

CCAMLR-XXVIII

**COMMISSION FOR THE CONSERVATION OF  
ANTARCTIC MARINE LIVING RESOURCES**

**REPORT OF THE TWENTY-EIGHTH MEETING  
OF THE COMMISSION**

HOBART, AUSTRALIA  
26 OCTOBER – 6 NOVEMBER 2009

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Chair of the Commission  
November 2009

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### **Abstract**

This document is the adopted record of the Twenty-eighth Meeting of the Commission for the Conservation of Antarctic Marine Living Resources held in Hobart, Australia from 26 October to 6 November 2009. Major topics discussed at this meeting include: review of the Report of the Scientific Committee; illegal, unreported and unregulated fishing in the Convention Area; vulnerable marine ecosystems and bottom fishing; assessment and avoidance of incidental mortality of Antarctic marine living resources; new and exploratory fisheries; current operation of the System of Inspection and the Scheme of International Scientific Observation; compliance with conservation measures in force; review of existing conservation measures and adoption of new conservation measures; management under conditions of uncertainty; and cooperation with other international organisations including the Antarctic Treaty System. The Reports of the Standing Committee on Administration and Finance and the Standing Committee on Implementation and Compliance are appended.

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**REPORT OF THE TWENTY-EIGHTH MEETING OF THE COMMISSION**  
(Hobart, Australia, 26 October to 6 November 2009)

**OPENING OF THE MEETING**

1.1 The Twenty-eighth Annual Meeting of the Commission for the Conservation of Antarctic Marine Living Resources was held in Hobart, Tasmania, Australia, from 26 October to 6 November 2009, chaired by Ambassador D. MacKay (New Zealand).

1.2 All 25 Members of the Commission were represented: Argentina, Australia, Belgium, Brazil, People's Republic of China (hereafter referred to as China), Chile, European Community, France, Germany, India, Italy, Japan, Republic of Korea, Namibia, New Zealand, Norway, Poland, Russian Federation, South Africa, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

1.3 Other Contracting Parties, Bulgaria, Canada, Cook Islands, Finland, Greece, Mauritius, Netherlands, Peru and Vanuatu, were invited to attend the meeting as observers. Netherlands was represented.

1.4 The Agreement on the Conservation of Albatrosses and Petrels (ACAP), the Antarctic and Southern Ocean Coalition (ASOC), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Committee for Environmental Protection (CEP), the Convention on International Trade in Endangered Species (CITES), the Coalition of Legal Toothfish Operators (COLTO), the Permanent Commission on the South Pacific (CPPS), the Food and Agriculture Organization of the United Nations (FAO), the Forum Fisheries Agency (FFA), the Inter-American Tropical Tuna Commission (IATTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Intergovernmental Oceanographic Commission (IOC), the World Conservation Union (IUCN), the International Whaling Commission (IWC), the Scientific Committee on Antarctic Research (SCAR), the Scientific Committee on Oceanic Research (SCOR), the South East Atlantic Fisheries Organisation (SEAFO), the Secretariat of the Pacific Community (SPC), the United Nations Environment Programme (UNEP) and the Commission for the Conservation and Management of the Highly Migratory Fish Stocks of the Western and Central Pacific Ocean (WCPFC) were also invited to attend the meeting as observers. ACAP, ASOC, CEP, COLTO, IWC and SCAR attended.

1.5 In accordance with the Commission's decision last year (CCAMLR-XXVII, paragraph 19.1) and COMM CIRC 09/51, the following non-Contracting Parties were invited to attend CCAMLR-XXVIII as observers: Belarus, Cambodia, Democratic People's Republic of Korea, Equatorial Guinea, Kenya, Lithuania, Malaysia, Mexico, Morocco, Mozambique, Nigeria, Panamá, Philippines, Sierra Leone, Seychelles, Singapore, Thailand, Togo, United Arab Emirates and Vietnam. There were no non-Contracting Parties represented at the meeting.

1.6 The List of Participants is given in Annex 1. The List of Documents presented to the meeting is given in Annex 2.

1.7 The Chair welcomed all participants to the meeting. He said that it was an honour for New Zealand to chair the Commission's annual meeting. He thanked the Government of Australia, the Depositary of the Convention and the State of Tasmania for their hospitality. The Commission looked forward to its annual meeting with eager anticipation.

1.8 The Chair introduced His Excellency the Honourable Peter Underwood AO, Governor of Tasmania, and said that CCAMLR had benefited enormously over many years from the close ties it shared with the Governor of Tasmania and Government House. CCAMLR again looked forward to building on and strengthening these ties.

1.9 His Excellency welcomed delegates to Hobart and Tasmania. He said it was fitting that, in celebrating the 50th year since the Antarctic Treaty was finalised on 2 December 1959, CCAMLR continued to shine as an example of this unique agreement in action. When CCAMLR entered into force in 1982, its very existence had been nurtured, developed and finalised within the framework of the Treaty System and its Antarctic Treaty Consultative Meetings. The joint CCAMLR Scientific Committee and Committee on Environmental Protection Workshop held in April this year clearly demonstrated the fruits of these labours. As a result, the cooperation between these two key elements of the Treaty System will continue to grow.

1.10 Noteworthy initiatives during 2009 included the development and implementation of a system to manage harvesting activities to mitigate potential impacts on vulnerable marine ecosystems – 'VMEs'. CCAMLR was one of only a few management organisations to meet the 31 December 2008 deadline set by United Nations General Assembly Resolution 61/105.

1.11 His Excellency emphasised CCAMLR's efforts to develop sustainable management of the growing krill fishery. While this fishery was one of the key reasons for CCAMLR's existence, the trend of the fishery being at relatively modest levels for the past decade and a half at least, appeared to be changing. CCAMLR is to be congratulated for its perseverance in addressing such complex issues as dividing krill precautionary catch limits, investigating the carrying of scientific observers on krill fishing vessels and implementing small-scale management units.

1.12 His Excellency noted that, like much of modern life, CCAMLR is required to operate in an increasingly complex world. He congratulated CCAMLR Members for the manner in which they have steadfastly pursued the Convention's objectives. His Excellency said that as humanity faces the vagaries of climate-induced variability on the biosphere, organisations such as CCAMLR should hold their heads high as we strive to secure a sustainable future for all.

1.13 In addressing the issue of climate change in particular, His Excellency noted that CCAMLR further demonstrates the important role that scientific cooperation plays within the Antarctic Treaty System. In this context, managing harvesting and associated human activities in the environmentally sensitive Antarctic is profoundly significant for ensuring rational utilisation of the rest of the planet's living resources. The provision of the 'best scientific evidence available' therefore stands paramount. His Excellency congratulated the Scientific Committee for its efforts to ensure that the Commission's decisions are scientifically well informed.



1.14 His Excellency said that CCAMLR was an organisation of global import and standing. To have it domiciled in Hobart and Tasmania is a rare privilege and one which the entire Tasmanian community greatly appreciates. With approval of the University of Tasmania's new Institute of Marine and Antarctic Studies to be developed in the waterfront area during 2010, he believed that Hobart would continue to stand-alone as the global centre for Antarctic and marine science. The CCAMLR Headquarters is a beacon of international importance in this regard.

1.15 His Excellency said it was clear that CCAMLR's achievements secure the Commission's standing in the local community, as well as its global position as a leader in the conservation of marine living resources for the benefit of present and future generations.

1.16 His Excellency concluded by wishing the Commission every success with its Twenty-eighth Meeting.

## ORGANISATION OF THE MEETING

### Adoption of the Agenda

2.1 The Provisional Agenda (CCAMLR-XXVIII/1), had been distributed prior to the meeting and was adopted without amendment. The Agenda is given in Annex 3.

2.2 The Chair referred Agenda Item 3 to the Standing Committee on Administration and Finance (SCAF), and Agenda Items 8 to 10 to the Standing Committee on Implementation and Compliance (SCIC). The reports of SCAF and SCIC are given in Annexes 4 and 5 respectively.

### Report of the Chair

2.3 The Workshop for the Development of a Compliance Evaluation Procedure (DOCEP) was held in Bergen, Norway, from 6 to 10 July 2009 (Annex 6). It was convened by Ms K. Dawson-Guynn (USA) and was attended by 10 participants from 10 Member countries.

2.4 Four Scientific Committee working group meetings, along with associated subgroup meetings and workshops, had been held during the intersessional period; details of these meetings are elaborated in SC-CAMLR-XXVIII, paragraph 1.8.

2.5 For the 2008/09 season, 62 inspectors had been designated, in accordance with the CCAMLR System of Inspection, by Australia, Chile, France, New Zealand and the UK. A total of nine at-sea inspections were reported: six conducted by UK-designated CCAMLR inspectors in Subarea 48.3, two conducted by Australian-designated inspectors in Division 58.4.3b and one conducted by a French-designated CCAMLR inspector in Division 58.5.1.

2.6 CCAMLR-designated scientific observers were deployed on all vessels fishing for finfish and some vessels fishing for krill in the Convention Area in 2008/09 (see paragraph 6.1 for further details).

2.7 During the 2008/09 season, CCAMLR Members had actively participated in 13 fisheries in the Convention Area. In addition, three other managed fisheries were conducted in national Exclusive Economic Zones (EEZs) within the Convention Area. Vessels fishing in fisheries managed under conservation measures in force in 2008/09 had reported, by 25 September 2009, a total catch of 123 948 tonnes of krill, 13 025 tonnes of toothfish and 1 936 tonnes of icefish. A number of other species were taken as by-catch.

2.8 The Catch Documentation Scheme for *Dissostichus* spp. (CDS) has been in operation since 2000, and now includes the participation of two non-Contracting Parties to CCAMLR: Seychelles and Singapore; along with three Acceding States: Canada, Mauritius and Peru. The total number of catch documents (i.e. landing/transshipment, export and re-export documents) received and processed by the Secretariat to date is well over 36 000.

2.9 In accordance with the Commission's request, the Secretariat continues the use of the electronic web-based CDS (E-CDS) documentation. Since January 2008, all Members have used the E-CDS format.

2.10 The Centralised Vessel Monitoring System (C-VMS) continues to be implemented under Conservation Measure 10-04. Since its commencement, 120 vessels have been monitored in all subareas and divisions, as well as voluntarily outside the Convention Area.

2.11 During the year, the Commission and the Scientific Committee had been represented by observers at a number of international meetings (sections 14 and 15; SC-CAMLR-XXVIII, section 9).

## FINANCE AND ADMINISTRATION

3.1 The Vice-Chair of SCAF, Dr M. Mayekiso (South Africa), presented the report of SCAF (Annex 4). His report outlined the results of the Committee's discussions and recommendations for decisions by the Commission.

### Examination of audited Financial Statements for 2008

3.2 Noting that a full audit had been carried out on the 2008 Financial Statements and that the auditor had identified no incidents of non-compliance with the Financial Regulations or International Accounting standards, the Commission accepted the audited Financial Statements for 2008 (Annex 4, paragraph 2).

### Audit requirements for the 2009 Financial Statements

3.3 The Commission, having approved a full audit for the 2009 Financial Statements (Annex 4, paragraph 3), accepted the recommendation of SCAF that a full audit also be performed on the 2010 Financial Statements in view of a new Executive Secretary taking up appointment in 2010.

## Appointment of Auditor

3.4 Noting that the two-year appointment of the Australian National Audit Office (ANAO) expires on completion of the 2009 audit, the Commission accepted the recommendation of SCAF that the ANAO be appointed auditor for the 2010 Financial Statements in accordance with Financial Regulation 11.1 (Annex 4, paragraph 4).

## Secretariat Strategic Plan

3.5 The Commission received SCAF's advice with respect to the Executive Secretary's report (CCAMLR-XXVIII/5), which forms a key element of the annual assessment of his performance (Annex 4, paragraph 5).

3.6 The Commission noted the various issues highlighted by the report as listed in CCAMLR-XXVIII/5.

3.7 Addressing the outcomes of the Executive Secretary's review of the Secretariat's functions (CCAMLR-XXVIII/6), endorsed by the Commission in 2008 (CCAMLR-XXVII, paragraph 3.9), the Commission accepted SCAF's recommendations as set out in Annex 4, paragraph 8, that:

- The initial grading of P-4 should be confirmed for the Science Officer and Data Manager and P-3 for the Administration/Finance Officer (AFO). This should be the entry-level grading for the purpose of meeting the requirements of Staff Regulation 5.10.
- Subject to the Science Officer or Data Manager reaching the top of the P-4, and the AFO the top of the P-3 grading, and/or exceptional assessment of performance under the *CCAMLR Performance Management and Appraisal System (CPMAS)* endorsed by the Commission (CCAMLR-XXII, paragraph 3.4), advancement from ICSC Grading P-4 to P-5 should be considered for the former, along with advancement from Grading P-3 to P-4 for the latter, with the Commission's prior approval (Staff Regulation 5.5). Such consideration should be subject to independent evaluation by the ICSC. The process of considering such advancement would rest with the Commission.

3.8 The Commission noted that SCAF accepted (Annex 4, paragraph 9) that consideration be given to providing further salary advancement to the Compliance Officer based on the incumbent officer's performance and in recognition of the post's growing responsibilities and workload.

3.9 The Commission noted that a review of the post of Communications Officer should be undertaken in 2010 (Annex 4, paragraph 10).

3.10 The Commission noted that the suggestions for staff succession contained in CCAMLR-XXVIII/8 should be provided to the incoming Executive Secretary for future consideration, recognising that any recommendations with budgetary implications will need to be referred to SCAF (Annex 4, paragraph 13).

## Review of budget for 2009

3.11 The Commission approved the budget for 2009 as presented in Annex 4, Appendix II.

3.12 The Commission noted that investments totalling A\$1.6 million were still in an uncertain situation with respect to their anticipated financial returns (Annex 4, paragraph 17).

## Review of translation requirements

3.13 The Commission noted that translation will always have significant impact on the budget. It agreed with SCAF that all possible options for reducing translation requirements should be investigated before any proposal for additional translating staff could be considered (Annex 4, paragraph 21).

3.14 The Commission supported SCAF's request that the Secretariat consult informally with Members requiring translation to or from each of the four languages to determine their specific needs and for SCAF to consider the outcomes of the Secretariat's consultations at its 2010 meeting (Annex 4, paragraph 22).

## Additional meeting space for SCIC

3.15 The Commission approved construction of additional meeting space for SCIC at a cost of A\$130 000 to be partially funded from the Asset Replacement Reserve (A\$40 000) with the balance (A\$90 000) being amortised over 10 years from interest accruing to Special Funds (Annex 4, paragraph 23).

## Contingency Fund

3.16 The Commission noted that no expenditure had been incurred from the Contingency Fund in 2009 (Annex 4, paragraph 25).

3.17 It also noted that the balance of the Contingency Fund in excess of A\$110 000 following transfer of forfeited funds from new and exploratory fisheries applications, will be transferred to the General Fund at the end of the 2009 financial year (Annex 4, paragraph 25).

## CDS Fund

3.18 The Commission approved the CDS panel's request for expenditure of A\$20 877 for CDS Training Material and up to A\$70 000 for 'IUU Fishing in the CAMLR Convention Area – African Capacity Building Training'.

## Budget for 2010

3.19 The Commission noted that SCIC had agreed not to convene an in-person meeting of DOCEP in 2010 and to reconsider the matter at the 2010 meeting of SCIC (Annex 4, paragraph 28). The Commission also noted that SCAF and SCIC supported the extension of the SCIC meeting room and that Japan would be making a new proposal to SCIC in 2010 for processing krill notifications.

3.20 The Commission noted the various tasks outlined in the Scientific Committee's proposed budget (SC-CAMLR-XXVII, section 11). Some A\$39 000 for funding of a WG-IMAF meeting would not be required for 2010 but A\$40 000 had been included to hold a proposed ad hoc TASO meeting in that year.

3.21 The Commission noted that SCAF had advised the Scientific Committee of its concerns at the costs of translating papers and reports and that it had urged the Scientific Committee to minimise the translation required. The Commission concurred with the SCAF recommendation that Fishery Reports for 2009 and 2010 should not be translated (Annex 4, paragraph 33).

3.22 The Commission approved the Scientific Committee budget of A\$347 500 for inclusion in the Commission's budget for 2010 (Annex 4, paragraph 34).

3.23 The Commission agreed that future budget presentations should only include the current income and subitem expenditure items. Detailed expenditure aligned with the Secretariat functional units identified in the Secretariat Strategic Plan should then be attached as an explanatory annex to the Financial Statements (Annex 4, paragraph 38).

3.24 The Commission adopted its budget for 2010. The budget includes expenditure of A\$4 484 000, as presented in Annex 4, Appendix II. The Commission noted that Members' contributions for 2010 were 1.02% less than for 2009 (Annex 4, paragraph 39).

## Members' contributions

3.25 In accordance with Financial Regulation 5.6, the Commission granted Argentina, Belgium, Brazil, China, Germany, India, Japan, Republic of Korea, Russia, South Africa, Spain, USA and Uruguay an extension of the due date for payment of their 2010 Members' contributions.

3.26 Some Members noted that, as late payments cause financial difficulties for the Secretariat and can impact on the level of Members' contributions required in the following year, Members should make every effort to pay their contributions as soon as possible, preferably within the original deadline.

3.27 The Commission reiterated the provisions of Convention Article XIX.6 regarding arrears.

## Distribution of surpluses

3.28 The Commission noted that SCAF had not received any proposals for the distribution of surpluses and agreed that the status quo should remain.

## Forecast budget for 2011

3.29 The Commission noted the forecast budget for 2011 (Annex 4, Appendix II).

3.30 The Commission also noted that forecast budget figures are indicative only, and that care should be taken when they are used as a basis for financial budgeting by individual Members. It noted SCAF's concern that the budget should be maintained within its customary target of zero real growth (Annex 4, paragraph 45).

## Other

3.31 The Commission noted that SCAF had agreed that CCAMLR-XXVIII/BG/15 'Notes on Recruitment of Executive Secretary' provided a record of experiences with the recruitment process in 2009 (Annex 4, paragraph 46).

3.32 The Executive Secretary informed the Commission that pursuant to paragraph 3.12, a credit event had occurred which resulted in the write-down of one of the Commission's investments by A\$76 300, or 1.2%, of its cash and investments portfolio. The Commission noted that this write-down will have a negative impact on interest income of approximately A\$3 500 in 2010 and subsequent years.

## Chair of SCAF

3.33 The Commission noted India's reappointment as Chair of SCAF for the 2010 and 2011 meetings (Annex 4, paragraph 47).

3.34 The Commission expressed its deep appreciation to Mr K.P. Pandian (India) for his support as Chair of SCAF and to Dr Mayekiso for presenting the report.

## SCIENTIFIC COMMITTEE

4.1 The Chair of the Scientific Committee, Mr S. Iversen (Norway) presented the Committee's report (SC-CAMLR-XXVIII). The Commission thanked Mr Iversen for his comprehensive report (CCAMLR-XXVIII/BG/42).

4.2 The Commission noted the Scientific Committee's general recommendations, advice, research and data requirements. The Commission discussed substantive matters arising from the Committee's deliberations under various parts of the Commission's agenda. Such matters included: fisheries management and conservation under conditions of uncertainty (section 5);

assessment and avoidance of incidental mortality (section 6); illegal, unreported and unregulated (IUU) fishing (section 10); Scheme of International Scientific Observation (section 11); new and exploratory fisheries (section 12); data access and security (section 14); cooperation with other international organisations (section 16); and CCAMLR-IPY activities (section 20).

4.3 The Commission noted the relatively low number of Members at working group meetings and expressed its concern that less than half the Members of the Commission were able to send scientific experts to working group meetings. This issue is considered further under Item 16.

4.4 The Commission also noted attendance at the Scientific Committee this year and encouraged all Members to make their best efforts to attend next year's meeting.

#### Intersessional activities

4.5 The Commission noted the Scientific Committee's extensive activities in 2009 (SC-CAMLR-XXVIII, paragraph 1.9). It joined the Scientific Committee in thanking the conveners of the working groups, subgroups and workshops for their contributions to the work of CCAMLR.

#### Advances in statistics, assessments and modelling

4.6 The Commission noted progress by the Scientific Committee and the Working Group on Statistics, Assessments and Modelling (WG-SAM) on developing various methodologies for use in the Committee's assessment work (SC-CAMLR-XXVIII, paragraphs 2.1 to 2.6). Future developments being pursued include the standardisation of CPUE across different fishing methods. This will need to be further considered in relation to the krill fishery, established toothfish fisheries and exploratory fisheries.

#### Advances in acoustic survey and analysis methods

4.7 The Commission endorsed the recommendations of the Scientific Committee in respect of the Subgroup on Acoustic Survey and Analysis Methods (SG-ASAM) (SC-CAMLR-XXVIII, paragraphs 2.7 to 2.11). It noted that the fifth meeting of SG-ASAM is to be held in Cambridge, UK, in 2010. The Commission endorsed the proposed terms of reference for SG-ASAM agreed by the Scientific Committee (SC-CAMLR-XXVIII, Annex 11).

#### Ecosystem monitoring and management

4.8 The Commission endorsed the Scientific Committee's advice on acoustic assessments of krill, specifically with regard to: (i) uncertainty in  $B_0$ ; (ii) a joint meeting between SG-ASAM and WG-SAM to combine appropriate expertise to evaluate broader aspects of

uncertainty in acoustic estimation of krill biomass; and (iii) the need to recalculate  $B_0$  for Subareas 48.1 to 48.4 and Divisions 58.4.1 and 58.4.2 (SC-CAMLR-XXVIII, paragraphs 3.4 to 3.7).

4.9 The Commission noted that there had been a strong ecosystem anomaly at South Georgia during 2009 (SC-CAMLR-XXVIII, paragraph 3.8). This was reflected in the lowest krill density on record, very low land-based predator breeding performance, changes in the diet of icefish and anomalous sea-surface temperatures. Krill catches in Subarea 48.3 during 2008/09 were <1 tonne compared to 60 000 tonnes in 2007/08 (SC-CAMLR-XXVIII, paragraphs 3.8 and 4.2).

