

ILLEGAL, UNREPORTED AND UNREGULATED FISHING IN THE CONVENTION AREA

5.1 During the meeting of SCOI, the Chair of the Scientific Committee had conveyed preliminary advice on matters relating to IUU fishing activities. SCOI considered the advice received and took it into consideration (Annex 5, paragraphs 2.57 to 2.62).

5.2 At the meeting of the Commission, the Chair of the Scientific Committee reaffirmed advice of the Committee on the estimated level of IUU catches taken from the Convention Area. The estimation was carried out by WG-FSA and CDS data were extensively used.

5.3 The estimated IUU catch for all areas of the Convention Area in the 2000/01 split-year was 7 599 tonnes, compared with 6 546 tonnes in 1999/2000 and 4 913 tonnes in 1998/99. When added to 30 152 tonnes of toothfish reported via CDS as caught outside the Convention Area, the total global removal of toothfish in 2000/01 is estimated at 51 129 tonnes (SC-CAMLR-XX, paragraph 2.10).

5.4 The Chair of the Scientific Committee advised the Commission that the catches reported from Area 51 were not credible. Therefore the Committee 'concluded that practically all the toothfish catches reported from Area 51 represent catches taken as a result of IUU fishing in other areas inside the Convention Area' (SC-CAMLR-XX, paragraphs 2.12 and 2.13).

5.5 The Commission endorsed the Scientific Committee's recommendation that the Secretariat be tasked with providing information to WG-FSA on catches reported via the CDS for inside and outside the Convention Area, vessel sightings and reported catch data. It also agreed that the CDS records for Area 51 be investigated more closely.

5.6 The Commission considered advice prepared by SCOI on IUU fishing activities in the Convention Area. Specific references in brackets given in the following paragraphs relate to paragraphs in the SCOI report (Annex 5).

Information provided by Members in accordance with Articles X and XXII of the Convention and the System of Inspection

5.7 SCOI had considered information provided. This included reports on sightings and apprehension of IUU fishing vessels during the 2000/01 intersessional period, factual data on sightings of vessels reported by scientific observers, port inspections of vessels and instances of the fraudulent use of catch documents under the CDS (Annex 5, paragraphs 2.1 to 2.25).

5.8 With respect to a port inspection of the Namibian-flagged vessel *Mare*, South Africa clarified that the results of the inspection had been communicated to Namibia (Annex 5, paragraph 2.24). Namibia advised the Commission that the fishing licence of

the vessel had been cancelled and that Namibia is currently considering a legal mechanism to delete the vessel from its register.

5.9 The Republic of Korea provided additional information on the apprehension by Australia of the vessel *South Tomi* (Annex 5, paragraphs 2.15, 2.16 and 2.22). The Republic of Korea had not issued a licence to the vessel, which is flagged by Togo. The owner of the vessel had left Korea some 20 years ago and it is currently impossible to verify his nationality.

5.10 Russia noted that France had reported increased inspection effort in recent years and asked whether France had any evidence to confirm that any Russian-flagged vessel was involved in IUU fishing activities in the Convention Area.

5.11 France responded that currently no Russian vessel was noted as engaged in IUU fishing in French EEZ waters in the Convention Area. The report of France to SCOI listed

20 vessels of other Flags which had been apprehended in the Kerguelen and Crozet EEZs since 1997 (Annex 5, paragraph 2.3).

5.12 Russia made the following statement:

‘When discussing paragraphs 2.12 and 2.13 at the time the report of the Scientific Committee was presented, the oceanographic and biological aspects of toothfish distribution in the very large Area 51 had been already noted. We consider that conclusions made by France that toothfish is absent in Area 51 are unsubstantiated.

We also have doubts with the statement that there is a large increase in catches reported from Area 51 compared with previous years. CDS data have become available only this year. Annual landings of toothfish compiled by FAO for previous years are not complete because not all countries distinguish toothfish in landing statistics as a separate category. Therefore the use of FAO data for the comparison made is not justified.

