoring, Control and Surveillance of Fishing', which took place on 25 and 26 January 2000.

5.5 The Commission also noted that the deterrent effect of legal vessels in the Convention Area appeared to be insufficient, and the presence of control and surveillance vessels appeared to be a more reliable and effective deterrent. Several Members reported undertaking joint patrols or surveillance activity. The Commission also noted that SCOI had considered the sinking, with many casualties, of the IUU vessel *Amur* in the EEZ of the Kerguelen Island. The vessel was involved in IUU fishing. Two other vessels in close proximity, and suspected of IUU activities, refused to cooperate with the French rescue effort.

5.6 With regard to the information received from Mauritius, Australia queried whether the information relating to transshipment of *D. eleginoides* in Port Louis for the period January–October 2000 was complete. In particular, the question related to the submission of information on landings and transshipments as decided last year by the Commission (CCAMLR-XVIII, Annex 8, Attachment A); lack of information on landings by the Australian vessel (*Southern Champion*); the landing by the vessel *Castor* (ex-*Polar*, ex-*Salvora*), known for its IUU activities; and, in particular, the origin of catches apparently taken in the Convention Area.

5.7 The Observer from Mauritius described a procedure used for collecting information by the Port Louis authorities and agreed to consider whether more detailed information could be provided. He also invited the Secretariat to convey information about the format CCAMLR required for the submission of this information. He further clarified that during transshipment (vessel to vessel or vessel to storage) in Port Louis the catch remained the property of the vessel's owners/operators.

5.8 On another question from Australia about whether Mauritius could join CCAMLR in the implementation of the CDS, the Observer from Mauritius indicated that this was being considered. He also said that as a result of cooperation developed between Mauritius, Australia and France, landings in Port Louis are prohibited for any vessel when found that it had engaged in illegal fishing activities after inspection by either Mauritian or joint Mauritian and French inspectors. He drew the attention of the Commission to one such case.

5.9 Chile informed the Commission that new information had become available about the Government of Mauritius' decision to close Port Louis for landing *Dissostichus* spp. from vessels engaged in IUU fishing (an article in the Mauritian newspaper, *Le Mauricien*, on 30 October 2000). France advised that it was necessary for the Government of Mauritius to confirm this information.

5.10 The Commission noted that the Statement of the Acting Prime Minister of Mauritius received later during the meeting (CCAMLR-XIX/BG/45) confirmed the abovementioned development. In particular, the Statement listed the following options being considered by Mauritius:

- (i) acceding to the CCAMLR Convention;
- (ii) adopting CDS; and
- (iii) closing Port Louis to vessels suspected of being engaged in IUU fishing activities.

5.11 The Commission agreed that the Chair should send a letter to the Acting Prime Minister, expressing the Commission's satisfaction at the actions proposed by Mauritius to address the problems relating to the transshipment of IUU-related fish through Port Louis. The letter would express the desire of the Commission that Mauritius should come to positive decisions on the three proposed actions presented in the statement, and eventually accede to the Convention and become a Member of the Commission.

5.12 Australia observed the value of the diplomatic actions taken by Members on this issue. In urging Mauritius to participate in the CDS and close its ports to vessels involved in illegal fishing as soon as possible, as well as to accede to the Convention at the earliest possible opportunity, Australia noted its willingness to provide assistance to Mauritius on all these matters, including the assistance of the Australian diplomatic mission in Mauritius.

5.13 South Africa cautioned the Commission that with the expected reduction in the use of Mauritian ports by vessels involved in IUU trading, it should be noted that the vessels would be seeking to land their catches elsewhere. The Commission would need to remain vigilant to such possibilities and be prepared to take appropriate action next year.

5.14 The European Community made the following statement:

‘Now the authenticity of the Statement by the Acting Prime Minister of Mauritius on illegal fishing appears to have been established, the European Community welcomes the Government of Mauritius' intentions to take energetic actions and measures to tackle this problem. We further welcome the fact that the Government of Mauritius is seriously examining the three options as outlined in the Acting Prime Minister's Statement. We express the hope that the intended actions by the Government of Mauritius to combat illegal fishing will soon come to fruition.’

5.15 The Commission endorsed the recommendations of SCOI and:

- (i) expressed support for the ongoing work of FAO, the International Labour Organisation (ILO) and the International Maritime Organisation (IMO) on issues relating to the safety and welfare of the crews of fishing vessels (Annex 5,

paragraph 2.11);

- (ii) endorsed the idea that Members consider developing further cooperative surveillance arrangements to assist Members to take effective action in respect of activities which undermine the Convention (Annex 5, paragraph 2.16);
- (iii) noted the importance of concluding the work of the FAO Technical Consultation on Illegal, Unreported and Unregulated Fishing and encouraged all Members to participate in the work with a view to ensuring that a comprehensive and integrated approach be adopted globally to combat IUU fishing (Annex 5, paragraph 2.19); and
- (iv) decided to continue to reinforce its efforts to eliminate IUU fishing in the Convention Area (Annex 5, paragraph 2.21).