4.10 The Commission noted the new CEMP monitoring sites at South Georgia and on the Antarctic Peninsula (SC-CAMLR-XXVIII, paragraph 3.10).

#### Interactions between WG-EMM and WG-FSA

4.11 The Commission endorsed the recommendations of the Second Workshop on Fisheries and Ecosystem Models in the Antarctic (FEMA2) relating to the Ross Sea ecosystem and the toothfish fishery in Subarea 88.1 (SC-CAMLR-XXVIII, paragraphs 3.34 to 3.37). These recommendations outlined the need to use food-web models and spatially structured population models prior to further field programs to explore spatial overlaps between the fishery and other predators of toothfish and what data might be needed to understand the effects of fishing. Such models are also necessary to evaluate linkages between toothfish populations, the fishery and toothfish predators, as well as to determine data needs for further development of a management strategy for exploratory toothfish fisheries.

#### Harvested species

##### Krill resources

4.12 The Commission noted that five Members (six vessels) targeted krill in 2008/09 in accordance with conservation measures in force. A total catch of 123 948 tonnes of krill was reported to the Secretariat by the end of September 2009 (SC-CAMLR-XXVIII, Table 2). The total catch of krill reported in 2007/08 was 156 521 tonnes (SC-CAMLR-XXVIII, Table 3).

4.13 The krill catch in 2008/09 was taken from Subareas 48.1 and 48.2 and there was <1 tonne caught from Subarea 48.3 (paragraph 4.9).

4.14 Notifications for krill fishing in 2009/10 were received from seven Members covering 13 vessels and a total proposed catch of 363 000 tonnes (see SC-CAMLR-XXVIII, Annex 3, Table 3). This included a notification to participate in the exploratory fishery for krill in Subarea 48.6 (see Item 11).

4.15 The Commission endorsed the Scientific Committee's advice on the krill fisheries in 2009/10 (SC-CAMLR-XXVIII, paragraphs 4.22, 4.23 and 4.25), and agreed to:



- (i) insert a paragraph in Conservation Measure 23-06 requiring Flag States to notify the Secretariat of each entry to, exit from and movement between, subareas and divisions of the Convention Area by each of its vessels (see Item 13);
- (ii) clarify the requirements in footnote 1 in Conservation Measure 21-03, which has a deadline of 1 June for the submission of notifications for exploratory fisheries for krill, and the timing of notifications under Conservation Measure 21-02 (see Item 13);
- (iii) revise the deadline for the submission of fine-scale data (see Item 13).

4.16 The Commission also noted the European Community's proposal to adopt a mandatory observer program and biological data reporting for krill fisheries to enable the Scientific Committee to develop assessments of the impact of these fisheries (CCAMLR-XXVIII/47). This approach would also allow the Scientific Committee to develop and recommend appropriate deployment schemes to continue to acquire relevant data as well as enhance the Commission's ability to monitor and manage this resource in a sustainable manner.

4.17 Some Members agreed that it was time to align the observer and data requirements in krill fisheries, including VMS, with the requirements adopted in all other CCAMLR fisheries.

4.18 The Commission noted the development of a patent database which could provide a valuable additional source of information about trends in the krill fishery (SC-CAMLR-XXVIII/BG/15) and agreed that the Secretariat should maintain such a database in the future and provide annual updates on these trends (SC-CAMLR-XXVIII, paragraph 4.12).

4.19 The Commission also noted the issue of escape mortality in the krill fishery, and urged Members fishing for krill in 2009/10 to actively investigate the effects of different fishing gear on escape mortality of krill and report information to next year's meeting of WG-EMM (SC-CAMLR-XXVIII, paragraph 4.15).

4.20 The Commission noted the Scientific Committee's further work and advice on the need to distribute the trigger level in the krill fishery across Subareas 48.1, 48.2, 48.3 and 48.4 (SC-CAMLR-XXVIII, paragraphs 4.26 to 4.48, Table 1), including the following:

- (i) modelling results indicated that a harvest level consistent with the current trigger level (620 000 tonnes) was not as cautious as might have been thought at the time this was agreed;
- (ii) status quo management<sup>1</sup> may reduce the Commission's ability to achieve the objectives specified in Article II (see also SC-CAMLR-XXVII, paragraph 3.9). This concern would be particularly important if the fishery were to become more spatially concentrated than the historical distribution of catch in areas where predators with restricted foraging ranges occur;
- (iii) the trigger level and its application in Conservation Measure 51-01 needs to be reviewed, taking account of the advice related to spatial distribution of catches;

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<sup>1</sup> Current management arrangements that would allow historical distribution of krill catches up to the trigger level.

- (iv) there is a need to spatially distribute the krill fishing effort to avoid large catches being taken from localised areas before the trigger level is reached. This could be an interim mechanism to manage the distribution of catch throughout Area 48.

4.21 The Commission endorsed the development of an interim mechanism to distribute the catch without the need to know the exact krill distribution and the precise impact on krill predators. The Commission also agreed that this approach needs to be flexible so as to avoid restricting the fishery at the level of fishing in recent years, whilst at the same time providing assurances that increased precaution is being exercised while the Scientific Committee develops the longer-term feedback management procedure (SC-CAMLR-XXVIII, paragraphs 4.39, 4.44 and 4.45).

4.22 The Commission also recognised that the type of flexibility described above (paragraph 4.21) is not part of Article II of the Convention. However, the inclusion of some level of flexibility in the interim mechanism would facilitate the transition to the feedback management procedure.

4.23 The Commission considered five candidate models proposed by the Scientific Committee for avoiding catch concentration (SC-CAMLR-XXVIII, Table 1), and noted that:

- (i) models separating coastal and pelagic areas are the most precautionary option taking account of the needs of land-based predators; however, they are the least flexible for the current fishery and may force a change of fishery pattern at the current catch level, taking into account the potential interannual variations in krill distribution and oceanographic changes;
- (ii) the overlap models, where the sum of spatially distributed proportions can be more than 100%, allow more flexible operations for the current fishing pattern compared to non-overlap models, but do not account for the needs of land-based predators.

4.24 The Commission focused its discussion on candidate models 4 and 5, and thanked Ukraine for its contribution to the development of candidate model 4 (CCAMLR-XXVIII/48). Both models included flexibility so as to avoid restricting the fishery at its current level of fishing.

4.25 Some Members supported candidate model 4 (SC-CAMLR-XXVIII, Table 1) as an interim mechanism to avoid catch concentration in Area 48. This model allocated the trigger level between coastal and pelagic zones in Subareas 48.1, 48.2 and 48.3 in proportion to the biomass observed in those zones during the CCAMLR-2000 Survey. This model was the best amongst those considered in allocating the trigger level in a precautionary manner.

4.26 Other Members supported candidate model 5 (SC-CAMLR-XXVIII, Table 1) as an interim mechanism to avoid catch concentration in Area 48. This model allocated the trigger level evenly across Subareas 48.1, 48.2, 48.3 and 48.4 and provided greater flexibility for the distribution of fishing effort. Further, this model was not based on the results of the CCAMLR-2000 Survey which some Members believed were outdated and may not reflect the current distribution of krill (e.g. see paragraph 4.13 above).

4.27 The Commission requested that the Conservation Measure Drafting Group further consider this matter (see Item 12).

### Toothfish

4.28 The Commission noted that in 2008/09 Members had targeted *Dissostichus eleginoides* in Subareas 48.3 and 48.4 and Division 58.5.2, and *Dissostichus* spp. (*D. eleginoides* and/or *D. mawsoni*) in Subareas 88.1 and 88.2 and Divisions 58.4.1, 58.4.2, 58.4.3a and 58.4.3b. These fisheries had been carried out in accordance with conservation measures in force. Other managed fisheries for *D. eleginoides* occurred in the EEZs of South Africa (Subareas 58.6 and 58.7, and outside the Convention Area in Area 51) and France (Subarea 58.6 and Division 58.5.1). A total catch of 13 025 tonnes of *Dissostichus* spp. was reported from the Convention Area in 2008/09 (to end of September 2009), compared with 15 592 tonnes in the previous season (SC-CAMLR-XXVIII, Tables 2 and 3 respectively).

4.29 In addition, reported CDS data indicated that 10 065 tonnes of *Dissostichus* spp. were taken outside the Convention Area in 2008/09 (to October 2009) compared with 12 351 tonnes in 2007/08 (SC-CAMLR-XXVIII, Annex 5, Table 4). These catches were taken mostly in Areas 41 and 87.

4.30 Estimates of catches from IUU fishing for *Dissostichus* spp. inside the Convention Area were discussed under Item 9.

4.31 The Commission endorsed the Scientific Committee's management advice for the fisheries for *D. eleginoides* in Subarea 48.3 and Division 58.5.2 in 2009/10, noting that the catch limits may be carried over into 2010/11 subject to the conditions of the biennial assessment procedure (SC-CAMLR-XXVIII, paragraphs 4.81, 4.82, 4.108 and 4.109). The Commission considered the management advice for the exploratory fisheries for *Dissostichus* spp. under Item 11.

4.32 The Commission also endorsed the Scientific Committee's management advice for the fishery for *D. eleginoides* (Northern Area) and *Dissostichus* spp. (Southern Area) in Subarea 48.4 in 2009/10 (SC-CAMLR-XXVIII, paragraphs 4.93 and 4.95).

4.33 The Commission noted that the success of the four-year experiment in the Northern Area of Subarea 48.4 was largely attributed to the following key factors:

- (i) the experiment was well designed and monitored closely;
- (ii) vessels undertaking the experiment had committed to it over the whole period of the experiment, allowing for consistency and high standards in the execution of the research plan;
- (iii) tags were released randomly throughout the area, with tagging of a wide range of toothfish sizes.

4.34 The Commission endorsed the Scientific Committee's advice on the fisheries for *D. eleginoides* in the French EEZs in Division 58.5.1 (Kerguelen Islands) and Subarea 58.6 (Crozet Islands). The Commission encouraged France to continue developing assessments for

the stocks concerned, to continue its tagging program in these fisheries, and to avoid fishing in zones of specific high rates of by-catch (SC-CAMLR-XXVIII, paragraphs 4.99 to 4.102 and 4.113 to 4.116). The Commission noted that France had continued to make significant progress in mitigating seabird by-catch (see Item 6).

4.35 The Commission noted that the Scientific Committee was unable to provide management advice for the fishery for *D. eleginoides* in the South African EEZ in Subareas 58.6 and 58.7 (Prince Edward Islands). The Commission urged South Africa to adopt the CCAMLR decision rules for estimating yields for this fishery (SC-CAMLR-XXVIII, paragraphs 4.120 and 4.121).

4.36 The Commission agreed that prohibition of directed fishing should remain in force for *D. eleginoides* in Subareas 58.6 and 58.7, and Divisions 58.4.4 and 58.5.1 in areas outside national jurisdiction (SC-CAMLR-XXVIII, paragraphs 4.115 and 4.122).

#### Icefish

4.37 The Commission noted that Members had targeted *Champsocephalus gunnari* in Subarea 48.3 and Division 58.5.2 in 2008/09 in accordance with conservation measures in force. A total of 1 936 tonnes of *C. gunnari* was taken in the Convention Area (to end of September 2009), compared with 2 690 tonnes in 2007/08 (SC-CAMLR-XXVIII, Tables 2 and 3 respectively).

4.38 The Commission endorsed the Scientific Committee's management advice for the fisheries for *C. gunnari* in Subarea 48.3 and Division 58.5.2 in 2009/10 (SC-CAMLR-XXVIII, paragraphs 4.126, 4.127 and 4.133).

#### Other finfish species

4.39 The Commission endorsed the Scientific Committee's advice that the existing Conservation Measures 32-02 and 32-04 on the prohibition of finfishing in Subareas 48.1 and 48.2 respectively, remain in force.

#### Crab resources

4.40 The Commission noted that there had been no fishery for crab in Subarea 48.3 in 2008/09, and that one Member had notified its intention to harvest crab in 2009/10. The Commission endorsed the Scientific Committee's management advice that the existing elements of Conservation Measure 52-01 be carried forward (SC-CAMLR-XXVIII, paragraphs 4.225 and 4.226). The Commission considered the exploratory fisheries for crab in Subareas 48.2 and 48.4 under Item 11.

### Squid resources

4.41 The Commission noted that there had been no fishery for *Martialia hyadesi* in Subarea 48.3 in 2008/09 and that no notification to harvest this species had been received for 2009/10. The Commission agreed that this fishery has now lapsed, and that Conservation Measure 61-01 be removed from the *Schedule of Conservation Measures in Force* (SC-CAMLR-XXVIII, paragraph 4.229).

### By-catch species

4.42 The Commission endorsed the Scientific Committee's management advice on by-catch (SC-CAMLR-XXVIII, paragraphs 4.230 to 4.237), including:

- (i) extending the Year-of-the-Skate protocols for the 2009/10 season, in order to allow for sufficient data to be collected for preliminary assessments;
- (ii) incorporate a threshold catch of 150 kg in the move-on rule for *Macrourus* spp. in the Southern Area of Subarea 48.4;
- (iii) development of identification guides for benthic invertebrate by-catch.

### Research exemption

4.43 The Commission recalled that it closed the toothfish fishery in Divisions 58.4.4a and 58.4.4b (Ob and Lena Banks) in 2002 on the basis that the stock was depleted (CCAMLR-XXI, paragraph 11.36). The Commission noted that IUU fishing has continued in this area, and there was no evidence that the stock had recovered to a level that could sustain fishing. Therefore, the Commission agreed that a catch limit of 60 tonnes was appropriate for the survey by Japan on Ob and Lena Banks as a research exemption under Conservation Measure 24-01. Consideration of further research activities on Ob and Lena Banks will be dependent on advice from the Scientific Committee of a research and recovery plan for Divisions 58.4.4a and 58.4.4b, based on advice from WG-SAM and WG-FSA.

### Climate change

4.44 The Commission endorsed the Scientific Committee's proposal (SC-CAMLR-XXVIII, paragraphs 7.11 to 7.15) concerning potential management responses to climate change. Specifically, the proposal identified the necessity for a review of CEMP that includes requirements for reference sites so that the effects of krill fishing may be monitored in the face of rapid climate change.

4.45 The Commission agreed that climate change is a very important issue and adopted Resolution 30/XXVIII on climate change that urges increased consideration of climate change impacts in the Southern Ocean to better inform CCAMLR management measures. In light of this, the Commission requested that the Chair of the Commission write to the United Nations

Framework Convention on Climate Change (UNFCCC) to express that the CAMLR Commission considers that an effective global response by the UNFCCC is urgently needed to address the challenge of climate change in order to protect and preserve the Southern Ocean ecosystems and their biodiversity.

#### Secretariat supported activities

4.46 The Commission noted the Secretariat's activities in respect of the continued high level of data management outlined in SC-CAMLR-XXVIII (paragraphs 13.1 to 13.7 and 13.10 to 13.17) and in the provision of comprehensive documentation on CCAMLR's data holdings (CCAMLR-XXVIII/BG/9).

4.47 The Commission noted the various documents that had been published in 2008 in support of the Scientific Committee's work (SC-CAMLR-XXVIII, paragraph 13.8).

4.48 The Commission endorsed the various Scientific Committee decisions relating to *CCAMLR Science*. It noted with appreciation that the journal is currently ranked 19th out of 40 journals in the Fisheries subject category in Thomson Reuters *Journal Citation Reports*, Science Edition (SC-CAMLR-XXVIII, paragraph 13.12).

#### Scientific Committee activities

4.49 The Commission noted that the current pace and demands of work within the Scientific Committee and its working groups are not sustainable and this may cause advice to the Commission to be delayed (SC-CAMLR-XXVIII, paragraph 14.1; CCAMLR-XXVII, paragraph 4.73).

4.50 The Commission agreed that it would be essential to ensure that any delay in the provision of scientific advice does not undermine the Convention's primary objectives (SC-CAMLR-XXVIII, paragraph 14.1). Therefore, it agreed that if there was a delay in the provision of advice, additional precaution in the approach to management would be required in managing the living marine resources (e.g. krill, icefish, toothfish, VMEs and by-catch) typically addressed by the Scientific Committee working groups.

4.51 The Commission noted the priorities that the Scientific Committee had put on its work, particularly the plans for addressing key issues at the 2010 meetings of WG-SAM and WG-EMM (SC-CAMLR-XXVIII, paragraphs 14.2 and 14.3), which will lead to a delay in the provision of some advice to the Commission (SC-CAMLR-XXVIII, paragraph 14.1). It accepted the need for such prioritisation, but urged the Scientific Committee to ensure that issues of key importance to the work of the Commission which have been de-prioritised for 2010 are addressed adequately in 2011. It encouraged Members to submit preliminary work on postponed issues for consideration at forthcoming intersessional meetings if there is time within this year's work plan. It further noted that the proposal to hold a symposium on future work priorities of the Scientific Committee (SC-CAMLR-XXVIII, paragraph 14.4) would be discussed by the ad hoc correspondence group.

4.52 The Commission accepted the work plans for the Scientific Committee and its subsidiary working bodies in 2009 (SC-CAMLR-XXVIII, paragraphs 14.5 and 14.10). This work included:

- SG-ASAM, Cambridge, UK (date to be advised) (Convener, Dr J. Watkins (UK));
- WG-SAM (date and location to be advised) (Convener, Dr A. Constable (Australia));
- WG-EMM (date and location to be advised) (Convener, Dr G. Watters (USA));
- ad hoc TASO, Hobart, Australia, 11 to 16 October 2010 (Co-conveners Dr D. Welsford (Australia) and Mr C. Heineken (South Africa));
- WG-FSA at CCAMLR Headquarters, Hobart, Australia, from 11 to 22 October 2010 (Convener, Dr C. Jones (USA)).

4.53 The Commission recognised the value of obtaining input from the CEP and SCAR to discussions on marine protected areas (MPAs), to ensure harmonisation across the Antarctic Treaty System, and to facilitate the provision and use of the best available scientific data. It agreed that experts/observers should be invited to attend meetings of WG-EMM, and to participate in intersessional work on the topic of MPAs, as appropriate (SC-CAMLR-XXVIII, paragraph 3.30).

4.54 The Commission noted that no Member had offered to host the meetings of WG-EMM and WG-SAM in 2010. In the absence of such an offer, the Commission recognised that the important capacity-building component derived from these meetings being hosted by Members could be lost (SC-CAMLR-XXVIII, section 10).

4.55 The Commission noted that the Scientific Committee had unanimously elected Drs D. Agnew (UK) and Jones to the positions of Chair and Vice-Chair of the Scientific Committee respectively, both for a term of two regular meetings (2010 and 2011) (SC-CAMLR-XXVIII, paragraphs 15.1 and 15.2). A very warm welcome was extended to both Drs Agnew and Jones.

4.56 The Commission noted the Scientific Committee's decision that all observers invited to SC-CAMLR-XXVIII would be invited to participate in SC-CAMLR-XXIX (SC-CAMLR-XXVIII, paragraph 14.8).

## FISHERIES MANAGEMENT AND CONSERVATION UNDER CONDITIONS OF UNCERTAINTY

Catches of *Dissostichus* spp.

5.1 The Commission noted catches of *Dissostichus* spp. in areas outside the Convention Area which had been reported to the Scientific Committee. These catches were taken mostly in Areas 41 and 87 (SC-CAMLR-XXVIII, paragraphs 4.138 to 4.140 and Annex 5, Table 4).

5.2 The Commission also noted the Scientific Committee's discussion on information pertaining to IUU fishing in the Convention Area (SC-CAMLR-XXVIII, paragraphs 7.1 to 7.10). This matter was discussed under Item 9.

#### Bottom fishing in CCAMLR high-seas areas

5.3 The Commission joined the Scientific Committee in thanking fishing vessels and scientific observers on the quantity of data that they had been able to report during the season in accordance with Conservation Measure 22-07. To date, the Secretariat had received 30 VME indicator notifications of which seven notifications consisted of at least 10 VME indicator units. This had resulted in seven Risk Areas being declared in Subareas 88.1 and 88.2 (SC-CAMLR-XXVIII, Annex 5, paragraph 10.29).

5.4 The Secretariat had also received a total of 30 notifications of encounters with VMEs made during the course of research surveys (Conservation Measure 22-06). The Commission agreed that these VMEs be recorded in the Secretariat's VME Register. The Commission also agreed that the VMEs reported in Subarea 48.2 be given protection in the experimental harvest regime for crabs in that subarea by closing experimental blocks A, C and E (SC-CAMLR-XXVIII, paragraph 4.257).

5.5 The Commission noted the continuation of the work of the Scientific Committee and its working groups on developing approaches to avoid and mitigate significant adverse impacts on VMEs (SC-CAMLR-XXVIII, paragraphs 4.238 to 4.258).

5.6 The Commission also noted that notifications made under Annex A of Conservation Measure 22-06 in 2009 were provided in several languages and this had limited the ability of WG-FSA to evaluate the proposals (SC-CAMLR-XXVIII, paragraph 4.244(b)). The Commission urged notifying Members to attend future meetings of the relevant working groups to help address issues dealing with their notifications, and not to add unduly to the Secretariat's translation load.

5.7 The Commission endorsed the Scientific Committee's advice on data-related requirements to improve the implementation of Conservation Measures 22-06 and 22-07 (SC-CAMLR-XXVIII, paragraph 4.247).

5.8 The Commission also endorsed the Scientific Committee's advice on the key points in the implementation of Conservation Measures 22-06 and 22-07 (SC-CAMLR-XXVIII, paragraph 4.248).

5.9 The Commission endorsed the Scientific Committee's intersessional work plan aimed at providing advice on Conservation Measures 22-06 and 22-07 next year (SC-CAMLR-XXVIII, paragraphs 4.251 and 4.252).