The statement made by France that CDS is apparently being used to traffic fish caught illegally in the Convention Area, is based on CDS data submitted by the Secretariat in SCOI-01/23 (Annex 5, paragraph 2.6). SCOI only noted this document and decided that it should be considered further intersessionally (Annex 5, paragraph 2.74).

We would like to emphasise that statements and conclusions made at the meetings of SCOI and the Scientific Committee with respect to Area 51 (Annex 5, paragraph 2.6; SC-CAMLR-XX, paragraph 2.13) undermine fundamental maritime law principles of Flag State responsibilities with respect to their vessels. These statements and conclusions also dispute the performance of the CCAMLR System of Inspection and the CDS.

The statement by France that some States issue CDS documents for Area 51 in order to traffic fish illegally caught in the Convention Area is completely unfounded.’

5.13 France responded that the conclusion on the presence of toothfish in Area 51 is based on the report of Scientific Committee (SC-CAMLR-XX, paragraphs 2.13 and 2.14), the paper SCOI-01/23 was analysed by the Delegation of France and that FAO statistics could be incomplete because correct information has not been provided to FAO.

5.14 South Africa noted that catches reported from Area 51 raised the possibility of uncertainty about the veracity of CDS data. However, from a small sector of its EEZ around Prince Edward and Marion Islands, which is to the north of the Convention Area, annual toothfish catches ranged from 9 to 14 tonnes for the past three years. This does not indicate there is a substantial source of toothfish to the north of the Convention Area in Area 51 and demonstrates the high level of uncertainty surrounding the reported levels and location of catches attributed to Area 51.

5.15 Ukraine drew the attention of the Commission to results of earlier exploratory surveys conducted by the Soviet Union in the 1980s to the north of the Convention Area in Area 51. Toothfish was found in these surveys but not in large concentrations mainly because no seabed areas suitable for trawl fishing were found. Catches were in the order of those indicated by South Africa. Results of these surveys were published in Soviet scientific journals. The attention of the Scientific Committee should be drawn to these publications.

5.16 France stated that these discussions confirmed its strong suspicion with respect to catches taken in Area 51 and that it therefore looked forward to the Commission adopting a resolution, the draft of which was discussed at SCOI (Annex 5, Appendix III). This was supported by Belgium, European Community, Italy and Spain. Following further substantive debate, the Commission adopted Resolution 17/XX.

5.17 Chile drew the attention of the Commission to the need to have a set of rigorous integrated measures to control all steps in the movement of catch from landing to export and import, including the use of VMS in the verification of catch origin. Chile noted that the Members who fish in areas adjacent to those of the Convention could voluntarily report their catches to assist in the work of the Scientific Committee.

5.18 Argentina stated that while functionality of the CDS inside and outside the Convention Area on the high seas should be enhanced, altering the balance of competencies achieved under the UN Convention on the Law of the Sea (UNCLOS) should in all cases be avoided.

5.19 The Commission endorsed the advice received from SCOI on IUU fishing in the Convention Area (Annex 5, paragraphs 2.21, 2.63 and 2.66) and decided that:

- a list of Flags of Convenience should be compiled and maintained by the Secretariat together with a consistent process for identifying such flags;

- CCAMLR efforts to eliminate IUU fishing in the Convention Area should be further strengthened; and
- toothfish landings attributed to Area 51 needed to be properly verified, and that the level of misreporting could seriously undermine the objective of the Commission.

5.20 The Commission asked Russia and Uruguay to report next year on their respective verification procedures used for catches taken in Area 51. It was also agreed that Seychelles be invited as an observer to the next meeting of CCAMLR and asked to report to the Commission on the matter.

5.21 Uruguay advised that all landings of toothfish from Area 51 by its vessels were conducted in the presence of a national inspector who had access to all vessel documentation required to verify the landing. Uruguay also advised that all of its vessels presently fishing outside the Convention Area carry VMS and that next year they will also carry scientific observers.