Catch Documentation Scheme for *Dissostichus* spp.

5.16 The Commission welcomed the informal deliberations among nine Members prior to the Commission meeting to consider modifications to the scheme in light of their experiences and thanked Australia for organising the meeting. The Commission agreed that the CDS had commenced in a promising manner, with signs that the scheme was proving useful in combating IUU fishing for *Dissostichus* spp. The Secretariat was commended for its excellent efforts in assisting Contracting Parties and non-Contracting Parties in the implementation of the scheme.

5.17 With respect to the operation of the CDS, Argentina made the following statement:

‘In relation to the operation of the Catch Documentation Scheme (CDS) in Subareas 48.3 and 48.4, the Argentine Delegation brings to the attention of the Commission that the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime zones are an integral part of the national territory of Argentina, they are illegally occupied by the United Kingdom of Great Britain and Northern Ireland, and they are the subject of a dispute on sovereignty between both countries.

This situation has been recognised by the United Nations in numerous resolutions of the General Assembly in which the parties are requested to recommence negotiations so as to find, as soon as possible, a peaceful and definite solution to the controversy. The Special Committee for Decolonisation has expressed itself in similar terms adopting its last resolution on 11 July 2000.

The Republic of Argentina does not recognise the existence of a Government of the Malvinas Islands and, in particular, it does not recognise the existence of an alleged ‘Fisheries Department’ of these islands and denies the British alleged right to register vessels of its flag in the Malvinas Islands.

Therefore, the Republic of Argentina does not accept that vessels registered in the Malvinas Islands carry out fishing in the waters of the Convention, nor that a so-called Department of Fisheries of the Malvinas Islands can appear as a national authority and contact point for the CDS.’

5.18 In response, the UK made the following statement:

‘In relation to the discussion of revisions to Conservation Measure 170/XVIII on the CDS, Argentina restated its well-known positions with regard to sovereignty over the Falkland Islands and South Georgia and the South Sandwich Islands.

As we indicated last year (paragraph 13.4 of the Report of CCAMLR-XVIII) reference to sovereignty of the Falkland Islands and South Georgia and the South Sandwich Islands, is unlikely to be conducive to the work of this Commission.

Nevertheless, Mr Chairman, since Argentina has raised the matter yet again, we must repeat that the British Government has no doubt about its sovereignty over the Falkland Islands and South Georgia and the South Sandwich Islands.

As the Territorial sovereign the United Kingdom has the right to establish a shipping register in the Falkland Islands and to authorise vessels on that register to fish in the CCAMLR area.’

5.19 In reply, Argentina made the following statement:

‘The Delegation of Argentina does not share the statement made by the UK and reiterates its position as was expressed in the declaration made previously when dealing with the Catch Documentation Scheme. With regard to this, it recalls that the UK is not a Coastal State in the southwest Atlantic nor in the Convention Area.

The Delegation of Argentina reserves its right to further develop this statement at a later stage.’

5.20 The Commission endorsed the recommendations of SCOI and:

- (i) urged those Contracting Parties and non-Contracting Parties which had not yet implemented the CDS to do so as soon as possible (Annex 5, paragraph 2.24);
- (ii) accorded priority to further review of the operation of the CDS, including establishing an intersessional open-ended contact group to address the issues identified by correspondence, and possibly convening an informal ad hoc group (Annex 5, paragraph 2.34);
- (iii) adopted the following (Annex 5, paragraph 2.35):

- (a) amended Conservation Measure 170/XIX and the Explanatory Memorandum;
- (b) Resolution 14/XIX ‘Implementation by Acceding States and Non-Contracting Parties’; and
- (c) Resolution 15/XIX ‘Use of Ports Not Implementing the CDS’.

5.21 Texts of the adopted Conservation Measure 170/XIX, Resolutions 14/XIX and 15/XIX are contained in Annex 6 ‘Conservation Measures adopted at CCAMLR-XIX’. The revised Explanatory Memorandum is contained in Annex 5, Appendix III.