5.10 In endorsing this work plan, the Commission urged the Scientific Committee and its working groups to carefully consider the practical aspects of implementing recommendations arising from its work.



## ASSESSMENT OF INCIDENTAL MORTALITY OF ANTARCTIC MARINE LIVING RESOURCES

### Marine debris

6.1 The Commission noted the Scientific Committee's advice on marine debris in the Convention Area (SC-CAMLR-XXVIII, paragraph 5.34(viii)). This advice encouraged Members with marine debris data, or the potential to collect such data, to participate in CCAMLR's marine debris monitoring program.

6.2 The Commission also noted the advice from the Scientific Committee for Members conducting marine debris surveys to continue to seek input from fishing industry experts on the potential origins of any fishing gear debris (SC-CAMLR-XXVIII, Annex 7, paragraph 13.14).

6.3 The Commission endorsed the Scientific Committee's recommendations concerning the CCAMLR marine debris program (SC-CAMLR-XXVIII, paragraph 5.35(xiii)).

### Incidental mortality of seabirds and marine mammals during fishing operations

6.4 The Commission noted the Scientific Committee's general advice on incidental marine mammal and seabird mortality during fishing operations (SC-CAMLR-XXVIII, paragraph 5.34(ii)). It thanked the Scientific Committee and WG-IMAF for their work. In particular, the Commission noted the continued low level of incidental mortality of seabirds and marine mammals in CCAMLR-managed fisheries (SC-CAMLR-XXVIII, Annex 7, Tables 2 to 8).

6.5 The Commission also endorsed the recommendations of the Scientific Committee in respect of incidental mortality and on the dangers posed by marine debris in the Convention Area (SC-CAMLR-XXVIII, paragraph 5.35). The Commission also endorsed the actions recorded in SC-CAMLR-XXVIII, paragraph 5.36.

6.6 France informed the Commission of the reduction of seabird mortality within its EEZ by 67% (SC-CAMLR-XXVIII/11). It underlined its ongoing commitment to further reduce seabird mortality.

6.7 France also noted that reduction in populations of seabird species at Crozet and Kerguelen Islands was not only linked to the impact of incidental seabird mortality within the Convention Area, but was also potentially linked to fisheries in adjacent zones. Therefore, France noted that it was necessary for CCAMLR to work intensely with RFMOs and other international organisations, such as ACAP, to help reduce the incidental mortality of Convention Area seabirds.

6.8 The Commission acknowledged the progress made by France with its three-year plan to reduce seabird incidental mortalities to near-zero levels and urged France to continue with its efforts.

6.9 Ukraine noted that seabird interactions with the fishery vary for different fisheries and for every area or vessel, therefore extrapolations of incidental mortalities of seabirds for unobserved krill vessels would not be appropriate (SC-CAMLR-XXVIII, paragraph 5.3). Ukraine also noted that this further emphasised the importance of mandatory observers on all fisheries in the Convention Area.

#### Changes to conservation measures

6.10 The Commission endorsed the new definitions of offal, discards, releases and benthic organisms proposed by the Scientific Committee (SC-CAMLR-XXVIII, paragraph 5.10).

#### Incidental mortality of seabirds outside the Convention Area

6.11 The European Community informed the Commission that it was engaged with a number of RFMOs on the issue of incidental mortality, and considered that there was great benefit in further development of relationships between CCAMLR and other relevant RFMOs on the issue (see paragraph 15.24).

6.12 The USA noted that ACAP holds important information that can assist the work of CCAMLR. It therefore continued to support and encourage the relationship between CCAMLR and ACAP. The USA informed the Commission that it was currently not a Member of ACAP, but hoped to be in the future.

6.13 ACAP thanked the Commission for its support and noted that many of the species covered by the Agreement spend time in the Convention Area. ACAP hoped that closer links with CCAMLR, facilitated by the Memorandum of Understanding (MOU) (paragraphs 15.5 to 15.12 and Annex 7), would help both organisations in their work.

#### Incidental mortality of seabirds during unregulated fishing in the Convention Area

6.14 The Commission noted with concern the inability to produce an estimate of the levels of incidental mortality of seabirds or marine mammals in IUU fishing due to a lack of information on the potential rate of interactions with IUU gillnet fisheries (SC-CAMLR-XXVIII, paragraph 5.17).

6.15 The Commission endorsed the Scientific Committee's request that Members submit information on incidental mortality of seabirds during IUU fishing in the Convention Area, particularly with respect to gillnet fisheries (SC-CAMLR-XXVIII, paragraph 5.35(vi)).

## Streamlining the work of the Scientific Committee

6.16 The Commission endorsed the Scientific Committee's recommendation that WG-IMAF meet on a biennial basis (SC-CAMLR-XXVIII, paragraph 5.35(xiv)), and thanked the Co-conveners for their work.

6.17 Some Members expressed concern over the consequences for SCIC with WG-IMAF meeting biennially. However, the Commission agreed that it was a sign of the success of WG-IMAF that it does not have to meet every year.

## MARINE PROTECTED AREAS

7.1 The Commission endorsed the Scientific Committee recommendations on a proposal for a protected area in the South Orkney Islands (SC-CAMLR-XXVIII, paragraph 3.19). Accordingly, it adopted Conservation Measure 91-03 (2009) 'Protection of the South Orkney Islands southern shelf'.

7.2 The Commission recognised that the establishment of the protected area on the southern shelf of the South Orkney Islands, as recommended by the Scientific Committee (SC-CAMLR-XXVIII, paragraph 3.19), would be a substantial achievement and confirmed CCAMLR's innovative and global leadership in the conservation of marine living resources.

7.3 The Commission recognised that areas to be designated as protected in the Convention Area be linked to a management plan specific to the area concerned. Therefore, when such a plan was established by the Commission, it should be reviewed by all Members, the Scientific Committee and the Commission as to its suitability.

7.4 Japan stated that neither the objectives nor the management plan of MPAs were clear and that such spatial designations as CEMP sites, ASMAs, ASPAs and VME Risk Areas in the Antarctic region need coordination. Japan was able to accept the revised UK proposal because the area where fishing activity is carried out has been excluded from the original proposal so as to avoid restricting the fishery. It noted that the amended MPA constitutes a good precedent for future deliberations with respect to the establishment of MPAs by this organisation. Japan reiterated its hope that when the establishment of MPAs is considered in the future, the same consideration is given to the fisheries.

7.5 The Republic of Korea and Russia supported the statement by Japan.

7.6 Argentina noted its support for the original MPA proposal, indicating that this area has the particular value of containing oceanographic fronts and that as such, might be of great value in monitoring climate change in the Antarctic and its effects on krill distribution. Argentina further indicated that it looked forward to working with other Members in this regard and expressed its hope that a clear definition of administration objectives would allow reaching consensus on the original proposal in the next meeting.

7.7 A significant number of Members rejected the notion expressed by Japan that MPAs and fishing activities should be mutually exclusive.

7.8 The USA noted that it supports efforts within CCAMLR to work on the establishment of MPAs in appropriate areas. It was not of the view that establishing an MPA near the South Orkney Islands sets a precedent on how MPAs would be established or defined in the future. Rather, in the view of the USA, MPAs should be established on a case-by-case basis, being mindful of the need to develop a network of MPAs and considering the relative merits of differing objectives for conservation, including rational use. The USA noted that fishing grounds often coincide with areas that, for the purposes of conserving biodiversity, may ultimately require protection that extends beyond typical approaches to fisheries management.

7.9 Many Members supported the designation of a representative system of MPAs. They also noted that the Performance Review recommended the strategic development of an Antarctic system of comprehensive, adequate and representative MPAs as a matter of urgency. They also noted that MPAs can be established for a variety of purposes, as described in 2005 by the Scientific Committee (SC-CAMLR-XXIV, Table 1), including representativeness, protection of areas vulnerable to human activities, science and protection of ecosystem function.

7.10 Those Members noted that the protection of the South Orkney Islands southern shelf area is a first step towards a representative network of MPAs within the Southern Ocean. In the development of the representative system, they recognised that rational use provides access to Antarctic marine living resources on the condition that it includes consideration of the environmental and fisheries management requirements to assist the Commission in achieving the objectives in Article II. In the view of these Members, rational use does not mean that fishing vessels need to have access to the entire range of a stock. They also noted that this may result in some areas being closed to fishing for conservation, research or monitoring purposes, whilst others may have multiple management purposes including fishing.

7.11 Those Members also noted the need to consider all issues in developing the representative system and encouraged all Members to be involved in the development of a network of MPAs across the 11 priority areas endorsed by the Commission in 2008 (CCAMLR-XXVII, paragraph 7.2; SC-CAMLR-XXVII, Annex 4, Figure 12) according to the work plan of the Scientific Committee (SC-CAMLR-XXVIII, paragraph 3.28).

7.12 China expressed the view that:

- (i) MPAs should be established case-by-case, on the basis of all conservation measures adopted and taking into account the strict necessity and particularities of each specific species and area. Every MPA is case-specific in itself, and would not be considered as precedent.
- (ii) The establishment of an MPA as a conservation measure should meet the objectives and requirements of CAMLR Convention, Article II. The balance of conservation and rational use must be maintained. The total network area of MPAs in the Convention Area should be limited to a rational proportion of the Convention Area so as not to compromise rational use.

7.13 China expressed its view that the impact of an MPA on the existing legal regimes of UN Convention on the Law of the Sea (UNCLOS) should be a subject of study in the Commission's future work, and the view that the Commission should be asked to invite legal experts to make such a study.

7.14 In accepting the South Orkney Islands southern shelf MPA, Australia noted that all activities that may have an impact on the conservation of Antarctic marine living resources are within the competency of CCAMLR. As such, it expects the Commission, in keeping with the objective of establishing MPAs, to properly protect the values of the established area and establish regulations as needed to avoid potential impacts on marine living resources from all activities, not only fishing activities.

7.15 Australia also noted that the measure requires the Commission to communicate details of the MPA to the ATCM. In addition, it requested that the Commission seek advice from the ATCM on other measures that may be needed to ensure any other activities that may have an impact on the MPA are properly regulated.

7.16 Belgium expressed the view that the restriction to fishing vessels of the interdiction of transshipments within the designated area was in contradiction with the two main objectives of the MPA, to protect the environment and serve as a scientific reference site, and that other types of vessels could be encountered in the area.

7.17 ASOC made the following statement:

‘ASOC commends the Commission for the establishment of this first MPA in the vicinity of the South Orkneys as it constitutes an important step to establishing a network across the Southern Ocean. The methodology employed by the UK to identify the boundaries of the South Orkneys MPA in its original proposal was based on the best available science and is applicable across the Southern Ocean. By reducing the MPA's borders and making allowances for fisheries, the principles behind the original proposal have been undermined and the ecological values of the new MPA compromised.

ASOC trusts that Member States will take the lessons from this year and will return next year with proposals for MPAs that are of sufficient scale to actually meet agreed conservation objectives and confer real protection to the Southern Ocean.’

7.18 COLTO noted the values of MPAs and views as expressed by a number of Members. COLTO asked that future consideration of MPAs by CCAMLR should aim to minimise the impact of any closed areas on commercial fishing for toothfish, and recognise the significant environmental and management requirements that already exist for fisheries in the CCAMLR regions.

7.19 The Commission endorsed the milestones agreed by the Scientific Committee to guide its work towards the achievement of a representative system of MPAs within the Convention Area by 2012 (SC-CAMLR-XXVIII, paragraph 3.27). It also supported the Committee's recommendations to use the MPA Special Fund to facilitate progress (SC-CAMLR-XXVIII, paragraph 3.33).

## IMPLEMENTATION AND COMPLIANCE

### Report of SCIC

8.1 The meeting of SCIC was held from 26 to 30 October 2009 and was chaired by Ms Dawson-Guynn. All Members of the Commission and observers attended the meeting.

8.2 The Commission considered information submitted by the Chair of SCIC in respect to implementation of conservation measures, including the System of Inspection, krill, exploratory notifications, bottom fishing notifications, environmental measures, incidental mortality and mitigation measures, and the Catch Documentation Scheme (CDS).

### System of Inspection

8.3 The Commission reviewed the implementation of the System of Inspection during the 2008/09 season. It noted that 62 designated CCAMLR inspectors had conducted nine at-sea inspections within the Convention Area and that none of the inspections had reported any contravention of CCAMLR conservation measures in force (Annex 5, paragraph 2.1).

8.4 The Commission encouraged all Members to participate in the System of Inspection by designating inspectors and conducting at-sea inspections.

8.5 The USA advised the Commission that it had proposed revising the 20-year-old System of Inspection based on similar proposals submitted by Australia over the previous three years. The USA advised the Commission with regret that, despite extensive discussion and significant support by several Members, it had been unable to make progress. The USA expressed its hope that the Commission would revisit the issue in the future.

8.6 Several Members expressed their disappointment that this issue had again been unable to be progressed. These Members recalled that the issue had been discussed for several years and hoped that the System of Inspection would be reviewed and modernised in the near future.

8.7 Other Members hoped that common ground could be found to modernise the System of Inspection in an innovative way in future. Whilst noting that the existing System of Inspection had functioned effectively to date, these Members believed that it was important that any revisions of the System of Inspection be fully in accordance with international law.

8.8 The Commission expressed its appreciation for all personnel involved in conducting CCAMLR inspections in the Southern Ocean.

### Compliance with conservation measures

8.9 The Commission noted that Spain had taken action in respect of several of its nationals in accordance with Conservation Measure 10-08.

8.10 Chile advised the Commission that its parliament was considering a bill to establish sanctions for Chilean nationals involved in IUU fishing and hoped that this would be adopted during the 2009/10 intersessional period.

8.11 The European Community informed the Commission that it, and its Member States, had worked hard on the issue of controlling nationals. It advised that its own legislation, notably EC Regulation No. 1005/2008, Chapter 8, already contained provisions which included and exceeded those contained in Conservation Measure 10-08. The European Community would continue to apply these provisions to all European Community nationals.

8.12 South Africa advised the Commission that, in relation to the Report of SCIC, its flag vessel *Koryo Maru No. 11* had picked up lines from the *Insung No. 22* which had caught fire in June 2009 (Annex 5, paragraph 2.74).

8.13 The Commission agreed that compliance with all conservation measures in force should be taken seriously and urged all Members to address any reports of non-compliance as a matter of priority.

#### Tagging protocol

8.14 The Commission noted that overall tagging rates had improved during the 2008/09 fishing season. It also noted that, subject to Conservation Measure 41-01, Annex 41-01/C, some vessels were reported to have (i) not tagged *Dissostichus* spp. continuously whilst fishing, (ii) had only tagged small specimens, (iii) had not tagged sufficient fish in proportion to the size distribution of the catch.

8.15 The Commission noted that SCIC had concluded that the requirements of Conservation Measure 41-01 were not being fully met and had recommended that the issue of compliance with Conservation Measure 41-01 should be referred to the DOCEP group as part of its future work.

8.16 Chile reminded the Commission that one of its vessels had been reported not to have fully complied with tagging requirements. Chile advised the Commission that it was satisfied that this report had been an error and that the vessel had fully complied with its tagging requirements.

8.17 The Commission noted that failure to comply with all aspects of tagging requirements was a serious matter which undermined the ability of the Scientific Committee to carry out robust assessments and provide advice. This, in turn, was detrimental to the objectives of the Convention.

#### Mitigation and environmental measures

8.18 The Commission noted advice from SCIC that a number of vessels had not fully complied with provisions of environmental protection and mitigation measures during the 2008/09 season (Annex 5, paragraphs 2.21 to 2.35).

8.19 Poland advised the Commission that one of its flag vessels, *Dalmor II*, had been reported to have not fully complied with the requirements of Conservation Measure 51-01 by failing to deploy a marine mammal exclusion device during all hauls. Poland reported that it had taken steps to verify the relevant observer report. It reported that its investigation showed that the device was used for all hauls with the exception of two days during which repairs and modification of the device had been necessary.

8.20 Ukraine advised the Commission that a Ukrainian observer had been on board the vessel and had investigated the matter and concluded that Poland's advice was correct. Ukraine also advised that its observer had reported on fur seal by-catch by the *Dalmor II* and provided an explanation as to why the level of by-catch was higher than last year.

8.21 In thanking Ukraine and Poland for their investigations and explanations, the European Community advised Members that it had adopted a requirement for 100% observer coverage in krill fisheries in its Regulation 43/2009. The European Community believed that comprehensive observer coverage of krill fisheries was an essential data collection tool.

8.22 Russia reminded the Commission that skates had been reported to have been discarded in Divisions 58.4.3b and 58.4.4 and Subarea 88.1, and that this was a serious infringement of Conservation Measure 26-01.

8.23 Russia recalled that it had raised the matter at SCIC but that the vessels concerned had not subsequently been identified. Russia expressed its disappointment that this had occurred during the Year-of-the-Skate and urged Members to take the issue more seriously in future.

8.24 New Zealand reiterated its concern on the issue of incidental mortality and advised the Commission that New Zealand had volunteered that one of its flag vessels in Subarea 88.1 had been reported to have discarded skates. New Zealand had investigated and found that a transcription error had occurred and that this had been confirmed by South Africa which had placed an observer on board the vessel.

8.25 The Commission noted advice from WG-IMAF that it would meet on a biennial basis in future and that SCIC would be responsible for reviewing observer reports with respect to vessels' conformity with conservation measures in force.

#### Preliminary assessments of bottom fishing

8.26 The Commission noted that some preliminary assessments of the potential impact of bottom fishing activities had been submitted after the deadline specified in Conservation Measure 22-06. Consequently, these had not been considered by the Scientific Committee (SC-CAMLR-XXVIII, paragraphs 2.38 and 2.47).

8.27 The USA expressed its disappointment that some Members had failed to fully comply with the requirements of Conservation Measure 22-06. The USA reaffirmed its position taken in respect of the UN General Assembly (UNGA) Resolution 61/105 (2006). The USA referred to the unanimously adopted 2006 UNGA Sustainable Fisheries Resolution (61/105) whereby States should assess whether individual bottom fishing activities would have significant adverse impacts on VMEs, and should ensure that if it is assessed that these activities would have significant adverse impacts, they are managed to prevent such impacts,



or not authorised to proceed. The USA therefore believed that paragraph 83 of Resolution 61/105 clearly promoted the principle that fishing should not occur when assessments were not available.

8.28 The USA recalled that in 2007, the Commission adopted Conservation Measure 22-06, whereby each Contracting Party that wished to engage in bottom fishing activities beginning 1 December 2008 shall follow the procedures outlined in the conservation measure, particularly that all bottom fishing activities would be authorised only subject to evaluation by the Scientific Committee. Thus, evaluation of preliminary assessments of anticipated impacts provided by fishing nations is required.

8.29 The USA stated that the lack of an evaluation of all assessments by the Scientific Committee severely weakens the ability of this Commission to prevent significant adverse impacts to VMEs. The late submissions by two Members also created a situation where the Scientific Committee could not properly evaluate the cumulative impact of bottom fishing in the CAMLR Convention Area. In the view of the USA, the application of Conservation Measure 22-06 should be followed to the letter, including the meeting of all deadlines to ensure that adequate assessments can be conducted.

8.30 Several Members expressed agreement with the points made by the USA.

8.31 The European Community agreed that this was an important issue and that it had adopted EC Regulation 734/2008 on the protection of VMEs in the high seas from the adverse impact of bottom fishing gears and had worked in other organisations to promote and implement Resolution 61/105. It also noted that interim arrangements adopted during negotiations on a South Pacific RFMO include interim bottom fishing measures.

8.32 Russia advised the Commission that it had, together with other nations, supported Resolution 61/105 and was prepared to implement it in practice. Russia also shared the concerns of other Members concerning damaging fishery practices. Nevertheless, it reminded Members that, in Russia's view, the procedures required by Conservation Measure 22-06 were relatively new and had presented serious obstacles to some Members. Russia believed that all notifications received in the 2008/09 season had been deficient in some way. Russia advised that it was prepared to cooperate with all Members in respect of this issue.

8.33 Ukraine noted that it had consulted with its scientists regarding the issue of preliminary assessments. Ukraine believed that the assessments submitted by Russia and the Republic of Korea had not been deficient. It also believed that there were difficulties involved in reviewing assessments submitted by other Members. Ukraine expressed the view that the review of assessments was in danger of becoming political and urged the Commission to adopt a unified procedure in reviewing such notifications.

8.34 The Republic of Korea reiterated that it had not intentionally submitted a late preliminary assessment and assured the Commission that it would not increase the number of its flag vessels fishing in the area(s) concerned. Furthermore, the Republic of Korea had sanctioned the fishing companies concerned by withdrawing some vessels from the fishery during the 2009/10 season. It stressed that it would attempt to comply with all conservation measures in future in the spirit of CCAMLR cooperation.

8.35 The Commission expressed appreciation to the Republic of Korea for its statement and the actions it had taken.

8.36 The European Community recalled that Chile had also withdrawn a vessel from the krill fishery for which it had submitted a late notification. The Commission expressed its appreciation to Chile.

#### Compliance Evaluation Procedure

8.37 The Commission considered the work of the DOCEP Workshop which was held in Norway during July 2009 (Annex 6).

8.38 The Commission endorsed a draft matrix which had been developed by DOCEP to assess vessels' compliance with conservation measures. The Commission noted that DOCEP would continue to test the matrix over the next three years. It also noted that DOCEP would work intersessionally via email during 2010 but that it may need to meet again in 2011.

8.39 The Commission endorsed DOCEP's proposed future work, including its proposal to circulate to all Members a questionnaire that would solicit impact scores for non-compliance with conservation measures. The Commission noted that completion of the questionnaire would require scientific expertise and input. SCIC therefore requested DOCEP to set a reasonable intersessional deadline that would allow all Members an opportunity to respond but would also allow DOCEP to calculate a single impact score for each conservation measure. DOCEP should then develop a set of impact scores on the basis of those responses received by the deadline and circulate as a paper to SCIC to be considered at its meeting in 2010.