5.22 All Uruguayan vessels fishing outside the Convention Area for *D. eleginoides* must report their position at sea every eight hours (three times a day) via VMS to the Fishing Authority (DINARA). Vessels must request a special authorisation prior to disembarkation at ports other than Uruguayan ports. Once the vessel is authorised to disembark, an inspector designated by the Fishing Authority attends the port in question with the corresponding VMS report in order to verify the vessel's activities and crosscheck details against the fishing logbook. The inspector must also verify other Uruguayan regulations pertaining to longliners (related to the utilisation of streamer lines, line weighting regimes etc). The inspector must ascertain the identity of the vessel by checking the name on its hull, and its call sign. The shipmaster must provide a fishing log where details of the fishing operations are recorded daily and for each haul (CPUE). The inspector must witness the landing and report on the number of boxes and the size of the catch. All the details must be in accordance with those notified in the *Dissostichus* Catch Documents (DCDs).

5.23 The Commission approved continuation of the information exchange on IUU fishing begun by the Secretariat with Lloyd's Register (Annex 5, paragraph 2.126). Members were urged to submit, on a voluntary basis, details of their flag vessels licensed to fish for *Dissostichus* spp. outside the Convention Area (Annex 5, paragraphs 2.111 and 2.112).

Cooperation with Non-Contracting Parties and Contracting Parties not Members of the Commission

5.24 SCOI considered information presented on the following subjects (Annex 5, paragraphs 2.26 to 2.55):

- landings of toothfish at Port Louis since July 2000 submitted by Mauritius;

- implementation of the CCAMLR Policy to Enhance Cooperation between CCAMLR and Non-Contracting Parties submitted by the Secretariat;
- participation in the CDS of Canada – a CCAMLR Contracting Party; and
- the FAO International Plan of Action on Illegal, Unreported and Unregulated Fishing (IPOA–IUU).

5.25 The Commission noted that during 2001 the Secretariat corresponded with Belize, Indonesia, Panama and St Vincent and Grenadines; States which had been identified as having an interest in the harvesting, landing or importing of toothfish. These States were provided with relevant information about the CDS and invited to participate. Madagascar and Mozambique were also recently identified as States providing ports for landing toothfish. The Secretariat was asked to write to these States and invite them to participate in the CDS.

5.26 The Commission endorsed the advice received from SCOI on measures to deal with Flag State responsibilities of non-Contracting Parties along with national control of vessels flying their flags and to deal with States which provide ports of convenience and markets for IUU-caught fish (Annex 5, paragraph 2.54).

5.27 The Commission noted that following a decision taken at CCAMLR-XVIII (paragraph 5.30), and the adoption of the Policy to Enhance Cooperation between CCAMLR and non-Contracting Parties, a variety of correspondence has been sent to the following:

Belize, People’s Republic of China, Denmark (in respect of the Faroe Islands), Guinea Bissau, Guyana, Indonesia, Malaysia, Maldives, Mauritania, Mauritius, Panama, Sao Tome and Principe, Seychelles, Singapore, St Vincent and the Grenadines, Taiwan, Thailand and Togo.

5.28 This correspondence invited these countries to cooperate with CCAMLR in various areas and in the implementation of the CDS.

5.29 Information available in the CCAMLR vessel database also lists a number of vessels sighted and/or apprehended for IUU fishing in the Convention Area. These vessels were flying a variety of flags.

5.30 Recognising that addressing non-cooperation by non-Contracting Parties with CCAMLR remained a key priority, the Commission revised Conservation Measure 118/XVII to provide a clear and consistent process to evaluate the cooperation of non-Contracting Parties, and to provide for effective measures to address non-cooperation. It was adopted as Conservation Measure 118/XX.