5.22 With respect to the revised Conservation Measures 147/XIX and 170/XIX and the Exploratory Memorandum, Argentina made the following statement:

‘Argentina stated that with respect to the application of Conservation Measures 147/XIX and 170/XIX, which Argentina strongly supports, it expressly reserves its sovereignty rights over the Falkland/Malvinas, South Georgia and the South Sandwich Islands and the surrounding waters. In this regard the Argentine Government reserves its right to expand this declaration further at a later stage. This statement applies also to the Explanatory Memorandum. This has no mandatory character and is not to be used for any interpretation of Conservation Measure 170/XIX.’

Rules for Access to CDS Data

5.23 The Commission approved the following Rules for Access to CDS Data developed by SCOI (Annex 5, paragraph 2.39):

Contracting Parties

1. Access to CDS data by Contracting Parties shall generally be managed in accordance with the Rules for Access and Use of CCAMLR Data, set out in the latest edition of *Basic Documents*. National CDS contact officers and other authorised persons will have access to all CDS data, including *Dissostichus* catch documents (DCDs) via the website and other means. Authorised CDS persons will have access to data from the DCDs needed for the purpose of implementing the CDS.
2. All data concerning the landing and trade details of individual companies shall be aggregated, or encrypted, as appropriate, to protect the confidentiality of such information before it is made available to working groups of the Commission or Scientific Committee. The Commission also took into account the advice of SCOI that in considering the required Rules for Access of the Scientific Committee to CDS Data, the Commission should take into account the objectives of the data use, conditions for its release and its format (Annex 5, paragraph 2.43).

Non-Contracting Parties

3. Non-Contracting Parties shall be given only limited access to data in order to validate individual shipments (both to that country, and from that country). Further access shall not be provided and password-protected access and other precautions shall be taken as appropriate. Non-Contracting Parties should advise the Secretariat of their national CDS contact point(s) before any access to CDS information is granted.

5.24 The Commission considered further Draft Resolution/Conservation Measure ‘Sale of Seized or Confiscated *Dissostichus* spp.’ (Annex 5, Appendix IV).

5.25 The Commission discussed the difficulties experienced by some Members which, in the course of legal action, had seized or confiscated a catch or shipment of *Dissostichus* spp. and wished to export it to another country. Some options for providing a validated DCD were discussed.

5.26 The Commission agreed that if a State participating in the CDS has cause to sell or dispose of a catch or shipment, it may grant a validated DCD specifying the reasons for that validation. That State would immediately report all such validations to the Secretariat for conveying to all Parties and, as appropriate, recording in trade statistics.

5.27 Members were requested to consider this issue intersessionally with a view to further discussing it at CCAMLR-XX.

5.28 The Commission also considered a proposal that Parties could transfer into a special fund established by the Secretariat, or a national fund whose purposes are consistent with the objectives of the Convention, proceeds from the sale of a catch or shipment of *Dissostichus* spp. sold in the course of legal action.

5.29 While there was no agreement on a conservation measure or resolution, the Commission agreed that if a Contracting Party grants a validated DCD in the course of legal action which results in the sale of a catch or shipment of forfeited *Dissostichus* spp. products, after deducting from the proceeds a reasonable amount to compensate it for its costs of the sale, the legal action and any unpaid fine, the Contracting Party, to the extent its domestic legislation allows, may transfer the net proceeds to the Secretariat for payment into the fund established by the Secretariat or into a national fund whose purposes are consistent with the objectives of the Convention.

5.30 For this purpose, the Secretariat would establish a separate trust fund to be called the ‘CDS Fund’. The Secretariat would invest and administer the fund solely in accordance with the directions of the Commission. The purposes of the fund would be decided by the Commission from time to time.

5.31 Members were requested to consider this intersessionally with a view to further discussing it at CCAMLR-XX.

5.32 The Commission considered further Draft Conservation Measure ‘Application of VMS’ (Annex 5, Appendix IV) and adopted Resolution 16/XIX ‘Application of VMS in the Catch Documentation Scheme’ (paragraph 9.69).

Implementation of Other Measures aimed at the Elimination of IUU Fishing

Cooperation with Non-Contracting Parties and the Provision of Landing and Trade Statistics

5.33 From the information provided to SCOI, the Commission noted that several of the vessels involved in IUU fishing were flagged in Belize or Panama. The Commission also noted correspondence between the Secretariat and Belize and Panama with respect to their flag vessels sighted fishing in the Convention Area or reported as landing *Dissostichus* spp. in ports of other non-Contracting Parties (Annex 5, paragraphs 2.44 to 2.47).

5.34 The Commission endorsed SCOI's request that the Secretariat obtain from Panama a list of vessels licensed to fish on the high seas (Annex 5, paragraph 2.48) and agreed to remain in contact with Panama.