## IUU FISHING IN THE CONVENTION AREA

### Current level of IUU fishing

9.1 The Chair of the Scientific Committee advised the Commission that the estimated IUU catch of toothfish from the Convention Area during the 2008/09 season was 938 tonnes. He informed the Commission that six vessels were reported to have conducted IUU fishing activities in the Convention Area during the 2008/09 season and that all six vessels appeared to be deploying gillnets.

9.2 The Chair of the Scientific Committee advised the Commission that new information collected by inspectors in the Convention Area on possible catch rates of gillnet vessels had been used to estimate IUU catches of toothfish from the Convention Area in the 2008/09 season.

9.3 The Chair of the Scientific Committee also advised the Commission that, whilst the overall level of IUU fishing had declined, current estimates were conservative and catches from IUU gillnets were likely to be higher. He further advised that gillnets were not selective and their impact on Antarctic marine resources was unknown.

9.4 The Commission expressed its deep concern at the consequences of gillnet fishing on the Antarctic marine environment. It agreed that every effort should be made to eradicate gillnet fishing in the Convention Area.

9.5 The Commission nevertheless recalled that CCAMLR and its Members had worked extremely hard to eliminate IUU fishing in the Convention Area and that the estimated levels of IUU toothfish catches for the 2008/09 season indicated that progress had been made.

9.6 The European Community reiterated its concern at the sustained levels of IUU fishing, particularly on BANZARE Bank, and pointed to the fact that the Scientific Committee estimate of IUU catch of toothfish was highly conservative and characterised by a high level of uncertainty. It felt that there was little utility in regulating licensed fishing in that area if IUU fishing could not be controlled. It reminded Members that IUU operators enjoyed the benefits of IUU fishing because markets were available to sell their fish. The European Community reiterated that its markets would be closed to IUU catches of all species from 1 January 2010.

9.7 ASOC commended the European Community for its new regulations which it believed were progressive and would complement the recently concluded FAO Port States Agreement.

9.8 Norway agreed that it was important to continue combating IUU fishing and joined ASOC in urging all Members to ratify the Port States Agreement.

9.9 The Commission expressed its gratitude to Members which had conducted at-sea patrols in the Convention Area. The Commission noted that patrol operations were expensive and hazardous but had provided CCAMLR with invaluable information regarding the extent of IUU fishing and the impact of gillnets.

9.10 In particular, the Commission expressed its appreciation to Australia for retrieving a gillnet abandoned by an IUU vessel in Division 58.4.3b. The Commission noted that this had required considerable resources and that the information provided had been extremely useful in gaining useful insights into the effects of gillnet fishing in terms of the species and quantities of fish taken.

9.11 The Commission recommended that information on CCAMLR Member nationals reported to be involved with IUU fishing be disseminated as widely as possible to assist Members in taking action in accordance with Conservation Measure 10-08.

9.12 The Commission tasked the Secretariat with providing estimates of IUU catches of *D. eleginoides* and *D. mawsoni* in future. The Secretariat was also tasked with recalculating historical IUU data by using new gillnet information as it became available.

#### IUU Vessel Lists

9.13 The Commission noted that there was no Provisional Contracting Party (CP) or Non-Contracting Party (NCP)-IUU Vessel List for 2009. It considered recommendations from SCIC in respect of vessels which could be deleted from the NCP-IUU Vessel List.

9.14 The Commission agreed to delete the Cambodian-flagged *Taruman* from the NCP-IUU Vessel List as it had been deconstructed by Australia in January 2009.

9.15 The Commission agreed to delete the Panamanian-flagged *Sibley* from the NCP-IUU Vessel List as it was reported to have caught fire and sunk off the coast of Kenya in March 2009.

9.16 The Commission noted that SCIC had not made any recommendations in respect of two vessels, *East Ocean* and *South Ocean*, which China had proposed be removed from the CP-IUU Vessel List.

9.17 The Commission considered China's original proposal in detail.

9.18 The Commission agreed that with respect to the two Chinese-flagged vessels, *East Ocean* and *South Ocean*, these vessels shall be removed from the CP-IUU Vessel List within 10 working days once China informs the Commission via a Commission Circular that the vessels have been sold to the Insung Corp. of Korea. The Commission circular shall have attached copies of the Bill of Sale, Commercial Invoice and Protocol of Delivery and Acceptance of these vessels described in clauses 3(a) and 3(b) of the Memorandum of Agreement (Contract Number: SFV-2009-01), distributed to the Commission via COMM CIRC 09/119.

9.19 The Commission agreed that with respect to the two Chinese-flagged vessels, *North Ocean* and *West Ocean*, these vessels shall be removed from the CP-IUU Vessel List in accordance with CCAMLR-XXVII, paragraph 10.10, or in accordance with Conservation Measure 10-06 (2008).

9.20 The Commission adopted the IUU Vessel List for 2009.

## SCHEME OF INTERNATIONAL SCIENTIFIC OBSERVATION

10.1 In accordance with the CCAMLR Scheme of International Scientific Observation, scientific observers were deployed on all vessels in all finfish fisheries in the Convention Area. Information collected by scientific observers on board longline, finfish trawl, pot and krill trawl cruises were summarised in SC-CAMLR-XXVIII/BG/2.

10.2 The Commission endorsed the development of standards for all observers participating in the CCAMLR Scheme of International Scientific Observation (SC-CAMLR-XXVIII, paragraphs 6.8 and 6.9). Such standards include outlining baseline requirements for accredited observer programs for the provision of advice to the Commission in 2011.

10.3 The Commission noted the Scientific Committee's advice on the need for systematic scientific observer coverage by all Member vessels participating in the krill fishery (SC-CAMLR-XXVIII, paragraphs 6.28 and 6.29; SC-CAMLR-XXVII, paragraphs 6.22 to 6.34).

10.4 The European Community recalled that the level of observer coverage had been discussed at length in 2008 (SC-CAMLR-XXVII, Annex 9). In its view, there was no doubt as to the scientific requirements for 100% observer coverage in krill fisheries (CCAMLR-XXVIII/47). The European Community advised the Commission that this requirement had been included in Community legislation.

10.5 Ukraine expressed concern that the level of uncertainty associated with the krill fishery was increasing. This included, for example, uncertainty attached to estimating seabird and marine mammal incidental mortality (paragraph 6.9). Ukraine noted that implementing 100% observer coverage in the krill fishery was essential to discharging the Commission's responsibility in meeting the Convention's objectives.

10.6 The Commission recognised that the issue of implementing observer coverage in the krill fishery was a complex one and that there is a range of views on the matter among Members. In order to make progress on collecting observer data from the krill fishery, the Commission adopted Conservation Measure 51-06.

10.7 The Commission noted that Conservation Measure 51-06 should be reviewed in 2010, and that the Commission shall adopt a systematic observer coverage program in the krill fishery, taking into account Scientific Committee findings on the statistical design of such a program (SC-CAMLR-XXVIII, paragraphs 6.28 to 6.30).

## NEW AND EXPLORATORY FISHERIES

### New and exploratory fisheries in 2008/09

11.1 In 2008 the Commission agreed to seven exploratory longline fisheries for *Dissostichus* spp. (Conservation Measures 41-04, 41-05, 41-06, 41-07, 41-09, 41-10 and 41-11). These exploratory fisheries were conducted in 2008/09 in Subareas 48.6, 88.1 and 88.2, and Divisions 58.4.1, 58.4.2, 58.4.3a and 58.4.3b. The total reported catch of *Dissostichus* spp. for these fisheries was 3 624 tonnes (SC-CAMLR-XXVIII, Annex 5, Table 5).

11.2 The Commission noted that the *Isla Eden* had participated in the exploratory fisheries in Subareas 88.1 and 88.2 in 2008/09. It further noted that the vessel's tagging rates for *Dissostichus* spp. had been incorrectly reported in SC-CAMLR-XVIII, Annex 5, Table 8. The correct tagging rates for that vessel in Subareas 88.1 and 88.2 were 1.41 and 1.17 fish per tonne of green weight caught respectively.

### Notifications for new and exploratory fisheries in 2009/10

11.3 Twelve Members submitted notifications for exploratory longline fisheries for *Dissostichus* spp. in 2009/10 in Subareas 48.6, 88.1 and 88.2, and Divisions 58.4.1, 58.4.2, 58.4.3a and 58.4.3b. Members also submitted notifications for an exploratory trawl fishery for *Euphausia superba* in Subarea 48.6, and for exploratory pot fisheries for crab in Subareas 48.2 and 48.4. No new fishery was notified.

11.4 The Republic of Korea withdrew two notifications from Subarea 88.1, one notification from Subarea 88.2 and two notifications from Division 58.4.3b. New Zealand withdrew one notification from Division 58.4.1 and one notification from Division 58.4.2. The UK withdrew one vessel from Subarea 88.1 and one vessel from Subarea 88.2.

11.5 The Commission thanked Members for their notifications, and agreed to Members' participation in exploratory fisheries in 2009/10 as indicated in Table 1.

#### Exploratory fisheries for *Dissostichus* spp.

11.6 The Commission noted that the Scientific Committee had made further progress towards developing methods for assessing exploratory fisheries, including the use of tag-recapture data (SC-CAMLR-XXVIII, paragraphs 4.144 to 4.151) and research hauls (SC-CAMLR-XXVIII, paragraphs 4.152 to 4.155). The Commission also noted the importance of understanding stock structure, productivity and abundance, as well as the Scientific Committee's advice that estimation of stock abundance in many of the exploratory fisheries remains a key problem (SC-CAMLR-XXVIII, paragraphs 4.156 to 4.168).

11.7 The Commission noted with concern that the data currently provided from the exploratory fisheries in areas other than in the Ross Sea are unlikely to provide an assessment of harvested stock status in the near future. The Scientific Committee advised that the low commitment by some vessels to implementing research plans cast doubt on the likelihood that useful data may be collected by these vessels in the future (SC-CAMLR-XXVIII, paragraph 4.163).

11.8 The Commission reaffirmed that Members' participation in exploratory fisheries represents a commitment towards undertaking research that will lead to a stock assessment and the development of management advice based on CCAMLR's decision rules. The Commission noted that research programs will have to operate in a different manner in fisheries that have not been previously exploited compared to those which have been depleted.

11.9 The Commission endorsed the Scientific Committee's advice that any research strategy targeting a depleted stock should be designed to ensure that research catch requirements do not impact on the ability of the fishery to recover (SC-CAMLR-XXVIII, paragraphs 4.162 to 4.168).

11.10 The Commission endorsed the Scientific Committee's management advice on the exploratory fisheries for *Dissostichus* spp. in Subareas 48.6, 88.1 and 88.2, as well as in Divisions 58.4.1, 58.4.2 and 58.4.3a (SC-CAMLR-XXVIII, paragraphs 4.174, 4.180, 4.185, 4.190 and 4.212 to 4.214). It noted that the catch limits in Subareas 88.1 and 88.2 can be carried over into the 2010/11 fishing season, subject to the conditions of the biennial assessment procedure agreed by the Scientific Committee (SC-CAMLR-XXVI, paragraph 14.6). The Commission also noted that catch limits of less than 100 tonnes in some small-scale research units (SSRUs) and divisions posed problems with the Secretariat's forecasting of SSRU and fishery closures (SC-CAMLR-XXVIII, paragraphs 4.180, 4.185 and 4.203).

11.11 The Commission noted that intensive IUU fishing had occurred in Division 58.4.3b (BANZARE Bank; see SC-CAMLR-XXVIII, Annex 5, Table 3) and that there was disagreement within the Scientific Committee on the level of depletion of the stocks of *Dissostichus* spp. in that division (SC-CAMLR-XXVIII, paragraphs 4.191 to 4.203). The Commission agreed that a precautionary catch limit of zero would be set for Division 58.4.3b pending the results of a research plan to be undertaken by Japan, South Africa, Republic of Korea and Uruguay in this division in 2009/10.

11.12 The Commission also noted the debate within the Scientific Committee regarding open and closed SSRUs in Divisions 58.4.1 and 58.4.2 (SC-CAMLR-XXVIII, paragraphs 4.156 to 4.160).

11.13 The Commission endorsed the Scientific Committee's advice on the research requirements to clarify stock status issues in Subarea 58.4 (SC-CAMLR-XXVIII, paragraphs 4.159 and 4.168). These requirements included:

- (i) a research experiment designed and undertaken in accordance with the guidelines developed by the Scientific Committee and endorsed by the Commission in 2008 (SC-CAMLR-XXVII, paragraphs 8.9 to 8.11; CCAMLR-XXVII, paragraph 4.66). The aim of such an experiment would be to provide information on the status of stocks of *Dissostichus* spp. in Subarea 58.4 over a 2–3 year time period;
- (ii) implementation of catch limits consistent with the objectives of the experiment;
- (iii) use of simulations and Management Strategy Evaluation (MSE) frameworks to address the potential bias in assessments arising from open and closed SSRUs.

11.14 The Commission urged Members involved in exploratory fisheries in Subarea 58.4 to collaborate and develop suitable research experiments based on the guidelines outlined above (paragraph 11.13), as well as recent experience in Subarea 48.4 and in Divisions 58.4.4a and 58.4.4b (paragraph 4.33). The Commission agreed that the closed SSRUs in Divisions 58.4.1 and 58.4.2 would remain closed until the results from such research experiments have been considered by the Scientific Committee.

#### Exploratory fishery for *E. superba*

11.15 The Commission endorsed the Scientific Committee's improvements to the research plan for exploratory fisheries for krill (SC-CAMLR-XXVIII, paragraphs 4.217 and 4.218). These improvements included an option for vessels to carry out the research plan either before or after the commercial fishery, and requirements for calibrating echo sounders.

11.16 The Commission noted that there would be a need for ongoing review of the research plans for exploratory krill fisheries.

## Exploratory fisheries for crab

11.17 The Commission endorsed the Scientific Committee's advice on the exploratory crab fisheries in Subareas 48.2 and 48.4 (SC-CAMLR-XXVIII, paragraphs 4.221 to 4.223). This comprised:

- (i) a requirement to revise the research plan at the next meeting of WG-FSA
- (ii) closure of the experimental harvest blocks A, C and E in Subarea 48.2 in order to protect known VMEs (see paragraph 5.4).

## CONSERVATION MEASURES

12.1 Conservation measures adopted at CCAMLR-XXVIII will be published in the *Schedule of Conservation Measures in Force 2009/10*.

### Review of existing conservation measures and resolutions

12.2 The Commission noted that the following conservation measures will lapse on 30 November 2009: 32-09 (2008), 33-02 (2008), 33-03 (2008), 41-01 (2008), 41-02 (2008), 41-03 (2008), 41-04 (2008), 41-05 (2008), 41-06 (2008), 41-07 (2008), 41-08 (2008), 41-09 (2008), 41-10 (2008), 41-11 (2008), 42-02 (2008), 51-04 (2008), 51-05 (2008), 52-01 (2008), 52-02 (2008), 52-03 (2008) and 61-01 (2008). The Commission also noted that Conservation Measure 42-01 (2008) will lapse on 14 November 2009. All of these measures dealt with fishery-related matters for the 2008/09 season.

12.3 The Commission agreed that the following conservation measures<sup>2</sup> will remain in force in 2009/10:

#### Compliance

10-01 (1998), 10-02 (2008), 10-04 (2007) and 10-06 (2008).

#### General fishery matters

22-01 (1986), 22-02 (1984), 22-03 (1990), 22-04 (2006), 22-05 (2008), 23-01 (2005), 23-02 (1993), 23-03 (1991), 23-04 (2000), 23-05 (2000) and 24-02 (2008).

#### Fishery regulations

31-01 (1986), 31-02 (2007), 32-01 (2001), 32-02 (1998), 32-03 (1998), 32-04 (1986), 32-05 (1986), 32-06 (1985), 32-07 (1999), 32-08 (1997), 32-10 (2002), 32-11 (2002), 32-12 (1998), 32-13 (2003), 32-14 (2003), 32-15 (2003), 32-16 (2003), 32-17 (2003), 32-18 (2006), 33-01 (1995), 51-01 (2008), 51-02 (2008) and 51-03 (2008).

#### Protected areas

91-01 (2004).

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<sup>2</sup> Reservations to these measures are given in the *Schedule of Conservation Measures in Force in 2009/10*.



12.4 The Commission agreed that the following resolutions will remain in force in 2009/10: 7/IX, 10/XII, 14/XIX, 15/XXII, 16/XIX, 17/XX, 18/XXI, 19/XXI, 20/XXII, 22/XXV, 23/XXIII, 25/XXV, 27/XXVII and 28/XXVII.

12.5 The Commission endorsed the Scientific Committee's advice that Conservation Measure 91-02 (Protection of the Cape Shirreff CEMP site) be rescinded with the protection of Cape Shirreff continuing under the management plan of ASPA 149 (SC-CAMLR-XXVIII, Annex 4, paragraph 5.29). The Commission noted the Scientific Committee's advice regarding Conservation Measure 91-01 (Procedure for according protection to CEMP sites) (SC-CAMLR-XXVIII, Annex 4, paragraph 5.30), and agreed to give this matter further consideration in 2010.

12.6 The Commission agreed to rescind Resolution 21/XXII now that the E-CDS format had become a mandatory requirement (see Conservation Measure 10-05).

12.7 Noting that the field activities undertaken during the successful International Polar Year have concluded, the Commission also agreed to rescind Resolution 26/XXVI.

#### Revised conservation measures

12.8 The Commission revised the following conservation measures<sup>2</sup>:

##### Compliance

10-03 (2008), 10-05 (2008), 10-07 (2008), 10-08 (2006) and 10-09 (2008).

##### General fishery matters

21-01 (2008), 21-02 (2006), 21-03 (2008), 22-06 (2008), 22-07 (2008), 23-06 (2007), 24-01 (2008), 25-02 (2008), 25-03 (2008) and 26-01 (2008).

##### Compliance

##### Port Inspections of vessels carrying toothfish

12.9 The Commission revised Conservation Measure 10-03 (Port inspections of vessels carrying toothfish) to include a standard reporting format for port inspections and provisions for the timing of submission of port inspection reports. The revised Conservation Measure 10-03 (2009) was adopted.

##### Catch Documentation Scheme

12.10 The Commission revised Conservation Measure 10-05 (Catch Documentation Scheme for *Dissostichus* spp.) to include the E-CDS format as a mandatory requirement (Annex 5, paragraphs 2.74 and 2.75). The revised Conservation Measure 10-05 (2009) was adopted (see also paragraph 12.6).

### Scheme to promote compliance

12.11 The Commission revised Conservation Measure 10-07 (Scheme to promote compliance by non-Contracting Party vessels with CCAMLR conservation measures) to include an indication on the IUU Vessel Lists as to whether boarding permission had been granted to CCAMLR Members by the vessels' Flag States on previous occasions (Annex 5, paragraphs 2.72 and 2.73). The revision also included provisions for reporting this information and its subsequent dissemination by the Secretariat.

12.12 The Commission also revised Conservation Measure 10-08 (Scheme to promote compliance by Contracting Party nationals with CCAMLR conservation measures) to broaden the scope of Conservation Measure 10-08 to include all CCAMLR Member nationals, such as beneficiaries and support personnel, reported to be involved in IUU operations.

12.13 The revised Conservation Measures 10-07 (2009) and 10-08 (2009) were adopted.

### Transshipments

12.14 The Commission revised Conservation Measure 10-09 (Notification system for transshipments within the Convention Area) to reduce the required time frame of advance notifications for transshipments of products other than harvested marine living resources, bait or fuel (Annex 5, paragraphs 2.76 and 2.77). The revised Conservation Measure 10-09 (2009) was adopted.

### General fishery matters

#### Notifications

12.15 The Commission reaffirmed that the deadline for the submission of notifications for exploratory krill fisheries was 1 June, and agreed to clarify this deadline. The new wording was included in Conservation Measure 21-02 (Exploratory fisheries), and the related footnote in Conservation Measure 21-03 (Notification of intent to participate in a fishery for *Euphausia superba*) was removed. The revised Conservation Measure 21-03 (2009) was adopted.

12.16 The Commission also agreed to revise Conservation Measures 21-01 (Notification that Members are considering initiating a new fishery), 21-02 and 22-06 (Bottom fishing in the Convention Area) to clarify that the requirements for notification in each of these measures are three separate and distinct requirements (see also paragraph 12.22). The revised Conservation Measures 21-01 (2009) and 21-02 (2009) were adopted. Further revisions were made to Conservation Measure 22-06 (see paragraph 12.17).

## Bottom fishing in the Convention Area

12.17 The Commission recalled the Scientific Committee's advice on data-related requirements to improve the implementation of Conservation Measure 22-06 on bottom fishing in the Convention Area (paragraph 5.7). The Commission revised Annex 22-06/B (Notification of an encounter with a VME) to reflect its use mainly by Members' scientists. However, the Commission agreed to postpone revision of Annex 22-06/A (Pro forma for submitting preliminary assessments of the potential for proposed bottom fishing activities to have significant adverse impacts on VMEs) until this matter has been further considered by the Scientific Committee and its working groups (see also paragraph 5.10). The revised Conservation Measure 22-06 (2009) was adopted.