5.31 Chile regretted that a resolution regarding flags of convenience could not be adopted, and that the text of the final report did not identify Flag States that undermine the integrity of the Convention. It hoped that the process initiated by the revision of Conservation Measure 118/XX would be accompanied by a genuine political will.

5.32 Argentina and South Africa strongly supported the statement made by Chile.

5.33 The Commission recalled that Singapore and Seychelles had joined CCAMLR in the implementation of the CDS in 2000.

5.34 The Commission welcomed the People's Republic of China which joined CCAMLR in the implementation of the CDS in July 2001.

5.35 The observer from the People's Republic of China made the following statement:

'The Delegation of the People's Republic of China thanked the Commission for inviting the People's Republic of China to participate in the CCAMLR-XX meeting as an observer. The Delegation of the People's Republic of China presented some information on the implementation of the CDS.

At the Antarctic Treaty Constulative Meeting in September 2000, the People's Republic of China agreed to voluntarily implement the CDS, and informed the Commission of the national CDS contact officer on 5 July 2001.

In addition, the Fisheries Authority of the People's Republic of China informed the Secretariat on 18 June 2001 that the China Fisheries Association was authorised to sign the re-export documents for *Dissostichus* spp. on behalf of the Government of the People's Republic of China. By the end of August 2001, 66 re-export documents had been signed by the association for eight companies of the People's Republic of China, with a total re-export amount of 816 tonnes. The Government of China is willing to combat IUU fishing in cooperation with the international communities by voluntary implementation of the CDS.

Companies of the People's Republic of China are obliged to submit catch documents when they apply for re-export documents. The authenticity of catch documents has been verified through the cooperation between the People's Republic of China and the Secretariat, as well as through bilateral cooperation between Members of CCAMLR and the People's Republic of China.

Fishing vessels of the People's Republic of China have so far not yet conducted commercial fishing activities within the Convention Area.

The Fisheries Authority of the People's Republic of China is willing to cooperate with the Secretariat and relevant Parties to CCAMLR to ensure that the trading of *Dissostichus* spp. be conducted in a legitimate manner and to deter illegal fishing and transfer trading.'

5.36 Mauritius had introduced some elements of the CDS on 1 January 2001 and requires that a valid catch document be presented before a vessel is granted landing permission in its ports.

5.37 The Commission welcomed steps taken by Mauritius on the implementation of the CDS but expressed concern that the CDS is not yet implemented in full. The

observer from Mauritius informed the Commission that activities undertaken this year included participation in CDS training conducted by CDS officers from Australia. During the training Mauritius identified some aspects of the CDS which, it believes, do not apply to transshipments in the free-port area of Port Louis. Fish transhipped do not represent imports and therefore Mauritius does not have the duties of an exporting State under the CDS. Nevertheless, each vessel is required to have on board a valid catch document. A mechanism to ensure an operational VMS is carried on board is being worked out.

5.38 The Commission shared a view expressed by Australia that the existing text of the CDS and definitions of landings and transshipments provide clear guidance that catches transhipped in the free ports of Mauritius can be treated as landings if the Flag or Port State records them as such. Additional guidelines for the application of CDS will be provided in the Guide for the Completion of Catch Documents being developed by the Secretariat.

5.39 The Commission encouraged Mauritius to implement fully the CDS and invited it to become a Party to the Convention (Annex 5, paragraphs 2.29 and 2.107). It also requested Mauritius to consider providing additional information on landings of toothfish reported since July 2000 as detailed in a letter from the Secretariat of 29 August 2001.

5.40 The attention of the Commission was also drawn by Japan to the absence of proper CDS implementation procedures in Singapore and Hong Kong. The Commission decided to write to Singapore and Hong Kong and urge them to implement the required CDS procedures including issuing re-export documents (Annex 5, paragraph 2.70).

5.41 In general, the Commission agreed that it should provide clear guidance for all States on the implementation of the CDS by non-Contracting Parties and to convey this to those States either participating in the CDS, or wishing to do so. The CDS Intersessional Group and the Secretariat were tasked with the development of such guidance (see paragraph 5.45).

