

## IMPLEMENTATION AND COMPLIANCE

### Report of SCIC

7.1 The meeting of SCIC was held from 23 to 27 October 2006 and chaired by Ms V. Carvajal (Chile). All attending Members of the Commission and observers participated in the meeting.

7.2 The SCIC Chair presented the Committee's Report (Annex 5) relating to Commission Agenda Item 7 (Implementation and Compliance) and drew the Commission's attention to a number of recommendations. The Commission's deliberations on SCIC's recommendations on compliance matters are provided in this section. The Commission's deliberations on SCIC's recommendations on CDS, IUU fishing and the Scheme of International Scientific Observation are provided in sections 8, 9 and 10 respectively.

### Compliance with conservation measures

7.3 The SCIC Chair reported that the Committee considered all information submitted by Members and collated by the Secretariat on the implementation of, and compliance with, conservation measures in force (CCAMLR-XXV/BG/3 and BG/9 Rev. 1).

7.4 In particular, she drew the Commission's attention to the following – during the 2005/06 season, CCAMLR inspectors designated by Members conducted 14 at-sea inspections of Members' licensed vessels in accordance with the System of Inspection and no contraventions of conservation measures were reported from any of these inspections.

7.5 In further considering SCIC's report (Annex 5), the Commission agreed that:

- (i) Members be urged to increase efforts to submit reports of port inspections in accordance with paragraph 4 of Conservation Measure 10-02;
- (ii) an intersessional contact group to review the System of Inspection, led by Australia, should be undertaken and to provide advice to SCIC at CCAMLR-XXVI;
- (iii) the Secretariat be tasked with negotiating with Lloyds in order to attempt to obtain a reduced subscription for access to the Lloyds online database 'Seasearcher';
- (iv) the Secretariat be tasked with conducting a feasibility study on administrative and resource implications of verifying C-VMS data with fine-scale and observer data, including tagging data, and reporting the results at CCAMLR-XXVI;
- (v) in future, Commission papers submitted by Members on SCIC agenda topics should also clearly identify on the cover page the SCIC agenda item to which they are addressed as well as that of the Commission's agenda.

7.6 The Commission noted the advice of both SCIC and the Scientific Committee on the implementation of fish tagging requirements in accordance with Conservation Measure 41-01 along with Flag State comments (Annex 5, paragraphs 5.8 and 5.9; SC-CAMLR-XXV, Table 5).

7.7 The Commission noted with concern that a number of vessels had failed to meet their tagging requirements in approved exploratory fisheries, including in some cases for successive years. The Commission noted that fish tagging requirements in exploratory fisheries provide critical input to fish stock assessments and thus the process for setting precautionary catch limits for *Dissostichus* spp. in each fishery. The Commission noted, therefore, that achievement of the required fish tagging rate is crucial to effective fisheries management and ensuring only sustainable fishing occurs.

7.8 Accordingly, access to exploratory fisheries should be denied to those fishing vessels that have failed to achieve the required fish tagging rates of toothfish that are in good condition in the three successive seasons, starting from the 2006/07 fishing season. To implement this decision, the Commission agreed that:

- (i) each Member should, in future, identify and investigate any vessels it has licensed that do not meet the appropriate tagging requirement;
- (ii) Members should determine an appropriate time period for a ban on those vessels participating in exploratory fisheries, noting that the ban should be enforced for at least one year;
- (iii) Members should report to the Commission at the next annual meeting on the actions they have taken under this decision.

7.9 The Commission requested the Secretariat to annually prepare a table containing data on individual *Dissostichus* spp. tagged and released and the tagging rate reported by vessels operating in exploratory fisheries. Such data should be submitted to SCIC for consideration.

7.10 Argentina noted that enforcement of tagging requirements should be carefully considered, bearing in mind that the responsibility for denying fishery access to any vessel rests with the Flag State. In order to prohibit access to a particular fishery, the Flag State requires enough evidence to be sustained in court, which should be provided by the observers reporting on the viability of tagged fish. It recalled that for exploratory fisheries in Area 58, the Scientific Committee had reported very low tagging rates resulting from catches of very large fish in poor condition.