12.18 Considering the late notifications from Russia and the Republic of Korea, the Commission agreed on a process which would satisfy the assessment requirements of Conservation Measure 22-06. As such, the Commission agreed as follows:

- (i) the bottom fishing preliminary impact assessments submitted by Russia and the Republic of Korea, after the specified deadline, require scientific review in accordance with the terms of Conservation Measure 22-06 before the notified bottom fishing activities can commence;
- (ii) by 13 November 2009, the Chair of the Scientific Committee and the Convener of WG-FSA shall conduct a review of the late submitted preliminary impact assessments from Russia and the Republic of Korea following the same criteria and procedures adopted at the 2009 meeting of WG-FSA, including completion of the impact assessment report card (SC-CAMLR-XXVIII, Annex 5, Table 17), as utilised to review other preliminary assessments this year, and shall provide the results of the review to the Secretariat electronically;
- (iii) the Secretariat shall immediately circulate the review provided by the Chair of the Scientific Committee and the Convener of WG-FSA to Members' Representatives to the Scientific Committee for review and comment;
- (iv) by 20 November 2009, Members' Representatives to the Scientific Committee shall submit comments on the review regarding whether the proposed bottom fishing activities will contribute to having significant adverse impacts on VMEs, including the application of proposed mitigation measures, to the Chair of the Scientific Committee and the Convener of WG-FSA for consolidation and submission to the Secretariat by no later than 23 November 2009;
- (v) the consolidated review and commentary provided by Representatives to the Scientific Committee shall be immediately circulated by the Secretariat to the Commission;
- (vi) the Members of the Commission shall consider the contents of the consolidated review and any comments on the review submitted by the Members' Representatives to the Scientific Committee;
- (vii) if by 1 December 2009, no Member of the Commission has informed the Secretariat that, based on the contents of the consolidated review, including the

best available data of the known impacts and anticipated impacts of bottom fishing activities on VMEs, the proposed bottom fishing activities would contribute to significant adverse impacts on VMEs or that proposed mitigation measures would not prevent such impacts, the proposed bottom fishing activities may commence.

12.19 The Commission noted the extraordinary circumstances under which this review process was agreed and emphasised that preliminary assessments submitted after the date specified in Conservation Measure 22-06 will not be reviewed by the Scientific Committee nor will they be considered by the Commission in the future. The Commission further noted that this review process will only apply to the 2009/10 fishing season.

12.20 In taking a precautionary approach with respect to any bottom fishing activities that are authorised to proceed in accordance with the summary review process, Russia indicated that it will delay its bottom fishing season to begin no earlier than 20 December 2009. Russia informed the Commission that it would use the additional days before fishing commences to educate its fishers on how to enable Russia to fully comply with all relevant conservation measures and, in particular, the preliminary assessment requirements of Conservation Measure 22-06. The Commission thanked Russia for this approach to facilitating its full compliance with the deadline for preliminary assessment submission within Conservation Measure 22-06 in the future.

12.21 Also with a view toward precaution, the Republic of Korea agreed to withdraw two vessel notifications for intended bottom fishing activities in Subarea 88.1, one notification in Subarea 88.2 and two notifications in Division 58.4.3b.

12.22 In addition, the Commission agreed to revise Conservation Measures 21-01, 21-02 and 22-06 to clarify the requirements for notifying new and exploratory fisheries in accordance with Conservation Measures 21-01 and 21-02 respectively. The Commission noted that the two notification requirements and the requirement to submit a preliminary assessment for bottom fishing in accordance with Conservation Measure 22-06 comprise three separate and distinct requirements. As such, the revised Conservation Measure 22-06 indicates that bottom fishing activities shall not be authorised if the assessment procedures in Conservation Measure 22-06 are not fully complied with, even when the Contracting Party has notified the Commission of its intention to engage in such fishing activities in accordance with Conservation Measures 21-01 and/or 21-02. The Commission also requested that the Scientific Committee take a consistent and thorough approach to reviewing preliminary assessments in the future.

#### Encounters with VMEs during the course of bottom fishing

12.23 The Commission clarified the data requirements of Conservation Measure 22-07 (Interim measure for bottom fishing activities subject to Conservation Measure 22-06 – abbreviated title). These requirements included:

- (i) using the ‘CCAMLR VME Taxa Classification Guide’
- (ii) collecting segment-specific data
- (iii) including zero catches in the reporting of VME indicator units.

The revised Conservation Measure 22-07 (2009) was adopted.

### Data reporting in krill fisheries

12.24 The Commission revised Conservation Measure 23-06 (Data Reporting System for *Euphausia superba* Fisheries) to require Flag States to notify the Secretariat of each entry to and exit from, and movements between, subareas and divisions of the Convention Area by each of its vessels. The Commission also revised the deadline for the submission of fine-scale data in order to align this deadline with the deadlines applicable in all other CCAMLR fisheries (paragraph 4.15). The revised Conservation Measure 23-06 (2009) was adopted.

### Scientific research exemption

12.25 The Commission revised Conservation Measure 24-01 (The application of conservation measures to scientific research) to include a requirement for scientific observers on board fishing vessels conducting fishing for research purposes. The Commission agreed that in the case of krill research undertaken by fishing vessels, the presence of qualified research scientists on board vessels conducting the notified research plan will fulfil the scientific observer requirements if at least one of the scientists is a national of a Member other than the Member undertaking the research. The revised Conservation Measure 24-01 (2009) was adopted.

### Mitigation measures

12.26 The Commission agreed to insert footnotes in Conservation Measures 25-02 (Minimisation of the incidental mortality of seabirds in the course of longline fishing – abbreviated title) and 25-03 (Minimisation of the incidental mortality of seabirds and marine mammals in the course of trawl fishing – abbreviated title) to reflect the agreed definitions of ‘offal’, ‘discards’, ‘releases’ and ‘benthic organisms’ (paragraph 6.10). The Commission agreed that, for the purpose of these measures, the definition of ‘discards’ would exclude elasmobranchs and invertebrates in areas north of 60°S. The revised Conservation Measures 25-02 (2009) and 25-03 (2009) were adopted.

12.27 In addition, the Commission clarified the requirements for bird exclusion devices in Conservation Measure 25-02 and included guidelines for such devices in Annex 25-02/B. The revised Conservation Measure 25-02 (2009) was adopted.

12.28 The Commission agreed to insert a footnote defining ‘offal’ in all conservation measures where this term is used.

### General environmental protection

12.29 The Commission revised Conservation Measure 26-01 (General environmental protection during fishing) to include the agreed definitions for ‘offal’, ‘discards’, ‘releases’ and ‘benthic organisms’ (paragraph 6.10). The revised Conservation Measure 26-01 (2009) was adopted.

## New conservation measures

### General fishery matters

#### Prohibition of fishing in depths shallower than 550 m

12.30 The Commission recalled that fishing was prohibited in depths shallower than 550 m in all exploratory fisheries for *Dissostichus* spp., and that this prohibition protected benthic communities. The Commission agreed to consolidate this depth limit into a single conservation measure which would be referenced in the appropriate exploratory fisheries measures for *Dissostichus* spp. (Annex 5, paragraph 2.78). Conservation Measure 22-08 (2009) (Prohibition on fishing for *Dissostichus* spp. in depths shallower than 550 m in exploratory fisheries) was adopted.

#### Daily reporting

12.31 The Commission agreed to enhance the Secretariat's ability to forecast fishery and area closures by requiring vessels engaged in exploratory fisheries, except exploratory krill fisheries, to submit daily catch and effort reports (Annex 5, paragraphs 2.80 and 2.81). The Commission agreed that this new daily reporting system would be referenced in the appropriate measures on exploratory fisheries. Conservation Measure 23-07 (2009) (Daily Catch and Effort Reporting System for Exploratory Fisheries with the exception of exploratory krill fisheries) was adopted.

#### Fishing seasons, closed areas and prohibition of fishing

12.32 The Commission reaffirmed the prohibition of directed fishing for *Dissostichus* spp. except in accordance with specific conservation measures. Accordingly, directed fishing for *Dissostichus* spp. in Subarea 48.5 was prohibited in the 2009/10 season. Conservation Measure 32-09 (2009) was adopted.

#### By-catch limits

12.33 The Commission agreed to apply the existing by-catch limits in Division 58.5.2 in 2009/10. Accordingly, Conservation Measure 33-02 (2009) was adopted.

12.34 The Commission agreed to carry forward the by-catch limits for exploratory fisheries in 2009/10, taking account of the revised catch limits for *Dissostichus* spp. in some fisheries and the consequential changes to by-catch limits. Conservation Measure 33-03 (2009) was adopted; the rules for catch limits for by-catch species in these fisheries are given in Annex 33-03/A.

## Year-of-the-Skate

12.35 The Commission endorsed the extension to the Year-of-the-Skate in 2009/10 (paragraph 4.42), and agreed that vessels participating in the exploratory fisheries for *Dissostichus* spp. should continue to tag skates at a rate of one skate per five skates caught (including those released alive), up to a maximum of 500 skates per vessel. This requirement was included in all conservation measures for exploratory fisheries on *Dissostichus* spp.

## Toothfish

12.36 The Commission revised the catch limits on the fishery for *D. eleginoides* in Subarea 48.3 (paragraph 4.30). The revised catch limit for *D. eleginoides* was 3 000 tonnes which was divided amongst the management areas as follows: A – 0 tonnes, B – 900 tonnes (30% of the catch limit) and C – 2 100 tonnes (70% of the catch limit). The Commission agreed to the by-catch limits of 150 tonnes (5% of the catch limit for *D. eleginoides*) for *Macrourus* spp. and 150 tonnes (5% of the catch limit for *D. eleginoides*) for rajids. The catch limits in this fishery can be carried over into the 2010/11 season, subject to the conditions of the biennial assessment procedure (paragraph 4.31). The Commission noted the Scientific Committee's advice on extending the fishing season (SC-CAMLR-XXVIII, Annex 6, paragraphs 9.5 and 9.6), and agreed that longline fishing in 2009/10 may begin on 26 April 2010 subject to conditions, and in 2010/11 may begin prior to 1 May 2011 subject to the agreed decision rule (see paragraph 6 of Conservation Measure 41-02). Other elements regulating this fishery were carried forward and Conservation Measure 41-02 (2009) was adopted.

12.37 The Commission revised the limits on the fishery for *D. eleginoides* in Division 58.5.2 (paragraph 4.31). The revised catch limit for *D. eleginoides* was 2 550 tonnes which was applicable west of 79°20'E, and this catch limit can be carried over into the 2010/11 season, subject to the conditions of the biennial assessment procedure (paragraph 4.31). The Commission also removed the requirement for sequential setting of integrated weighted longlines during the season extension (SC-CAMLR-XXVIII, Annex 6, paragraph 9.8). Other elements regulating this fishery were carried forward and Conservation Measure 41-08 (2009) was adopted.

12.38 The Commission endorsed the Scientific Committee's advice on the fishery for *D. eleginoides* in the Northern Area of Subarea 48.4 and the fishery for *Dissostichus* spp. in the Southern Area of that subarea (paragraph 4.32). The Commission also agreed to include a threshold of 150 kg in the move-on rule for *Macrourus* spp. in the Southern Area. Other elements regulating this fishery were carried forward and Conservation Measure 41-03 (2009) was adopted.

12.39 The Commission agreed that the exploratory fisheries for *Dissostichus* spp. in Subareas 48.6, 88.1 and 88.2 and Divisions 58.4.1, 58.4.2, 58.4.3a and 58.4.3b in 2009/10 shall be open to those Members and their vessels listed in Table 1.

12.40 The Commission also agreed to the following research requirements in the exploratory fisheries for *Dissostichus* spp. in 2009/10:

- (i) in Subarea 48.6 and Divisions 58.4.1, 58.4.2 and 58.4.3a<sup>3</sup>, each vessel shall be required to conduct 10 research hauls in each SSRU fished. The specifications for research hauls are described in paragraph 4 of Conservation Measure 41-01, and the position of each haul (start of set) will be on, or close to, the position provided by the Secretariat, based on a stratified random design;
- (ii) in Subareas 88.1 and 88.2 each vessel shall tag *Dissostichus* spp. at a rate of at least one fish per tonne green weight caught;
- (iii) in Subarea 48.6 and Divisions 58.4.1, 58.4.2 and 58.4.3a, each vessel shall tag *Dissostichus* spp. at a rate of at least three fish per tonne green weight caught;
- (iv) in Division 58.4.3b, each vessel shall tag *Dissostichus* spp. at a rate of at least four fish per tonne green weight caught;
- (v) to the extent possible, the lengths of tagged *Dissostichus* spp. will reflect the length frequency of caught *Dissostichus* spp., and in regions where both species occur, the tagging rate will be in proportion to the catches of each species;
- (vi) each vessel shall tag skates at a rate of at least one skate per five skates caught (including those released alive).

12.41 The Commission requested the Secretariat to generate a list of random stations for each vessel participating in exploratory fisheries, except in Division 58.4.3b where a research plan had been established (see paragraph 12.47), and forward this list to notifying Members prior to commencement of the 2009/10 season (SC-CAMLR-XXVIII, paragraph 4.155).

12.42 The Commission agreed to carry forward the general measures for exploratory fisheries for *Dissostichus* spp. in 2009/10. Accordingly, Conservation Measure 41-01 (2009) was adopted. Other limits and requirements for these exploratory fisheries are described in the following paragraphs.

12.43 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 48.6 in 2009/10 would be limited to vessels using longlines only, and that no more than one vessel per country shall fish at any one time (paragraph 12.39 and Table 1). All elements regulating this fishery were carried forward and Conservation Measure 41-04 (2009) was adopted.

12.44 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.1 in 2009/10 would be limited to vessels using longlines only (paragraph 12.39 and Table 1). The Commission agreed that research fishing in accordance with Conservation Measure 24-01 may be conducted in closed SSRUs and that catches taken during such research fishing would be counted against the precautionary catch limits for this fishery. Other elements regulating this fishery were carried forward and Conservation Measure 41-11 (2009) was adopted.

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<sup>3</sup> See paragraph 12.47 for the research requirements in Division 58.4.3b.



12.45 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.2 in 2009/10 would be limited to vessels using longlines only (paragraph 12.39 and Table 1). The Commission agreed that research fishing in accordance with Conservation Measure 24-01 may be conducted in closed SSRUs and that catches taken during such research fishing would be counted against the precautionary catch limits for this fishery. Other elements regulating this fishery were carried forward and Conservation Measure 41-05 (2009) was adopted.

12.46 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.3a in 2009/10 would be limited to vessels using longlines only (paragraph 12.39 and Table 1). All elements regulating this fishery were carried forward and Conservation Measure 41-06 (2009) was adopted.

12.47 The Commission recalled that the Scientific Committee had been unable to provide management advice on catch limits for the *Dissostichus* spp. exploratory fishery in Division 58.4.3b outside areas of national jurisdiction (paragraph 11.11). Further discussions amongst Members resulted in the development of a proposal for a research plan for 2009/10. The Commission endorsed this research plan (Annex A of Conservation Measure 41-07) and agreed to the following catch limits for *Dissostichus* spp.:

SSRUs A, B, C, D and E	0 tonnes
scientific research survey	72 tonnes.

12.48 The Commission agreed that the above research plan would be limited to vessels using longlines only (paragraph 12.39 and Table 1). Other elements regulating this fishery were carried forward and Conservation Measure 41-07 (2009) was adopted.

12.49 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 88.1 in 2009/10 would be limited to vessels using longlines only (paragraph 12.39 and Table 1). The Commission agreed to a revised catch limit for *Dissostichus* spp. of 2 850 tonnes (paragraph 11.10), applied as follows:

SSRU A	0 tonnes
SSRUs B, C, G (northern)	372 tonnes total
SSRU D	0 tonnes
SSRU E	0 tonnes
SSRU F	0 tonnes
SSRUs H, I, K (slope)	2 104 tonnes total
SSRUs J, L	374 tonnes total
SSRU M	0 tonnes.

12.50 The Commission agreed to a revised catch limit for skates and rays of 142 tonnes in Subarea 88.1 (consequential change); the catch limits for *Macrourus* spp. (430 tonnes) and other species remained unchanged. These catch limits were applied as follows:

SSRU A	0 tonnes of any species
SSRUs B, C, G	50 tonnes of skates and rays, 40 tonnes of <i>Macrourus</i> spp., 60 tonnes of other species
SSRU D	0 tonnes of any species
SSRU E	0 tonnes of any species

SSRU F	0 tonnes of any species
SSRUs H, I, K	105 tonnes of skates and rays, 320 tonnes of <i>Macrourus</i> spp., 60 tonnes of other species
SSRUs J, L	50 tonnes of skates and rays, 70 tonnes of <i>Macrourus</i> spp., 40 tonnes of other species
SSRU M	0 tonnes of any species.

12.51 The Commission agreed that the catch limits in this fishery can be carried over into the 2010/11 season, subject to the conditions of the biennial assessment procedure (paragraph 11.10). Other elements regulating this fishery were carried forward and Conservation Measure 41-09 (2009) was adopted.

12.52 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 88.2 in 2009/10 would be limited to vessels using longlines only (paragraph 12.39 and Table 1). The Commission also agreed to a revised catch limit for *Dissostichus* spp. of 575 tonnes (paragraph 11.10), applied as follows:

SSRU A	0 tonnes
SSRU B	0 tonnes
SSRUs C, D, F, G	214 tonnes
SSRU E	361 tonnes.

12.53 The Commission agreed to a revised catch limit for *Macrourus* spp. of 92 tonnes in Subarea 88.2 (consequential change); the catch limits for skates and rays (50 tonnes) and other species remained unchanged. These catch limits were applied as follows:

SSRU A	0 tonnes of any species
SSRU B	0 tonnes of any species
SSRUs C, D, F, G	50 tonnes of skates and rays, 34 tonnes of <i>Macrourus</i> spp., 80 tonnes of other species
SSRU E	50 tonnes of skates and rays, 58 tonnes of <i>Macrourus</i> spp., 20 tonnes of other species.

12.54 The Commission agreed that the catch limits in this fishery can be carried over into the 2010/11 season, subject to the conditions of the biennial assessment procedure (paragraph 11.10). Other elements regulating this fishery were carried forward and Conservation Measure 41-10 (2009) was adopted.

12.55 ASOC made the following statement:

‘The Scientific Committee has identified the failure of many countries’ fishers to meet their research obligations in exploratory fisheries and some countries to implement conservation measures and produce assessments of the impacts of bottom fishing of their vessels for assessment by the Scientific Committee. ASOC considers it is essential for CCAMLR’s credibility that all Members meet their obligations under conservation measures and carry out required research in the coming year. In future years the Commission should reject applications from fishers who fail to meet their obligations’.

## Icefish

12.56 The Commission revised the limits on the fishery for *C. gunnari* in Subarea 48.3 (paragraph 4.38). The revised catch limit for *C. gunnari* was 1 548 tonnes in 2009/10. The Commission also agreed to align the fishing season with the general fishing season for CCAMLR fisheries (Conservation Measure 32-01, see also CCAMLR-XXIII, paragraph 10.84). The Commission agreed to include guidelines on net binding and to assist in the uptake of best-practice mitigation measures in this fishery (paragraph 6.4). Other elements regulating this fishery were carried forward and Conservation Measure 42-01 (2009) was adopted.

12.57 The Commission revised the limits on the fishery for *C. gunnari* in Division 58.5.2 (paragraph 4.38). The revised catch limit for *C. gunnari* was 1 658 tonnes in 2009/10. Other elements regulating this fishery were carried forward and Conservation Measure 42-02 (2009) was adopted.

## Krill

12.58 The Commission revised the requirements of the general measure for exploratory fisheries for krill (paragraph 11.15) and agreed to carry forward the elements regulating the exploratory fishery for krill in Subarea 48.6. The Commission agreed that the exploratory fishery for krill in Subarea 48.6 in 2009/10 would be limited to one vessel (paragraph 12.39 and Table 1) using fishing techniques listed in Annex 21-03/A. Conservation Measures 51-04 (2009) and 51-05 (2009) were adopted.

12.59 The Commission agreed to a new general measure for scientific observation in krill fisheries. Under this measure, unless observer coverage is specified in other conservation measures, each Contracting Party will be required to carry out a systematic scientific observer coverage scheme in accordance with the CCAMLR Scheme of International Scientific Observation, or by any other observer appointed by the Contracting Party and, where possible, one additional scientific observer, throughout all fishing activities in 2009/10 and 2010/11. Conservation Measure 51-06 (2009) (General measure for scientific observation in fisheries for *Euphausia superba*) was adopted.

12.60 The Commission agreed to a new interim measure to distribute the trigger level in the krill fishery amongst Subareas 48.1, 48.2, 48.3 and 48.4. The Commission agreed that the trigger level in Conservation Measure 51-01 (620 000 tonnes) shall be distributed between Subareas 48.1, 48.2, 48.3 and 48.4 with no more than the following percentages from:

Subarea 48.1	25%
Subarea 48.2	45%
Subarea 48.3	45%
Subarea 48.4	15%.

12.61 The Commission agreed that this interim measure would lapse at the end of the 2010/11 fishing season. Conservation Measure 51-07 (2009) (Interim distribution of the trigger level in the fishery for *Euphausia superba* in Statistical Subareas 48.1, 48.2, 48.3 and 48.4) was adopted.

12.62 To assist with the review of this conservation measure, Members are requested to submit considerations of operational matters and implementation of Article II in this measure by the Commission meeting in 2010. The materials provided along with advice from the Scientific Committee will be the basis of the review in 2011.

12.63 The UK recalled that the Scientific Committee had recognised the need to examine the issue of the spatial overlap between krill-dependent land-based predators and the commercial fishery for krill since 1990. In recent years, considerable scientific effort had been devoted to examining the issue through modelling tools. This had resulted in an improved understanding that a concentration of krill fishing in coastal waters close to land-based predator colonies may impact these predators negatively. In particular, the Scientific Committee had provided advice that if krill catches continued to be distributed according to the historical pattern, the current trigger level may not be precautionary with respect to Article II. In the view of the UK, there was a clear need to take account of the resource requirements of land-based predators in considering management of the krill fishery as well as provide flexibility to the fishery.

12.64 The UK, however, accepted the need to make real and practical progress towards allocation of the krill catch. It therefore welcomed the adoption this year of Conservation Measure 51-07 although it recognised that it did not take account of the requirements of land-based predators. The UK emphasised its understanding that this was the start of a process which would, within two years, be reviewed in a way that will take account of these requirements.

12.65 It further reiterated its understanding that the 620 000 tonnes trigger level would continue to apply until such time as the Commission has agreed a subdivision of the precautionary catch level for Subareas 48.1 to 48.4 by small-scale management units (SSMUs) defined in CCAMLR-XXI, paragraph 4.5.