5.42 The Commission also decided to again write to Canada and urge it to become a Member of the Commission and immediately participate in the CDS (Annex 5, paragraph 2.106).

Operation of the CDS

5.43 The Commission considered advice prepared by SCOI on the operation of and improvements to be made to the CDS (Annex 5, paragraphs 2.67 to 2.118). Conservation Measure 170/XIX was revised to include revisions of procedures dealing with export verification, greater use of VMS for verification of catch documents, confiscated or seized catches and operation of the CDS Fund (paragraphs 2.88, 2.92, 2.99, 2.102 and 2.103); it was adopted as Conservation Measure 170/XX.

5.44 The Commission noted, as described in paragraph 2.95 of the SCOI report (Annex 5), that while the current CDS system may allow the opportunity for fraudulent practices, it is having a positive impact on addressing IUU fishing activities, in that it is providing new and valuable data and information to CCAMLR, fraudulent catch documents are being identified and acted upon, and seizures and confiscations of possible IUU products are occurring. It was recommended that further improvements could be made such as establishing a paperless web-based electronic CDS. In this regard, the USA advised the Commission it plans to host a workshop on the development of such an electronic CDS system. The Commission also noted with gratitude that the USA has made a one-time voluntary contribution of US\$50 000 to CCAMLR which is intended to improve effective monitoring of fishing activities, including the funding of additional observers and inspectors.

5.45 The Commission recognised the need to revise the Guide for the Completion of Catch Documents and requested the Secretariat to make the necessary changes resulting from CCAMLR-XX and make it available via the CCAMLR website to all CCAMLR Members and non-Contracting Parties which joined CCAMLR in the implementation of the CDS (Annex 5, paragraph 2.94).

5.46 The Commission noted progress with a procedure being developed bilaterally by Chile and the USA for dealing with artisanal fisheries for toothfish in Chile (Annex 5, paragraphs 2.113 and 2.114).

5.47 The Commission agreed that the following list of projects might be eligible for funding or part-funding from the CDS fund (in no particular order):

- training of the Secretariat staff in understanding fish trade practices and procedures, including processing of trade-related statistics;
- participation in the CDS and trade-related meetings of international organisations, e.g. FAO, Committee on Trade and Environment of the World Trade Organization (WTO/CTE), World Customs Organization (WCO), ICCAT and IATTC, including contributions that may be made by CCAMLR to the development of international initiatives within the FAO IPOA–IUU;
- conducting training workshops and CDS-related consultations with CDS authorities of Contracting and non-Contracting Parties to provide guidance on aspects of implementation of the CDS, including implementation of VMS;
- development of an electronic web-based system for the CDS; and
- establishing an interface to the international electronic enforcement database of the Monitoring, Control and Surveillance (MCS) Network.

5.48 Members were urged by the Commission to nominate contact officers, especially with operational experience of the CDS, for correspondence on matters of domestic CCAMLR legislation and provide links to websites which contain the legislation mentioned above (Annex 5, paragraph 2.109).

5.49 The Commission agreed that the informal CDS group should continue to meet for the next two to three years after which time the continued need for such a group would be reviewed (Annex 5, paragraph 2.117). The Commission accepted the offer by the USA for Mr E. Spencer Garrett to chair the CDS group to continue its work intersessionally on the tasks identified by SCOI (Annex 5, paragraph 2.118 and Appendix V). The Secretariat was requested to set up a web-based bulletin board or chat room to assist the group in its work and to reduce the amount of email (Annex 5, paragraph 2.118). The group's Convener was requested to advise Members as soon as possible after the meeting on when the work is to commence and what contact points should be used.

5.50 The Commission endorsed a proposal from the European Community that all tasks identified for intersessional work should be categorised and prioritised according to their immediate impact on the operation of the CDS.