7.11 Russia made the following statement:

‘The Delegation of the Russian Federation is convinced that issues discussed by the Commission should be considered on the basis of equality. Unfortunately, some facts concerning obvious infringements by vessels of the Parties have not been given due attention and adequately assessed, e.g. the case of an overshoot of the total allowable catch by the UK-flagged vessel *Argos Georgia* in SSRU 882A. This and the adjacent SSRU 882B were closed for commercial fishing under Conservation Measure 41-10 (2005). In accordance with Conservation Measure 24-01 (2005), scientific research on toothfish in a closed SSRU is only allowed if the quantity of toothfish caught in any SSRU does not exceed 10 tonnes. In its notification for the 2005/06 season, the UK

stated its intention to conduct tagging of Antarctic toothfish using the vessel *Argos Georgia* in SSRUs 882A and 882B. For this purpose, the UK was granted a catch limit of 10 tonnes of toothfish for each SSRU.

The haul-by-haul data submitted by the UK relating to the *Argos Georgia*'s activities (CCAMLR-XXV/27, Figure 2) indicate that the vessel appeared to have four longlines on board which were deployed simultaneously. The first haul of these longlines in SSRU 882A resulted in a catch of five tonnes of toothfish, and that comprised 50% of the catch limit for this SSRU. Nevertheless, all four longlines were set again in the same SSRU, and the second haul resulted in a catch of 12 tonnes of toothfish. Therefore, the total catch of toothfish by the *Argos Georgia* in SSRU 882A was 17 tonnes, or 70% more than the specified catch limit. After that, the vessel ceased its activities and did not carry out the scientific program in the adjacent SSRU 882B. According to the statement of the UK Delegation, overshooting the catch limit for toothfish in SSRU 882A by the *Argos Georgia* was unintentional and unforeseeable and, therefore, cannot be considered an infringement of conservation measures (SCIC report).

The Russian Delegation is puzzled by the fact that two similar cases (unforeseeable drift of a longline from the Russian vessel *Volna* into SSRU 882A, which was closed for fishing; and the overshoot by 70% of an allowable catch limit by the UK vessel *Argos Georgia* in the same division, coupled with non-implementation of a notified scientific research plan in the adjacent SSRU 882B) were assessed very differently by some Parties. In the former case the *Volna* was included in the Preliminary List of IUU vessels, while in the latter case SCIC failed to consider an overshoot of an allowed catch limit by the *Argos Georgia* to be an infringement of conservation measures.'

7.12 The UK recalled that its explanation of the events surrounding the *Argos Georgia* had been delivered openly and transparently to the Commission in Annex 1 of CCAMLR-XXV/27. When that had been presented to SCIC, the UK expressed that all delegations that spoke except Russia had expressed appreciation, and satisfaction, with the UK's explanation.

7.13 The Commission noted that SCIC had drafted a number of new and revised conservation measures and resolutions, provided to the former for adoption. In brief, these had the purpose of:

- (i) requesting that licensed fishing vessels report on IUU activity (Conservation Measure 10-02);
- (ii) clarifying requirements for reporting vessel exit notifications and formats via email (Conservation Measure 10-04);
- (iii) clarifying that only government personnel authorise catch documents and the inclusion of a new annex establishing a process to recognise non-Contracting Parties which participate in toothfish trade (Conservation Measure 10-05);
- (iv) clarifying terminology of 'Designating State' and 'Designating Member' in the System of Inspection;

- (v) enhancing cooperation with non-Contracting Parties (Resolution 24/XXIV);
- (vi) considering prohibition of gillnet fishing in the Convention Area (new measure);
- (vii) considering protection of shark stocks in the Convention Area (new measure).

7.14 Other revised and new conservation measures, and resolutions, submitted by SCIC to the Commission for further consideration had the purpose of:

- (i) denying access to Contracting Party ports by IUU-listed vessels except for emergency purposes (Conservation Measures 10-06 and 10-07);
- (ii) establishing a list of non-Contracting Parties with IUU-listed vessels (Conservation Measure 10-07);
- (iii) allowing inspection reports submitted by inspectors of Designating Members to be treated on the same basis as reports submitted by Flag State inspectors;
- (iv) promoting compliance by Contracting Party nationals;
- (v) promoting compliance via trade measures;
- (vi) combating IUU fishing by non-Contracting Party-flagged vessels in the Convention Area.

7.15 New and revised measures and resolutions adopted by the Commission are listed in paragraphs 12.8 to 12.72.

7.16 Both SCIC and the Scientific Committee drew the Commission's attention to recent correspondence from Vanuatu which indicated that this Contracting Party wished to issue licences to five super-trawlers to harvest krill in the Convention Area in the future (Annex 5, paragraphs 7.1 to 7.5; SC-CAMLR-XXV, paragraphs 15.10 to 15.16). The matter was discussed by the Commission under item 4 (see paragraphs 4.34 to 4.38).