12.66 Norway expressed its view that nothing in Conservation Measure 51-07 prejudged the outcome of the revision mentioned therein.

12.67 The USA expressed the view that the best available scientific evidence provided by the Scientific Committee indicates that:

- (i) distributing the trigger level between coastal and pelagic areas is the most precautionary method to take account of the needs of krill-dependent land-based predators (SC-CAMLR-XXVIII, paragraph 4.42);
- (ii) precaution is needed because of increasing uncertainties regarding the overlap of fishing activities with predator requirements (SC-CAMLR-XXVIII, paragraph 4.34).

12.68 The USA also

- (i) noted that distributing the trigger level as per Conservation Measure 51-07 so that 25% of the catch is taken from Subarea 48.1, 45% from Subarea 48.2, 45% from Subarea 48.3 and 15% from Subarea 48.4, enables the historical fishing

pattern to continue (historically about 21% of the catch has been taken in Subarea 48.1, 46% in Subarea 48.2, 33% in Subarea 48.3 and 0% in Subarea 48.4 (SC-CAMLR-XXVIII, Annex 4, Table 4));

- (ii) stated its belief that the best available scientific evidence provided by the Scientific Committee further indicates that distributing the krill catch according to the historical fishing pattern poses higher risks than other methods to distribute the catch and may reduce the ability of the Commission to achieve the objectives agreed in Article II (SC-CAMLR-XXVIII, paragraph 4.26).

12.69 The USA noted that although many Members seemed to support subarea-level distributions of the trigger level because such distributions were suggested by the Scientific Committee and may provide the most flexibility for the fishery, flexibility is not, *per se*, an objective that was agreed in Article II.

12.70 The USA expressed its view that the Scientific Committee has provided clear advice, based on the best available scientific evidence, that the needs of krill-dependent land-based predators could be considered by further distributing the trigger level between coastal and pelagic areas (e.g. SC-CAMLR-XXVIII, Table 1). With the Commission's receipt of this advice, the USA noted its belief that decisions to revise a subarea-level distribution of the trigger level now rest with the Commission, not the Scientific Committee. The USA said that it remained committed to continued discussions on approaches to manage the krill fishery so that the objectives in Article II can be achieved while the fishery develops.

12.71 Some Members recalled that the precautionary catch limit for Subareas 48.1 to 48.4 was 3.47 million tonnes (Conservation Measure 51-01) and that this had been determined by the three-step CCAMLR decision rule, where the requirements of Article II of the Convention were taken into account. These Members also recalled the Scientific Committee's advice that there is a need to spatially distribute krill catches, and that this could be achieved in the interim through the distribution of the trigger level to the Subareas 48.1 to 48.4.

12.72 China noted that important progress had been achieved by the Commission on the management of the krill fishery and expressed its appreciation to all Members for their contribution to the adoption of this conservation measure. This measure will be applied for the next two years. Every year, the Scientific Committee will make an assessment report. China believed that on the basis of two years' experience, Members may find more common ground and a better way to review or revise this measure. At this stage, China restrains itself to make any prejudgment.

12.73 The European Community thanked all the delegations that worked with the view of finding a final compromise on the allocation of the krill trigger level among Subareas 48.1 to 48.4. The European Community stressed that clear advice was provided by the Scientific Committee to allocate the trigger level, and that particular importance was also attributed to the allocation between coastal and pelagic areas.

12.74 The European Community pointed out that krill represents the main challenge for CCAMLR, as effective krill management is a clear turning point for the organisation, where fishing and environmental protection issues overlap. The European Community noted that the approach taken by CCAMLR in managing other fisheries needs to start being applied to the krill fishery.

12.75 The European Community indicated that this requires efforts from all CCAMLR Members, and these efforts have led to an interim agreement at this meeting with a compromise on the trigger allocation. In the future, the management approach should change and the krill fishery should be treated as the other fisheries managed by this organisation.

12.76 This, in the European Community's perspective, needs to be started at CCAMLR-XXVIII which should represent the first step of a long march driving towards the objective of ensuring sound krill management.

12.77 In the European Community's view, that is the reason why a compromise should be found on the trigger level as well as on other measures on krill under discussion during this meeting, notably with regard to the observer coverage for this fishery.

12.78 Australia thanked all Members for considering how to achieve the requirements set by the Commission in 1991 for distributing the krill catch in Area 48 so that predator populations, particularly land-based predators, would not be inadvertently and disproportionately affected by concentrated fishing activity (CCAMLR-X, paragraph 6.16). It noted that this concern was one of the reasons for endorsing krill SSMUs in 2002 (CCAMLR-XXI, paragraphs 4.4 to 4.10), and that it has been a topic of ongoing work by the Scientific Committee.

12.79 In reflecting on the discussions surrounding conservation this year, and in view of the outcomes of the Commission's Working Group for the Development of Approaches to Conservation of Antarctic Marine Living Resources (WG-DAC), Australia believed that rational use provides access to Antarctic marine living resources on the condition that it includes consideration of the management requirements to assist the Commission in achieving the objectives in Article II. Rational use does not mean that fishing vessels need to have access to the entire range of a stock. Given climate change and the Commission's commitment to understanding the impacts of climate change on its ability to achieve these objectives, Australia believed that reference areas closed to fishing will be essential in understanding how to manage the rational use of Antarctic krill fisheries under such uncertain and changing circumstances. The Antarctic Peninsula is already being impacted by climate change. The US AMLR Program and the US Palmer LTER Program have been critical in showing us the importance of this region and the uncertainties it faces. Further work and monitoring in this region will be critical in understanding the changes occurring there.

12.80 With regard to the review of the distribution of the krill trigger level for Area 48 in two years' time, Australia noted that Members have committed to providing details as to what factors constrain their fishing operations and how they can alleviate the potential for adverse overlap between krill fisheries and predator foraging requirements. Consistent with Resolution 31/XXVIII on best available science, Australia noted that all submissions on the review of the trigger level will constitute the available advice on concerns of Members in where they need to fish and options on how to alleviate the potential for overlap between krill fisheries and land-based predators. Australia is willing to assist in analysing observer data and fisheries operations to help identify what constitutes rational use for the krill fishery. Australia strongly considered that CCAMLR scientific observers on all krill fishing vessels are essential for assisting this process.

12.81 ASOC thanked the European Community, UK and the USA for their interventions and made the following statement:

‘ASOC supported the proposal from the Government of Ukraine that was based on the best science available and included not only a split between subareas but a further subdivision between coastal and pelagic areas to protect predators. Over the course of this week, despite the best efforts of certain governments to maintain it, the talk about disbursal devolved into a political argument about numbers. ASOC is concerned that the increasing interest of Commission Members in accommodating fishing interests over conservation is upsetting the balance called for in Article II of the Convention that stresses the importance of conservation.

The numbers agreed today are not sufficiently precautionary to provide protection to land-based predators. The lasting value of this conservation measure will be measured by the commitment of fishing countries to collect the data in the krill fishery and submit it in usable formats to the Scientific Committee, the commitment of time by the Scientific Committee to develop specific direction to the Commission in 2011 through recommendations for revisions and subsequently the commitment of the Commission to act on those recommendations. In the interim, we would strongly urge the Scientific Committee to not lose sight of the need to reach agreement on small-scale management unit allocations and the development and adoption of feedback mechanisms for management of the krill fishery.

While we appreciate the merits of reaching this agreement, ASOC regrets that the Commission could not go further this year. We will be watching to see if there is the political will to act on the above issues.

With the pending numbers being far less conservative than were being proposed, it became more critical to review this decision in two years. In doing so, it has increased the urgency and necessity for all fishing countries in Area 48 to not only collect biological data about the krill stock but to submit it in a form that is useful to the CCAMLR Scientific Committee for its work in preparing for this review in 2011.

The Commission must commit to act on its advice at that meeting.

In closing, ASOC wants to remind Parties that the need to establish a precautionary ecosystem-based management system for krill prompted the negotiation of this Convention 28 years ago. We respectfully submit that it is now time to finish the job.’

## Crab

12.82 The Commission noted Russia’s notification of intent to participate in the fishery for crab in Subarea 48.3 in 2009/10, and agreed to carry forward all elements regulating this fishery. Accordingly, Conservation Measure 52-01 (2009) was adopted.

12.83 The Commission agreed that the exploratory fishery for crab in Subarea 48.2 in 2009/10 would be limited to one vessel using pots only (paragraph 12.39 and Table 1). The Commission carried forward the precautionary catch limit for crab of 250 tonnes and a total by-catch limit of 0.5 tonnes for all dead finfish (paragraph 11.17). The Commission also reiterated its advice that all live finfish taken as by-catch in the exploratory fishery for crab be released with the least possible handling, and that all live *Dissostichus* spp. be tagged prior to release (CCAMLR-XXVII, paragraph 13.62). The Commission also agreed to the closure of

the experimental harvest blocks A, C and E in order to protect known VMEs (paragraph 11.17). Other elements regulating this fishery were carried forward and Conservation Measure 52-02 (2009) was adopted.

12.84 The Commission agreed that the exploratory fishery for crab in Subarea 48.4 in 2009/10 would be limited to one vessel using pots only (paragraph 12.39 and Table 1). The Commission carried forward the precautionary catch limit for crab of 10 tonnes and a total by-catch limit of 0.5 tonnes for all dead finfish (paragraph 11.17). The Commission also reiterated its advice that all live finfish taken as by-catch in the exploratory fishery for crab be released with the least possible handling, and that all live *Dissostichus* spp. be tagged prior to release (CCAMLR-XXVII, paragraph 13.63). Other elements regulating this fishery were carried forward and Conservation Measure 52-03 (2009) was adopted.

### Squid

12.85 The Commission agreed that the exploratory jig fishery for *M. hyadesi* in Subarea 48.3 has now lapsed (paragraph 4.40). The Commission agreed to remove Conservation Measure 61-01 from the *Schedule of Conservation Measures in Force*.

### Protection of the South Orkney Islands southern shelf

12.86 The Commission endorsed the Scientific Committee's advice to implement an MPA on the South Orkney Islands southern shelf, to contribute towards the conservation of biodiversity in Subarea 48.2, and the development of a representative network of protected areas across the Convention Area (SC-CAMLR-XXVIII, paragraphs 3.14 to 3.19). Accordingly, Conservation Measure 91-03 (2009) (Protection of the South Orkney Islands southern shelf) was adopted.

### New resolutions

#### Ratification of the Salvage Convention

12.87 The Commission adopted Resolution 29/XXVIII (Ratification of the Salvage Convention by Members of CCAMLR) which recommended that Members that have not yet ratified the International Convention on Salvage (1989) consider its ratification or the adoption of other similar mechanisms that Members deem appropriate (Annex 5, paragraphs 2.69 to 2.71).

#### Climate change

12.88 The Commission adopted Resolution 30/XXVIII (Climate change) which urges increased consideration of climate change impacts in the Southern Ocean to better inform CCAMLR management decisions.



12.89 ASOC made the following statement:

‘ASOC is appreciative of the Commission achieving consensus on Resolution 30/XXVIII that underscores the importance of both a regional and global response to climate change in regard to the Southern Ocean. ASOC would like to request that the Chair of the Commission convey with urgency to the Executive Secretary of the UNFCCC, CCAMLR’s encouragement for the UNFCCC to achieve an effective global response to climate change in light of the negotiations of that body currently under way in Barcelona’.

#### Best available science

12.90 The Commission adopted Resolution 31/XXVIII (Best available science) submitted by the USA to urge all Members to take full account of the best available scientific information.

12.91 The resolution highlighted the role of science as a foundational pillar of the work of CCAMLR, consistent with the spirit originally introduced by drafters of the Convention in Article IX, and renewed in 1990 (CCAMLR-IX, Annex 7, Appendix 2) by WG-DAC. Since that expression was formulated almost 20 years ago, there has not been any other formal recognition of the practice of science within CCAMLR or the mechanism to blend the scientific contribution into the fabric of the Commission’s policy decisions. Through this resolution, the USA called for a redoubled determination from the Members to (i) focus attention on the work of the Scientific Committee and its subsidiary bodies, (ii) uphold the basic principles of scientific inquiry, (iii) identify ways by which Members can work to ensure that conservation measures are based on the best scientific evidence available, and (iv) invite an open consideration of all available scientific products and advice.

12.92 The USA stated that, undoubtedly, the scientific enterprise within CCAMLR has flourished tremendously during these last two decades. The Scientific Committee and its working groups have evolved dramatically in the level of effort, year-round activities and ability to tackle ever-more complex issues. Their persistent dedication and the prestigious composition of their scientists have unquestionably placed CCAMLR’s science second to none among similar large-scale fisheries and conservation bodies around the world.

12.93 The USA noted that the complexity and volume of work being conducted by the Scientific Committee and its working groups continues to increase, and it is becoming increasingly obvious that this is unsustainable, at least given available personnel, meeting schedules, requirements for monitoring and field research. As a result, many Members are emphasising the concepts such as capacity building, burden sharing, and restructuring and rationalising the work of the Scientific Committee and its working groups.

#### Other measures considered

##### Market-related measure

12.94 The Commission considered, but did not agree by consensus, to a proposal for the adoption of a market-related measure to promote compliance (CCAMLR-XXVIII/46). In

presenting the proposal to the Commission, the European Community thanked all Members which had supported the proposal in previous years. It explained that it was re-presenting it as it believed that market measures were essential for controlling IUU fishing which remained high despite progress. The European Community believed that CCAMLR was fully entitled to take such measures and that its proposal was World Trade Organisation (WTO) compatible, transparent and non-discriminatory.

12.95 The European Community noted that Parties that undermined CCAMLR measures were obliged to cooperate with international organisations regulating marine living resources on the high seas in accordance with UNCLOS Article 117. The European Community also noted that market-related measures had been adopted by other organisations such as the 44-member ICCAT. The European Community was certain that ICCAT members had undertaken a legal analysis of the text prior to adoption.

12.96 The European Community also thanked all Members, particularly Argentina, for their support and cooperation in respect of the Community's own trade regulation EC 1005/2008.

12.97 Argentina advised the Commission that it is completely committed to the objective of the conservation of Antarctic marine living resources. However, Argentina had concerns in respect of the European Community's proposal on the adoption of trade-related measures against State Parties and non-Party States to CCAMLR. Argentina shared the position that it is necessary to continue to improve measures aimed at combating IUU fishing, and would therefore like to work in order to strengthen Conservation Measure 10-08. It did not share the view expressed by the European Community in point 1, paragraph 3 of its explanatory memorandum since there is no precedent in CCAMLR regarding the possibility to apply trade-related measures to States. Argentina also disagreed with point 2, paragraph 1 of the European Community memorandum as the competence of CCAMLR is not to sanction States by applying a trade-related measure: such action would not be either in conformity with the Convention or with international law. The argument raised by the European Community that CCAMLR may be provided with such competence based on prior consent is incorrect. In order to ensure compliance of CCAMLR conservation measures, the European Community intends to apply market-related measures to those States that do not exert necessary control over their vessels although such measures, according to European Community's views, should only be applied under exceptional circumstances when the measures taken by the Commission have proved unsuccessful. In this respect, the European Community document does not provide a clear procedure to apply conservation measures. Nor is it clear that neither the right of defense nor the right to a due process are both assured. This lack of clarity may lead to an arbitrary measure which could be inconsistent with a fair process to the State concerned. With regard to sanctions on non-Member parties, Argentina reiterated its position in 2008, when it expressed that the establishment of those sanctions would infringe a paramount principle of international law – *pacta tertiis nec nocent nec prosunt* – codified in the Vienna Convention of the Law of Treaties, according to which a treaty does not establish neither obligations nor rights with regard to a third State without its consent. At the same time, Argentina understands that the word 'encourage' used in the European Community proposal should not be meant to include the possibility to impose sanctions upon third parties. The explanatory memorandum by the European Community provides that trade-related measures should be consistent with international trade law with regard to non-Contracting Parties. Argentina recalls that such an obligation exists not only with regard to non-Contracting Parties, but also with regard to Contracting Parties, all of which should be in conformity with international trade law.

12.98 Argentina is particularly concerned with the following text of the memorandum: ‘Conservation and management measures that are agreed by competent international organisations fall within the exception of Article XX(g)’ (GATT). Such a statement is only a very risky interpretation by the European Community as any WTO rules provide that a conservation measure adopted within the framework of a multilateral environmental agreement (MEA) may be met by the mere fact that it had been adopted within that framework and that therefore that measure will be able to comply with the standard required by international trade law, such as Article XX of GATT. That alleged automatic consistency claimed by the European Community would imply that those measures adopted within MEAs would be immune to revision by the WTO Dispute Settlement System, which is simply untenable. No measure of this kind could be exempted neither of the assessment provided for in Article XX of GATT nor of WTO jurisdiction, since the Dispute Settlement Body is entitled to decide about ‘Agreements covered, unless otherwise provided in one of them’ (Articles 2.1 and 3.2 of Dispute Settlement Understanding). Moreover, Argentina recalled that there is not in any WTO agreement a presumption of consistency or an exception to verify a trade measure adopted in the framework of an MEA. Therefore, examination of the measures by WTO is an unavoidable process. Only by means of the Dispute Settlement System is it possible to determine whether a measure is consistent with WTO. The jurisprudence of WTO – ‘United States – Gasoline’ has highlighted that Article XX of GATT establishes a double test aiming to determine whether trade-related measures are consistent with the multilateral trade system. The first test determines whether the trade-related measure in its design and structure has any relationship with the desired objective, e.g. the conservation of depletable natural resources. If the result is a positive one, then it should go through to the second test which is contained in the preamble of Article XX, to ensure that the application of the measure does not constitute an arbitrary or a disguised restriction to international trade. Therefore, consistency of a conservation measure with WTO will be determined case-by-case and will be subject to the assessment of that double test. This means that there is no way to conclude *a priori* that a measure established by an MEA is consistent with WTO (just the opposite is stated in paragraph 3 of the memorandum of the European Community). This is without prejudice that an MEA foresees that the adoption of trade measures be made in a way consistent with international obligations entered into by Members. Argentina also expressed that there have been only a few disputes related to environmental issues before WTO and that in none of them the issue of consistency with WTO of a measure adopted by an MEA was raised. On the contrary, all referred to measures taken unilaterally by certain states, e.g. ‘United States – Shrimps’ where notwithstanding the fact that the objective aimed at by the USA was desirable, the way the measure was applied meant to be an arbitrary and unjustified discrimination contrary to WTO law. So, since then, WTO has not given any opinion regarding measures adopted by an MEA. Therefore, any statement made with the understanding that there is an automatic consistency is deemed to be absolutely speculative. On the other hand, the fact that identification or revision of a measure proposed by the European Community should be made on an annual basis, that is in fact too long a time. Thus it should be reminded that, in principle, WTO takes a decision on immediate situations, particularly in the case of lifting of measures, in which case WTO considers that as soon as circumstances which caused its adoption have changed, those measures must be removed. If it were intended finally, to sanction a whole fleet of vessels flagged to a certain State without making the difference between those vessels involved in IUU fishing from those which had fished legally, there would be no possibility that trade-related measures be consistent with Members’ obligations with regard to WTO (European Community proposal

point 5.c). Because that would have as a consequence an unjustified discrimination and an arbitrary restriction against WTO regulations. Argentina is not able to change its position held at previous meetings.

12.99 The European Community recalled that it and other Members had undertaken legal analysis of the proposal and found no legal impediment to adopting the measure. The European Community therefore did not share the views expressed by Argentina.

12.100 The USA confirmed that it had found no legal barrier under international trade law or the Antarctic Treaty to adopting the proposal. The USA advised that it fully supported the proposal which was aimed at combating IUU fishing and by focusing on trade. The USA noted that other organisations had made progress on this issue and expressed its disappointment that CCAMLR had not.

12.101 In thanking the European Community for its proposal, Namibia advised the Commission that it is involved in consultation processes with internal stakeholders. Namibia also informed the Commission that the concept of market-related measures is on the agenda for discussion by the Southern African Development Community (SADC). Consequently, Namibia was not in a position to express itself on the issue within CCAMLR until such deliberations had been concluded.

12.102 The European Community recalled that Namibia was a member of ICCAT which had adopted and implemented a market measure since 2002.

12.103 Argentina advised the European Community that it was mistaken in its reasoning that CCAMLR Members which were Parties to ICCAT must automatically take an identical position in respect of their participation in CCAMLR. In this regard, Argentina suggested that the European Community take its previous statement into account.

12.104 Argentina also advised the European Community that it had no difficulty with the catch certification provisions contained in EC Regulation 1005/2008 on the understanding that they agreed with the general position Argentina had already adopted in accordance with its sovereign rights. However, these provisions aside, Argentina advised the European Community that other elements of Regulation 1005/2008 were presently being further examined.

12.105 Russia advised that it was reviewing all issues relating to international trade, in particular, the WTO. Russia hoped that this work would be completed in time for it to report outcomes in 2010.

## General

12.106 Australia advised the Commission that any fishing or fisheries research activities in that part of Divisions 58.4.3a, 58.4.3b and 58.5.2 that constitutes the Australian EEZ around the Australian Territory of Heard Island and McDonald Islands, must have the prior approval of Australian authorities. The Australian EEZ extends up to 200 n miles from the Territory. Unauthorised or illegal fishing in these waters is a serious offence under Australian law. Australia seeks the assistance of other CCAMLR Members in ensuring their nationals and vessels are aware of the limits of the Australian EEZ and the need for prior permission to fish

there. Australia has implemented strict controls to ensure that fishing in its EEZ occurs only on a sustainable basis. Presently, fishing concessions are fully subscribed and no further concessions for legal fishing in the EEZ are available. Australian legislation provides for large penalties for illegal fishing in Australia's EEZ, including the immediate forfeiture of foreign vessels found engaged in such activities. Any enquiries about fishing in the Australian EEZ should be made initially to the Australian Fisheries Management Authority.