5.35 The Commission welcomed Namibia's efforts to convey information about landings of *Dissostichus* spp. at Walvis Bay, although it was noted that information on landings was not provided in the standard format agreed by the Commission last year. Nevertheless, Members of the Commission agreed to investigate further the information conveyed by Namibia.

5.36 The Commission expressed its particular concerns about any possible IUU fishing activity by vessels flagged in Member States landing in Namibian ports (Annex 5, paragraphs 2.54 to 2.56).

5.37 The Commission congratulated Namibia on its efforts, which had led to the effective shutting down of Walvis Bay as a port for IUU fishing activity within the Convention Area. The Commission also took into account advice from Namibia, a Contracting Party to CCAMLR, of its immediate plans to apply for Commission membership and to implement the CDS.

5.38 The Commission welcomed Mauritius' efforts in submitting information on landings. The Commission agreed that the information submitted by Mauritius indicated a high level of vessels likely to be engaged in IUU-related activities in its ports (see also paragraphs 5.6 and 5.7).

5.39 The Commission approved SCOI's request that the Secretariat, in cooperation with Members, collect all available information on vessels reportedly active in the Convention Area and that Members provide the Secretariat with the names and contact points of their national fisheries monitoring control and surveillance authority to assist exchanges, especially where rapid responses were needed to deal with possible IUU fishing, or other fisheries enforcement incidents (Annex 5, paragraphs 2.61 to 2.63).

5.40 As recommended by SCOI, the Commission considered further a proposal by Norway to the effect that Members should avoid flagging a vessel or issuing it a licence to fish within national waters, where the vessel had been prohibited from landing or transshipping fish pursuant to paragraphs 5 and 6 of the scheme in Conservation Measure 118/XVII (Annex 5, paragraphs 2.64 and 2.65).

5.41 Norway prepared a revised proposal submitted in the form of a draft resolution. After consultation, the Commission adopted Resolution 13/XIX 'Flagging and Licensing of Non-Contracting Party Vessels' (paragraph 9.69).

5.42 The European Community made the following statement:

'Negotiations within FAO on the International Plan of Action to prevent, deter and eliminate IUU fishing are continuing. The European Community is engaged in the process and remains committed to it. We urge other parties to engage constructively in this process also.

We have, over the years, demonstrated our commitment to the objectives of CCAMLR. Like other Members, the European Community strives to move the CCAMLR process forward. To make a constructive contribution to this, the European Community has decided to support the resolution put forward by Norway with the amendment of the text proposed by the USA.'

5.43 Australia made the following statement:

'Australia can support the proposed resolution on the basis that it recognises that there may be some circumstances, for example, where there is a genuine change in beneficial ownership of the vessel, where a Contracting Party may wish to flag or license a non-Contracting Party vessel.'

5.44 Norway made the following statement:

'We are grateful for the support to our proposal just adopted.

We appreciate in particular the flexibility of the Delegation of the European Community in obtaining new instructions from Brussels. We also appreciate the flexibility of the Delegation of Australia by not insisting on their amendments to the text. Norway strongly believes that the additional measure we have just adopted is an effective way of dealing with IUU fishing. It is recognised that there is a huge over-capacity in the world fishing fleet and the Contracting Parties of CCAMLR are now sending a strong signal to the poachers in the Southern Ocean that there is really no place for these IUU vessels in global fisheries.

The decision just taken is also important for the prestige and standing of CCAMLR as a forum for cooperation. Once again this Commission has demonstrated a capacity to be in the forefront of international measures against IUU fishing and poachers under flags of convenience.

Our Delegation hopes that all Contracting Parties of CCAMLR, based on our decision today, can take appropriate domestic action regarding flagging and licensing of non-Contracting Party vessels, and we would suggest that this item is put on the agenda for our next meeting.'

5.45 The Commission requested that the Secretariat maintain a list of vessels with a history of involvement in IUU fishing and make it available to all Parties.

5.46 The Commission endorsed the recommendations of SCOI (Annex 5, paragraphs 2.51, 2.60 and 2.63) and:

- (i) encouraged all Members to continue the practice of making diplomatic demarches to States which had not acceded to CCAMLR to join CCAMLR in its efforts to eliminate IUU fishing in the Convention Area, and to the extent possible contact Australia in respect of such activities. Australia, in its role as depositary, agreed to coordinate future demarches;
- (ii) noted the resolution adopted at SATCM-XII urging Parties to the Antarctic Treaty which are not Contracting Parties to CCAMLR to implement the CDS; and
- (iii) requested Members to provide the Secretariat with the names and contact points of their national fisheries monitoring control and surveillance authority to assist exchanges, especially where rapid responses were needed to deal with possible IUU or other fisheries enforcement incidents.