7.17 The UK further noted that Vanuatu had failed to comply with the procedures agreed by WG-EMM (CCAMLR-XXII, paragraphs 4.37 to 4.39; COMM CIRC 06/52 and SC CIRC 06/16) in notifying its intention to harvest krill in the Convention Area.

7.18 Some Members recalled that at least one Vanuatu-flagged vessel had harvested krill in the Convention Area in the past and that Vanuatu had failed to comply with relevant CCAMLR data submission requirements.

7.19 The Commission expressed general concern at this development, with several Members reiterating their view that Contracting Parties should refrain from fishing in the Convention Area until such time as they had attained full membership of the Commission.

7.20 In addition, the Commission agreed that the following questions, highlighted by SCIC (Annex 5, paragraph 7.4), should be urgently drawn to Vanuatu's attention:

- (i) Which of Vanuatu's two ship registers was used to register the five super-trawlers mentioned in the correspondence received from Vanuatu: the Register for domestic vessels or the Register for foreign-owned vessels?
- (ii) Whether Vanuatu exercises full Flag State control over activities of these vessels and where the vessels are located or are fishing now?
- (iii) What ports would be used for landing the catch?

7.21 The Commission considered further information from Vanuatu containing the details of four vessels which intended to harvest krill in the Convention Area in the 2006/07 season (CCAMLR-XXV/BG/52 and its addendum).

7.22 The Commission expressed concern at the notification from Vanuatu in terms of both the notification process and the content. The Commission noted that the notification contained advice that one vessel intended to fish using the continuous fishing system. The Commission also noted that Vanuatu had advised the Executive Secretary that it intended to fish in Area 48, whereas the individual vessel notifications stated that three vessels also intended to harvest krill in Areas 58 and 88, while one vessel indicated it would fish generally within the whole Convention Area.

7.23 The Commission agreed that the matter needed to be resolved as a matter of urgency.

7.24 The Commission also noted that there were no conservation measures relating to the harvest of krill in Area 88 and generally agreed that these should be considered at CCAMLR-XXVI.

7.25 The Secretariat was requested to contact Vanuatu and convey the concern of the Commission, together with the particular request that Vanuatu consider becoming a full Member of the Commission. Several Members also recommended that Vanuatu be asked to withdraw their vessels from the fishery until such time as Vanuatu had become a full Member or, at the very least, should be requested to ensure that its vessels only fished in Area 48.

7.26 Argentina reminded the Commission that any letter to Vanuatu should not imply that Vanuatu could automatically become a Member of the Commission but should make it clear that an application for Membership by Vanuatu would be handled by the Commission in accordance with Article VII.2.

7.27 Russia drew the Commission's attention to the fact that one of the vessels notified by Vanuatu, the vessel *Torshovdi*, applied the so-called continuous fishing system. The vessel *Torshovdi* was much larger and more powerful than the fishing vessels *Atlantic Navigator* and *Saga Sea* which used the same technique. Russia reminded the Commission that the Scientific Committee already expressed concern at the potential impact of the technique on various components of the pelagic ecosystem and continued lack of scientific and fisheries data in order to evaluate such impact. The *Atlantic Navigator* had fished in the past under the flag of Vanuatu. Russia noted that the Commission had already expressed doubt as to Vanuatu's ability to exercise full Flag State control over these vessels. It appeared that the situation confronting the Commission now could be described as the use of Flags of Convenience.

7.28 The USA said that Vanuatu should be asked to accept international observers on its krill vessels.

7.29 Russia suggested that the Commission should deal with any notification for krill fishing using the continuous fishing system as a notification for an exploratory fishery, i.e. in accordance with Conservation Measure 21-02 and, in particular, including mandatory placement of international scientific observers. In addition, Russia suggested that the Commission should elaborate and adopt a measure which should prohibit fishing in the Convention Area by vessels using Flags of Convenience.

#### Compliance evaluation procedure

7.30 The Commission endorsed terms of reference for an intersessional group established by SCIC to consider further key compliance elements identified by the Secretariat (CCAMLR-XXV/37 and SCIC-06/10). This included development of compliance evaluation criteria and a standard evaluation procedure model that can consistently be used to evaluate performance of vessels with conservation measures in force. The Commission noted that the group will be convened by the SCIC Vice-Chair, Ms T. Akkers (South Africa).