12.107 The Commission expressed its appreciation to Ms G. Slocum (Australia) for chairing the Conservation Measures Drafting Groups of both SCIC and the Commission.

## DATA ACCESS AND SECURITY

13.1 The Commission reiterated that general access to data, and access to CDS and C-VMS data, is governed by the 'Rules for Access and Use of CCAMLR Data', 'Rules for Access to CDS Data' and the relevant provisions of Conservation Measure 10-04 respectively.

13.2 In respect to general data matters, the Commission recognised the continued growth of CCAMLR's databases and their increasing complexity (SC-CAMLR-XXVIII, paragraphs 13.1 to 13.7).

13.3 The Commission noted the Secretariat's documentation of the operation and development of the databases (CCAMLR-XXVIII/BG/12). The databases involve staff from across the Secretariat's functional entities, and tasks include: maintenance and development of the database infrastructure; data processing, validation and quality control; analysis and reporting; processing data requests; and maintenance of the database documentation. The increasing volume of data and requirements for detailed, accurate and up-to-date data are placing greater demands on the Secretariat's resources, some of which have reached full capacity.

## COOPERATION WITH OTHER ELEMENTS OF THE ANTARCTIC TREATY SYSTEM

### Cooperation with Antarctic Treaty Consultative Parties

14.1 The Executive Secretary represented the Commission at the 32nd Antarctic Treaty Consultative Meeting (ATCM XXXII) in Baltimore, USA. In the absence of the Chair of the Scientific Committee, the Executive Secretary also observed the Twelfth Meeting of the Committee for Environmental Protection (CEP XII) supported by the Science Officer. For completeness and convenience, outcomes from ATCM XXXII and CEP XII of interest to CCAMLR were presented by the Executive Secretary in one report (CCAMLR-XXVIII/BG/3 Rev. 1).

14.2 The Commission noted that this was a particularly important meeting of the ATCM as 2009 marks the 50th anniversary of the signing of the Antarctic Treaty. The importance of this anniversary was reflected in Ministerial Declarations on the Fiftieth Anniversary of the Antarctic Treaty and the International Polar Year and Polar Science. These declarations included an affirmation of the principles of the Antarctic Treaty System that are at the core of

CCAMLR and the promotion of the science that underpins all of the Commission's work. In recognition of their importance, the Commission agreed that the text of these Declarations should be appended (Annex 7).

14.3 The Commission endorsed the recommendations of the Joint SC-CAMLR-CEP Workshop report and agreed that this had been a very productive and timely meeting.

14.4 The Commission noted that during the intersessional period the Chairs of the CEP and the Scientific Committee would consider and suggest to their respective committees:

- options for making progress on the various recommendations from the Joint Workshop;
- options for further joint meetings and workshops, and possible timing of such meetings;
- how to improve coordination on other intersessional meetings and workshops that may be of common interest;
- in doing so, take into account the recommendations from the CCAMLR Performance Review Panel on how to improve coordination with the Antarctic Treaty System.

The Commission requested that the Scientific Committee provide a report on progress made on these matters during the intersessional period.

14.5 There were no decisions or resolutions of direct relevance to CCAMLR-XXVIII arising from ATCM XXXII and CEP XII, although the Commission noted the completed revision of Annex II to the Madrid Protocol.

14.6 The Commission agreed that CCAMLR should be represented at ATCM XXXIII by the Executive Secretary and by the Chair of the Scientific Committee at CEP XIII, with the Science Officer providing support in both meetings.

14.7 Norway informed the Commission that there would be an Antarctic Treaty Meeting of Experts (ATME) on Climate Change in Svolvær, Norway, 6 to 9 April 2010 (SC-CAMLR-XXVIII, paragraph 9.42), to which an invitation to CCAMLR had been extended.

14.8 The USA introduced CCAMLR-XXVIII/32, which responded to a request by ATCM XXXII in Resolution 1 (2009) for CCAMLR to provide its views to the ATCM on the possibility of asking the International Maritime Organization (IMO) to amend the Antarctic Special Area to extend its boundary northward to the Antarctic Convergence. The USA sought support for this idea, by which Parties that are also Parties to MARPOL 73/78 would coordinate action within the IMO to amend the Antarctic Special Area, and said that its proposal flowed from a desire to take an ecosystem approach that has underpinned much of the Antarctic Treaty System's work in seeking to manage the impacts of human activities and protect the Antarctic environment, and this ecosystem approach is very much a part of the Environmental Protocol to the Antarctic Treaty and of course CCAMLR.

14.9 In response, the Commission noted that the Report of the Scientific Committee (SC-CAMLR-XXVIII, paragraphs 9.12 and 9.13) 'recognised that the aim of the proposal in

CCAMLR-XXVIII/32 was to extend the protection of the Antarctic marine ecosystem to a boundary that reflected the boundary of that ecosystem and that this was consistent with its custom and practice in defining other such boundaries' for protection of the marine environment. In addition, the Commission noted that some Members expressed concerns regarding the operational capability of vessels when considering this proposal.

14.10 The UK stated that in its view, CCAMLR is competent to take action to apply the provisions of the MARPOL Antarctic Special Area to fishing vessels, as defined in Conservation Measure 10-03, operating in the CAMLR Convention Area, north of 60°S, for example, through modification of Conservation Measure 26-01. The UK considered that the Antarctic Treaty System, of which CCAMLR is an integral part, should take the lead on matters relating to the Antarctic and Southern Ocean. The UK, therefore, was concerned about sending a request to the IMO to take action, which would be subsequently binding on CCAMLR licensed fishing vessels. In the view of the UK, CCAMLR should act first to extend the provisions of the MARPOL Antarctic Special Area, and then ask the IMO to consider extending those actions to the wider IMO community. The UK, however, endorsed the advice of the Scientific Committee that the CCAMLR boundary is an acceptable interpretation of the boundary of the Antarctic Convergence.

14.11 China emphasised that the potential impacts of expanding the Antarctic Special Area northwards need further evaluation.

14.12 The USA highlighted that the IMO is the regulatory authority for marine shipping and as such represents an appropriate forum to address the proposal in CCAMLR-XXVIII/32. IMO's global mandate would allow for management actions to apply across all shipping sectors, as well as ships flagged to non-CCAMLR members. The USA had no objection to additionally applying conservation measures through CCAMLR, such as was done after creation of the original IMO Antarctic Special Area.

#### Cooperation with SCAR

14.13 The Commission noted the presentation from SCAR to the Scientific Committee (SC-CAMLR-XXVIII, paragraphs 9.14 to 9.26) and welcomed progress on increased interaction with SCAR on areas of mutual interest.

#### Assessment of proposals for Antarctic Specially Protected Areas and Specially Managed Areas, which include marine areas

14.14 The Commission noted that no proposals had been received during 2009 in relation to Antarctic Specially Protected Areas and Specially Managed Areas that include marine areas under ATCM Resolution 9 (2005). It also noted that the administrative procedures currently in place to deal with such proposals are working well.

## COOPERATION WITH OTHER INTERNATIONAL ORGANISATIONS

### Reports of observers from international organisations and Intergovernmental organisations

15.1 The Commission commended the reports from observers and acknowledged the important role that their participation plays in CCAMLR's work.

### ACAP

15.2 The ACAP Executive Secretary reported to the Commission on actions undertaken by the Agreement of specific relevance to the issues under discussion by the Commission.

15.3 The Third Session of ACAP's Meeting of the Parties (MoP3) was held in Norway in April 2009. All species of albatrosses are now listed under ACAP, giving the Agreement a global coverage. The number of CCAMLR Members that are considered Range States under the Agreement has also increased. ACAP invited all CCAMLR Members who are either ACAP Parties or Range States to attend the next meeting of its Advisory Committee (AC5), to be held in Mar del Plata, Argentina, during April 2010.

15.4 The ACAP Executive Secretary noted that although a great deal has been accomplished by ACAP, it is not possible to assess the extent to which the actions taken had been successful in improving the conservation status of albatrosses and petrels. This was attributable to the absence of relevant data on by-catch of these species in fisheries, both on the high seas and in domestic waters. To address this issue, ACAP Parties had agreed that MOUs should be negotiated with relevant high-seas fisheries management organisations, including CCAMLR and the tuna RFMOs, to facilitate access to such data.

15.5 The ACAP Executive Secretary outlined a proposed MOU between CCAMLR and the ACAP Secretariat (CCAMLR-XXVIII/BG/19). This non-legally binding instrument would seek to facilitate cooperation between CCAMLR and ACAP, in particular through the exchange of information relating to: systems for collecting and analysing data; conservation management approaches; education and awareness programs; and by-catch mitigation measures. It would also facilitate reciprocal participation, with observer status, at relevant meetings. Furthermore, the provision of by-catch data from domestic and high-seas fisheries adjacent to CCAMLR waters would aid the Commission to identify the potential impact of fisheries on species found in the CAMLR Convention Area.

15.6 The ACAP Executive Secretary also noted that although the MOU would not be legally binding, it would establish a formal relationship between the two organisations and clearly identify the areas in which cooperation was desired. This in turn, would provide a clear framework for the secretariats to operate within. Furthermore, it would facilitate development of data-sharing agreements for the exchange of information.

15.7 Many Members spoke in favour of the MOU citing the shared aims of ACAP and CCAMLR, especially in acquiring data on incidental mortality of Convention Area seabirds in fisheries outside the Convention Area.



15.8 While indicating that Argentina is fully supportive of cooperation between CCAMLR and ACAP and that cooperation should be strengthened, it recalled its view that CCAMLR is not entitled to legislate for areas outside the Convention Area.

15.9 Australia, New Zealand, UK and the USA disagreed with Argentina's statement concerning jurisdiction of the Convention.

15.10 Australia made the following statement:

'Australia does not agree with the interventions of Argentina. The only spatial limitation on the area of the application of the Convention is to the resources to which the Convention applies. The Convention applies to Antarctic marine living resources in the Convention Area that is defined in Article I. The spatial application of the Convention is not restricted in any other way. The objective of the Convention as stated in Article II, is the conservation of Antarctic marine living resources, where conservation includes rational use. Measures to further this objective, that is, to conserve Antarctic marine living resources that are situated within the Convention Area, can apply outside the Convention Area.'

15.11 In reply to Australia, Argentina indicated that the scope and the boundaries of the Convention are well defined in its text.

15.12 The Commission endorsed an amended version of the MOU and requested the Secretariat to forward the proposed text to ACAP (Annex 8). Once ACAP indicates that it agrees with this text, the CCAMLR Executive Secretary would then be authorised to sign the MOU and notify all Members through a Commission Circular.

#### ASOC

15.13 ASOC made the following statement to the Commission:

'ASOC is concerned for the discussion related to the management of the krill fishery, and particularly interim protective measures and the need to improve monitoring of krill predators.

The last risk assessment – undertaken in the context of WG-EMM – shows that the rules currently in place for krill fishing are not sufficiently precautionary to achieve the objectives of the Convention. The last WG-EMM meeting considered that an interim subdivision of the krill catch limit (trigger level) amongst subareas would be a pragmatic approach until SSMU allocations are in place.

ASOC calls on the Commission to support Option 4, as recommended by the Scientific Committee, and proposed by the Government of Ukraine, because it proposes subdividing the catch limit for krill in Area 48, among subareas, based on the best science available and would further subdivide the catch between coastal and pelagic SSMUs to prevent concentration of the krill fishery. In our view, this proposal has the greatest potential to reduce the risks for predators as a result of krill fishing.

Other priorities for further action include systematic scientific observer coverage, and addressing uncertainty over krill removals as a result of problems with data reporting and krill escape mortality.

ASOC fully supports the suggested milestones for progressing the work on identifying and establishing a comprehensive and representative network of marine protected areas and marine reserves in line with the 2012 targets. In addition, ASOC encourages Member States to be bold in putting forward multiple prospective sites that are of sufficient scale to fulfil the full range of agreed conservation objectives, including the urgent need to build the resilience necessary to buffer against the impacts of climate change. In this regard, ASOC urges Members to put forward a proposal to protect the Ross Sea shelf and slope that has emerged as a clear priority for protection as underscored by the fine-scale bioregionalisation overseen by New Zealand.

A new strategy and commitment is needed to end IUU fishing in the Southern Ocean as this problem continues to persist at high levels. Ideally, this would best be started by a decision at this year's CCAMLR meeting agreeing on a mission statement and a collaborative process aimed at adopting a package of more effective conservation measures. We urge all FAO Member States to work to ensure that the FAO conference endorses the recently completed Port State Agreement so that it can be open for signature and ratification by all countries as a matter of urgency.

ASOC would like to acknowledge the importance of the proposed MOU between CCAMLR and ACAP and commends CCAMLR for taking this important step to further cooperate with other relevant Agreements to enhance conservation of Antarctic living marine life. ASOC would also like to remind ACAP member countries present of their binding obligations under the Agreement to address issues of seabird conservation both within and outside areas of national jurisdiction. ASOC also implores CCAMLR Members who are not party to ACAP to join and to implement the Agreement as comprehensively as possible to enhance albatross and petrel conservation globally.

ASOC supports the need for a capacity-building fund and its potential to be a critical element in improving the overall effectiveness of capacity building. We would also urge CCAMLR to start to allow NGO observers at all working groups. Finally, ASOC wanted to note that it too felt that the Joint SC-CAMLR-CEP Workshop was an important joint meeting and would encourage further steps be taken to increase the integration of both committees' work.'

## COLTO

15.14 COLTO thanked the Commission for the opportunity to be represented at CCAMLR-XXVIII and made the following statement:

'Although we in this room may recognise how positive CCAMLR has been at deterring IUU fishing, and managing toothfish, this view is not shared in the wider world. It is important to promote accurately what is happening with our fisheries.

Misleading or incorrect information on public websites is of concern to COLTO as it not only undermines our ability as commercial operators to sell legally, sustainably caught toothfish, but it greatly undermines the work of CCAMLR.

For example, Members may like to look at the WWF International *Seafood Guide* ([www.panda.org](http://www.panda.org)) which lists Chilean sea bass as Red Label (Avoid) or the Monterey Bay Aquarium *Seafood Watch* site ([www.montereybayaquarium.org](http://www.montereybayaquarium.org)) which states that “Chilean sea bass is severely overfished and is rated as ‘Avoid’”. In addition, most Chilean sea bass in the US market comes from boats that are fishing illegally and using unmodified longlines”. The Marine Conservation Society site *Fishonline* gives Chilean sea bass a score of 5 (the worst rating – meaning it is a “Fish to avoid” for all areas except the South Georgia fishery). This results in problems as we have had this year, with the international Fairmont Hotels and Resorts Group (with 23 000 hotel rooms and 26 000 employees) through their Green Partnership Program stating they “...will remove threatened species like Chilean sea bass...” from their menus.

It is critical that CCAMLR does not allow this level of misinformation and errors about its work to go unchallenged, and COLTO urges Members to work to ensure the good work of the Commission is publicised appropriately.

COLTO members support the concept of avoiding “Significant Adverse Impacts” on VMEs and a large number of our members participated in the procedures introduced by CCAMLR last year to provide data to identify areas of possible VMEs. The move-on provisions in Conservation Measure 22-07 resulted in a number of areas being temporarily closed in high-seas CCAMLR regions pending assessment by scientists. Information was gathered by our members, impacts were mitigated, and industry was cooperative with the program. This was done in the reasonable expectation that CCAMLR would assess and advise on those areas at this year’s meeting, and determine future requirements surrounding those areas.

For CCAMLR now to suggest that those areas should remain closed because there is a need for “further study” is unreasonable. COLTO members accept that the interim controls remain in place as set last year and that the measures for avoiding adverse impacts should remain as set last year. However, the areas that were closed last year as a result of the move-on provisions should reopen for this coming year while scientists complete their reviews.

CCAMLR work, and CCAMLR science, should be based on facts and not be swayed by misleading information, sensationalism, or other motivations that may be acting against Article II of its Convention, where it explicitly recognises that the term “Conservation” includes rational use.

Commercial fishing has an impact on the environment. This needs to remain mitigated and properly managed to ensure those impacts are not unsustainable. COLTO asks that CCAMLR Members should rebalance the debate between the “anti-fishing” lobby that would have us shut down vast areas of CCAMLR in a sometimes misguided approach to preserve vast areas for whatever reason, and the more appropriate aspects under Article II of our Convention which support sustainable conservation, including rational use.

From a legal operators' viewpoint, we recognise industry has had an impact. Indeed, sectors of industry have clearly fished illegally, unsustainably and in ways we all will work to eliminate. But for those of us working within the rigours of CCAMLR regulations, it is hard at times to see where recognition of our efforts as legal operators is made, and how the hype and sensationalism can be overcome.

COLTO believes that legal fishing can only effectively be managed sustainably if consideration is given to future allocations on high seas. CCAMLR began to consider some of those difficult issues several years ago, but appears to have been sidetracked by the more populist issues of the day. COLTO recognises how hard it will be to progress high-seas allocations, but as a legal industry we would like to encourage CCAMLR Parties to restart those discussions.'

## IWC

15.15 Two papers from CCAMLR observers to IWC (SC-CAMLR-XXVIII/BG/4 and CCAMLR-XXVIII/BG/21) detailed IWC work of relevance to CCAMLR. The information in these papers was updated by Prof. B. Fernholm (IWC Observer) by mentioning that the IWC Chair's Support Group had met in October 2009. The Group was not able to finish its work but will meet again in early December to finalise its task. This also meant that the intersessional meeting of the Small Working Group on the Future of the IWC (CCAMLR-XXVIII/BG/21) has been postponed until March 2010.

### Reports of CCAMLR representatives at meetings of international organisations in 2008/09

15.16 The following reports from CCAMLR representatives were noted by the Commission:

- 5th Annual Meeting of SEAFO, 6 to 9 October 2008, Windhoek, Namibia – CCAMLR-XXVIII/BG/17 (Norway);
- 16th ICCAT Annual Meeting, 17 to 24 November 2008, Marrakesh, Morocco – CCAMLR-XXVIII/BG/35 (European Community);
- 28th Session of the Committee on Fisheries (COFI), 2 to 6 March 2009, Rome, Italy – CCAMLR-XXVIII/BG/4 (Executive Secretary);
- Second Meeting of Regional Fishery Body Secretariats Network (RSN-2); 9 and 10 March 2009, FAO Headquarters, Rome, Italy – CCAMLR-XXVIII/BG/4 (Executive Secretary);
- 13th Annual Session of the Indian Ocean Tuna Commission (IOTC), 30 April to 3 May 2009, Bali, Indonesia – CCAMLR-XXVIII/BG/25 (Australia);
- Seventh International Consultation on the Establishment of the South Pacific RFMO, 18 to 22 May 2009, Lima, Peru – CCAMLR-XXVIII/BG/24 (Australia);

- 61st Annual Meeting of the IWC, 22 to 26 June 2009, Madeira, Portugal – CCAMLR-XXVIII/BG/21 (USA);
- FAO Expert Consultation on Flag State Performance, 23 to 26 June 2009, Rome, Italy – CCAMLR-XXVIII/BG/14 (Executive Secretary);
- Eighth Meeting of the CCSBT Ecologically Related Species Working Group (ERSWG), 1 to 3 September 2009, Busan, Republic of Korea – CCAMLR-XXVIII/BG/10 (Secretariat);
- 31st Annual Meeting of the Northwest Atlantic Fisheries Organization (NAFO), 21 to 25 September 2009, Bergen, Norway – CCAMLR-XXVIII/BG/43 (European Community);
- 6th SEAFO Annual Meeting, 5 to 9 October 2009, Swakopmund, Namibia – CCAMLR-XXVIII/BG/36 (European Community).

15.17 With regards to document CCAMLR-XXVIII/BG/4, Argentina expressed reservation about the section relating to the Second Meeting of the Regional Fisheries Bodies Secretariats Network, in particular, the terms of reference of that meeting which was held in Rome on 9 and 10 March 2009. In this respect, the following questions, *inter alia*, need to be considered:

- (i) Is the actual intention to establish an integrated structure (a ‘Network’), not by States, but by secretariats of international fisheries organisations?
- (ii) Beyond the exchange of information and other cooperation aspects, what would be the implications for CCAMLR of an institutional and collective involvement with organisations which differ from CCAMLR in their objectives and membership?

15.18 In this context, Argentina emphasised once again that it is not a Party to the New York Agreement of 1995 on Straddling Fish Stocks and Highly Migratory Fish Stocks and that none of its provisions nor its decisions, resolutions or recommendations adopted in its framework, or derived from the said Agreement, are binding or have an exhortatory effect for Argentina, nor for any other State that is not a Party to the said instrument. In addition, Argentina stated that the Agreement must not be considered customary law.

15.19 In relation to RFMOs in general, Argentina stated that the 1995 New York Agreement has, since then, regulated the establishment and functioning of such organisations, but only in respect to States that are Party to it. The establishment of RFMOs regulating high-seas areas is not an end in itself, nor do RFMOs constitute the only existing means for conservation of high-seas resources. Furthermore, RFMOs have the inherent limitation of being made up of a group of States that do not represent the international community as a whole, nor do they necessarily represent its interests. In fact, they do not have the power to prescribe regulations in relation to third-party States, nor can they assume representation of the rest of the international community nor aspire to establish measures to be applied *erga omnes*. RFMOs have a clearly defined mandate defined by their competence which is conservation and the harvesting of fishery resources. Therefore, high-seas ‘governance’ cannot be their objective.

15.20 Furthermore, Argentina recalled paragraph 3.4 of the FAO Plan of Action on IUU Fishing, according to which unregulated fishing is legal if it is conducted in accordance with international law.

15.21 The European Community stated it does not share the view of Argentina with respect to its interpretation of the competencies of different fisheries management organisations. While the European Community would not wish to undermine the specific characteristics of CCAMLR, there is recognition that the Commission operates in a global system and therefore there is a need for the CCAMLR Secretariat to cooperate with other secretariats that operate in that system.

15.22 Argentina clarified that this cooperation should not be based on the UN Fish Stocks Agreement but on the Law of the Sea. For example, CCAMLR and ACAP are conservation organisations and do not have purely economic objectives. Therefore, bodies should not be created to link organisations with two different objectives because if CCAMLR were to appear to be just another RFMO, this would undermine the objectives of the Commission.

15.23 In respect to the intervention by Argentina, the Executive Secretary noted that the FAO RSN had, in 2005, replaced the previous FAO Regional Fisheries Bodies (RFB) group established in 1999. Both these bodies have no decision-making powers and have provided a common forum for some 35 regional bodies dealing with fisheries matters<sup>4</sup>, ecosystem-related management<sup>5</sup> and institutions such as ICES. The previous CCAMLR Executive Secretary was Vice-Chair of the RFB until 2003 when the incumbent Secretary took up the Chair until the end of RSN's Third Meeting in 2009. The RFB and RSN biennial meetings allow for cooperation between the various secretariats involved to be discussed subject to any decisions made by their authoritative bodies (e.g. the Commission). Full reports of these discussions have been provided to the Commission (CCAMLR-XXII, paragraph 14.52; CCAMLR-XXII/BG/4; CCAMLR-XXIV, paragraph 15.15; CCAMLR-XXIV/BG/10; CCAMLR-XXVI, paragraph 16.17; CCAMLR-XXVI/BG/4; CCAMLR-XXVIII/BG/4).

#### Cooperation with CCSBT

15.24 The Commission noted that the correspondence with the CCSBT since 2005 was provided in CCAMLR-XXVIII/9. It further noted that a draft arrangement between the CCSBT and CCAMLR had been discussed at the CCSBT Extended Commission Meeting in October 2009. The Commission noted with interest that the CCSBT had agreed that the draft arrangement required revision intersessionally prior to being forwarded to CCAMLR with a view to formalising this as soon as possible.

15.25 The Commission noted the attendance of the Science Officer at the CCSBT ERSWG (CCAMLR-XXVIII/BG/10) and agreed that such links between CCAMLR and the CCSBT ERSWG were essential with respect to the conservation of seabirds.

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<sup>4</sup> These include RFBs with no management mandate and RFMOs with such a mandate.

<sup>5</sup> These include ACAP and CCAMLR.

## Cooperation with WCPFC

15.26 The Commission noted that the Arrangement between CCAMLR and WCPFC (CCAMLR-XXVII/BG/17 and CCAMLR-XXVI/BG/9) came into force on 12 January 2009 as notified by COMM CIRC 09/11 of 30 January 2009. The Commission looked forward to receiving details of the next meeting of the WCPFC (7 to 11 December 2009).

## Partnership in FIRMS

15.27 The Commission noted the recommendation in CCAMLR-XXVIII/BG/4 (paragraph 40) that suggested a review of future collaboration with FIRMS should be tabled for consideration at CCAMLR-XXIX.

## Participation in CCAMLR meetings

15.28 The Secretariat advised Members that, as discussed last year (CCAMLR-XXVII, paragraph 16.31), this matter relates to approaches to the Secretariat by non-Contracting Parties invited to CCAMLR meetings, to facilitate access to the UN Trust Fund for monies to finance their attendance. No such requests had been received in 2009.

## Nomination of representatives to meetings of international organisation in 2009/10

15.29 The following observers were nominated to represent CCAMLR at meetings of international organisations in 2009/10:

- 21st Regular Meeting of ICCAT, 6 to 15 November 2009, Porto Galinhas, Recife, Brazil – Brazil.
- Eighth Round of International Consultations on the establishment of the proposed South Pacific RFMO Organisation, 8 to 14 November 2009, Auckland, New Zealand – New Zealand (see COMM CIRC 09/114).
- Sixth Regular Session of WCPFC, 7 to 11 December 2009, Papeete, Tahiti – no nomination.
- 23rd Session of the Coordinating Working Party on Fishery Statistics (CWP), 22 to 26 February 2010, Hobart, Australia – CCAMLR Data Manager.
- 6th Meeting of the FIRMS Steering Committee, 22 to 26 February 2010, Hobart, Australia – CCAMLR Data Manager.
- 14th Session of IOTC, 1 to 5 March 2010, Busan, Republic of Korea – European Community.

- 15th Meeting of the Conference of the Parties of CITES, 13 to 25 March 2010, Doha, Qatar – no nomination.
- ATME on Climate Change, 6 to 9 April 2010, Oslo, Norway – Norway.
- Ninth Round of Informal Consultations of States Parties to the UN Fish Stocks Agreement, 15 to 19 March 2010, New York, USA – no nomination.
- 12th Session of the COFI Sub-Committee on Fish Trade, 26 to 30 April 2010, Buenos Aires, Argentina – Argentina.
- ATCM XXXIII, 3 to 14 May 2010, Punta del Este, Uruguay – Executive Secretary.
- CEP XIII, 3 to 14 May 2010, Punta del Este, Uruguay – Chair of the Scientific Committee and CCAMLR Science Officer.
- Resumed Review Conference on the UN Fish Stocks Agreement, 24 to 28 May 2010, New York, USA – no nomination.
- 62nd Annual Meeting of the IWC, 21 to 25 June 2010, Agadir, Morocco – Belgium.
- 17th Annual Meeting of CCSBT, 11 to 15 October 2010 (venue not yet known) – Australia.
- 7th Annual Meeting of SEAFO, 15 October 2010, Narita, Japan – Namibia.
- 10th Meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD) (COP 10), 18 to 29 October 2010, Nagoya, Japan – no nomination.
- 5th Session of SWIOFC (dates and venue not yet known) – South Africa.
- Annual Meeting of NAFO (dates and venue not yet known) – European Community.

## IMPLEMENTATION OF THE OBJECTIVES OF THE CONVENTION

16.1 It was noted that implementation of the Convention's objectives has been an important item on the Commission's agenda since 1996.

### Performance Review

16.2 The Chair noted that the Commission had agreed to continue considering advice from the Scientific Committee, SCIC and SCAF on matters arising from the 2008 CCAMLR



Performance Review Panel Report<sup>6</sup> (CCAMLR-XXVII, paragraphs 17.9, 17.10, 17.14 and 17.18). He invited the Chairs of these committees to report on their respective discussions of such matters.

16.3 The Chair of the Scientific Committee provided a summary of the Committee's discussion on how to address the highest-priority recommendations of the Performance Review Panel Report (SC-CAMLR-XXVIII, paragraphs 10.1 to 10.25). This included establishment of a Science Capacity Fund and an 'Ad hoc Correspondence Group to Develop Options to Build SC-CAMLR Capacity in Science to Support CCAMLR' (SC-CAMLR-XXVIII, paragraphs 10.22 and 10.23) (see also paragraphs 16.7 to 16.11 below).

16.4 The Chair of SCIC reported the Committee's deliberations on implementing various Performance Review Report recommendations (Annex 5, paragraphs 7.1 to 7.6). Issues discussed included monitoring, control and surveillance (Annex 5, paragraph 7.2(i)) and market-related measures (Annex 5, paragraph 7.2(ii)). SCIC will continue consideration of such matters, along with any other relevant recommendations arising from the above report that affect the Committee's work. Regular updates will be provided to the Commission.

16.5 The Acting Chair of SCAF advised the Commission that there were no issues relevant to the Performance Review arising from that Committee's deliberations.

16.6 The Commission thanked the Scientific Committee for identifying specific issues and deficiencies especially with respect to the constraints on resources available to provide the Commission with high-quality scientific advice on the conduct of CCAMLR fisheries consistent with Article II of the Convention. The Commission endorsed the need to develop the capacity to address the priority issues identified by the Scientific Committee as outlined in SC-CAMLR-XXVIII, paragraph 10.1.

16.7 Norway noted that there was a need for the Commission to make specific suggestions on, and commitments to, addressing the issue of scientific capacity. It welcomed the Scientific Committee proposal to establish a fund to address this issue and to develop the procedures to identify how such a fund should be used. Norway informed the Commission that it would seek to take a lead and that it wished to contribute A\$100 000 to the above fund. It encouraged other Members and the fishing industry to also make contributions.

16.8 Noting with appreciation, the generous offer by Norway to provide A\$100 000, the Commission established a 'General Science Capacity Special Fund' under Financial Regulation 6.2.

16.9 The Fund's primary purpose is to secure wider participation, not least from young scientists, in the work of the Scientific Committee, to promote burden sharing and build capacity within the Scientific Committee, assisting with the collection, study and exchange of information relating to the marine living resources to which the Convention applies. It will also serve to encourage and promote the conduct of cooperative and collaborative research in order to extend knowledge of the marine living resources of the Antarctic marine ecosystem and in the provision of the best scientific information available to the Commission.

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<sup>6</sup> Available on the CCAMLR website – [www.ccamlr.org/pu/E/revpanrep.htm](http://www.ccamlr.org/pu/E/revpanrep.htm).

16.10 Recalling the Scientific Committee's deliberation on the above, the Commission noted that the 'Ad Hoc Correspondence Group to Develop Options to Build SC-CAMLR Capacity in Science Support to CCAMLR' would address the objective, rules of operation and administrative mechanisms of the fund, and the criteria whereby funds should be allocated to tasks and projects (SC-CAMLR-XXVIII, paragraph 10.23). The outcomes from this work will be considered by the Scientific Committee and Commission at their 2010 meetings.

16.11 The Commission agreed that there is some urgency in providing for wider scientific capacity development during the 2009/10 intersessional period. Therefore, and as an interim arrangement, applications for financial support from the above Fund should be communicated to the Secretariat. Any requested monies will only be released after consultation with all Commission Members, including consideration of the deliberations of the Scientific Committee's Ad Hoc Correspondence Group. This interim procedure will be reconsidered at CCAMLR-XXIX along with the outcomes of the Scientific Committee's work on this subject.

16.12 COLTO commended Norway for its generous contribution to increasing CCAMLR's science capacity, stating that its membership is committed to collecting and providing CCAMLR with high-quality fisheries data, to ensure the sustainable management of Antarctic fisheries. COLTO further stated that as legal commercial fishers, it has a vested interest to ensure CCAMLR has the capacity to analyse those data and report results back to the Commission. COLTO members pledged to contribute A\$10 000 towards the General Science Capacity Special Fund.

16.13 The Commission thanked COLTO for its support of the fund.

16.14 New Zealand proposed that funds forfeited from the withdrawal of two New Zealand notifications from new and exploratory fisheries in Divisions 58.4.1 and 58.4.2 in 2009 be paid into the General Science Capacity Special Fund to give it further momentum. Several Members supported this approach.

16.15 The Commission noted that such forfeited funds create an annual surplus that forms part of the income in next year's CCAMLR budget and agreed that the financial implications of the diversion of any such funds would need to be considered. Some Members expressed concern and noted that any diversion of such funds from the CCAMLR budget income would need to be balanced by increases in Members' annual contributions. The Commission referred the matter to SCAF for discussion at its 2010 meeting. It requested the Secretariat to prepare a background paper on the matter.

16.16 The Commission noted that many organisations look to CCAMLR for a lead, not only in having undertaken a Performance Review but how to actively implement its recommendations. It recognised that this is an ongoing and evolving process.

16.17 The UK recalled that there was a minority of Members providing the majority of scientific advice (paragraphs 4.49 to 4.51). It noted the potential approaches to addressing this issue, outlined in CCAMLR-XXVIII/31 and that these should be considered by the Scientific Committee's Ad Hoc Correspondence Group (paragraph 16.3).

16.18 France noted its concern about the Performance Review Panel's discussion of the implementation of CCAMLR conservation measures in EEZs within the Convention Area. France recalled that the existence of an EEZ places numerous responsibilities on a coastal

State and that there was no inconsistency in the measures implemented by France and CCAMLR conservation measures (CCAMLR-XXVIII/34). France further stated that the notion of an EEZ enables standards to be set more rigorously than in international waters, as exemplified by France's actions in respect of IUU fishing.

16.19 The European Community stated that it always looked to CCAMLR as an example of how to best address the challenges posed by marine living resources management and conservation, including rational use. It expressed concern at a lack of progress on certain key issues (CCAMLR-XXVIII/28). Therefore, the Community hoped that the response(s) stimulated by the Performance Review Report would engender action on priority issues. Such issues included adoption of a market-related measure in order to improve compliance with CCAMLR conservation measures, development of CEMP, capacity building and the orderly development of the krill fishery. The European Community noted that as part of the orderly development of the krill fishery, it was essential that the data reporting requirements and other measures related to the management of this fishery should be consistent with those of other CCAMLR fisheries.

16.20 Australia thanked Norway for its contribution and made the following statement:

'This agenda item is an important one for us to reflect on the objectives that bring us together. Like all Members, Australia has a great appreciation of the strength of the bonds in the Antarctic Treaty System, in science, operations and in the common objective of achieving the conservation, including rational utilisation, of the region. These bonds are a strength of our system.

Ten years ago, CCAMLR was set to embark on the greatest collaborative research effort in its history, the CCAMLR-2000 Survey of krill biomass in the southwest Atlantic, the  $B_0$  survey that was used to set catch limits in the area. This was a great initiative to further enhance its precautionary approach.

But, at the same time, CCAMLR was being brought to its knees by IUU fishing. CCAMLR and the Antarctic Treaty System more broadly, forged a path, together, to ensure that IUU fishing was not a destructive force in the region. CCAMLR is a barometer of the strength of the Treaty System. It has long been regarded that if CCAMLR fails to meet its objectives, then the Antarctic Treaty System as whole would be failing.

IUU fishing is changing its face, using gillnets and other strategies to avoid detection. We need to be vigilant to ensure that activities in the CCAMLR area do not erode the capacity of CCAMLR to achieve its objectives. We need to increasingly take steps to remove IUU vessels and activities from the global seas and to penalise those activities. We need to control their activities at sea, in port and in the markets. CCAMLR has led the way in doing this. But the fight is not over.

Australia is committed to CCAMLR and to implementing the key recommendations of the Performance Review. We have invested millions of dollars in providing on-the-water patrols in CCAMLR waters beyond national jurisdiction. We have undertaken surveys and research efforts to support CCAMLR on BANZARE Bank and in eastern

Antarctica. We are about to undertake two weeks of research in Subarea 58.4 using our research and resupply vessel, *Aurora Australis*, to provide data to underpin discussions on the management of bottom fisheries in CCAMLR.

Australia reminds all Members of CCAMLR's roots in the Antarctic Treaty System and that our primary objective is conservation including rationale use. It is in the best interest of all Members around the table to work productively together to achieve this.'

16.21 China recalled paragraph 16.1 of the report of the Scientific Committee (SC-CAMLR-XXVIII) noting that the mutual understanding and cooperation were of primary importance to the Commission. It was therefore essential to provide for equality of involvement and influence in all parts of the Commission, particularly from Members for which English was not their first language.

16.22 The Commission agreed that, given the importance of the issues being addressed by CCAMLR debates, these might at times be complex and difficult. However, the Convention's objectives should not be neglected and the equality of expression and involvement by all Members should be promoted and preserved.

16.23 The Commission noted the Secretariat-prepared information pack (CCAMLR-XXVIII/BG/16), and the covering note prepared by Australia (as Depositary) (CCAMLR-XXVIII/BG/38) in response to the Commission's request last year (CCAMLR-XXVII, paragraphs 17.14 and 17.15). These highlighted connections between the CAMLR Convention and the Antarctic Treaty. They also outlined obligations arising from such connections, along with other information, to be provided to States wishing to accede to the Convention, as well as to Acceding States wishing to become Members of the Commission. The Commission agreed that the Secretariat should liaise with Australia to ensure consistency and remove duplication in these documents.

16.24 The Commission requested the Secretariat to provide a progress report on the Performance Review Report. This should list papers and activities, as well as actions taken by the Commission, to address issues arising from the report and should be delivered sufficiently ahead of CCAMLR-XXIX to provide guidance to Members in developing future meeting documents.

16.25 ASOC presented CCAMLR-XXVIII/BG/29 urging the Commission to create an effective mechanism to ensure that the actions arising from the Performance Review Panel are maintained, noting the challenge of turning the Panel's recommendations into policy and monitoring their progress to determine whether actual changes are being achieved.

## APPOINTMENT OF EXECUTIVE SECRETARY

17.1 The Chair reported to the Commission that a selection committee comprising the Heads of Delegations of Commission Members had selected Mr A. Wright (Australia) to take over from the present Executive Secretary, and that Mr Wright had accepted the appointment. The Commission congratulated Mr Wright on his appointment.

17.2 The Commission noted that Mr Wright is currently Executive Secretary of the WCPFC and had requested to delay his appointment until April 2010. It approved the extension of Dr Miller's appointment until the end of April 2010 to enable a two-week handover with Mr Wright.

## ELECTION OF COMMISSION VICE-CHAIR

18.1 The Commission elected Sweden with acclaim to continue as Vice-Chair of the Commission from the end of CCAMLR-XXVIII until the conclusion of CCAMLR-XXX in 2011.

## NEXT MEETING

### Invitation of observers

19.1 The Commission will invite the following to attend the Twenty-ninth Meeting of the Commission as observers:

- non-Member Contracting Parties – Bulgaria, Canada, Cook Islands, Finland, Greece, Mauritius, Netherlands, Peru and Vanuatu;
- non-Contracting Parties, participating in the CDS, that are involved in harvesting or landing and/or trade of toothfish – Lithuania, Seychelles and Singapore;
- non-Contracting Parties, not participating in the CDS, but possibly involved in harvesting or landing and/or trade of toothfish – Bahamas, Belarus, Cambodia, Colombia, Democratic People's Republic of Korea, Equatorial Guinea, Kenya, Malaysia, Mexico, Morocco, Mozambique, Nigeria, Panamá, Philippines, St Kitts and Nevis, Thailand, Togo, Trinidad and Tobago, United Arab Emirates and Vietnam.

19.2 The Executive Secretary advised the Commission that a list of non-Contracting Parties to be invited to CCAMLR-XXIX will be circulated to Members for comment prior to meeting invitations being issued in July 2010.

19.3 The following intergovernmental organisations will be invited: ACAP, CCSBT, CEP, CITES, CPPS, FAO, FFA, IATTC, ICCAT, IOC, IUCN, IWC, SCAR, SCOR, SEAFO, SPC, UNEP and WCPFC (for full designation of these acronyms please refer to paragraph 1.4).

19.4 The following non-governmental organisations will be invited: ASOC and COLTO.

### Date and location of the next meeting

19.5 The Commission noted that the next meeting would be held at CCAMLR Headquarters in Hobart, Australia.

19.6 The Commission agreed that its Twenty-ninth Meeting would be held from 25 October to 5 November 2010. Heads of Delegation were requested to be in Hobart for a meeting on 24 October 2010.

19.7 The Commission noted that the Twenty-ninth Meeting of the Scientific Committee would be held at the same location, from 25 to 29 October 2010.

## OTHER BUSINESS

20.1 Argentina made the following statement:

‘With regard to incorrect references to the territorial status of the Malvinas Islands, South Georgias and South Sandwich Islands made in documents as well in maps distributed at this meeting, Argentina rejects any reference to those islands as being a separate entity from its national territory, thus giving them an international status that they do not have.

Moreover, Argentina recalls that the following actions are illegal and consequently, invalid:

- those actions carried out in the CCAMLR area by vessels based in, or operating out of, the Malvinas, South Georgias and South Sandwich Islands, or flagged to alleged British authorities thereof which Argentina does not recognise; as well as
- port inspections and inspections at sea;
- the issuance of, as well the clearing of, catch documents by such alleged authorities;
- the imposition by them of fishing licences;
- the imposition of either a British scientific observer or of an observer designated with British conformity on other Member vessels operating in the CCAMLR area;
- as well as any other unilateral action taken by the abovementioned colonial authorities in those territories.

The Malvinas, South Georgias and South Sandwich Islands and the surrounding maritime areas are an integral part of the Argentine national territory, are subject of a sovereignty dispute between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland and are under illegal British occupation.

Argentina once more wishes to recall that only the multilateral scheme of the Convention is legally applicable in Statistical Subareas 48.2, 48.3 and 48.4.’

20.2 The UK made the following statement:

‘In response to Argentina’s statement and to various statements made during the meeting, the UK reiterates that it has no doubts about its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas, as is well known to all delegates.

In that regard, the UK has no doubt about the right of the Government of the Falkland Islands to operate a shipping register for UK-flagged vessels. As we have stated on previous occasions, the port inspections undertaken by the Port authorities of the respective governments of the UK’s Overseas Territories of South Georgia and the South Sandwich Islands and the Falkland Islands were conducted pursuant to the UK’s obligations under CCAMLR Conservation Measure 10-03 and were reported to the Commission as such.

Furthermore, the UK has the right to undertake inspections within those of its jurisdictional waters that lie within Subareas 48.2, 48.3 and 48.4 in the way that it sees fit. In addition, the UK remains committed to the implementation of the System of Observation and Inspection of CCAMLR and our record of doing so is clearly apparent in this Commission.

The UK would reiterate its views expressed previously that we remain wholly committed to the principles and objectives of CCAMLR. We intend to ensure that the highest standards of fisheries management will be implemented in our jurisdictional waters – through licensing and inspections, and also through the imposition of tough measures that are in line with, and back up, the provisions of CCAMLR.’

20.3 Argentina rejected the UK’s intervention and reiterated its legal position which is well known to all Members.

## ADOPTION OF THE REPORT

21.1 The Report of the Twenty-eighth Meeting of the Commission was adopted.

## CLOSE OF THE MEETING

22.1 ASOC made the following statement:

‘In closing, ASOC would like to first congratulate you, Mr Chair, on a successful meeting and, on behalf of all the member groups, extend our warm appreciation and thanks to you, Denzil, for all you have done for CCAMLR and the conservation of toothfish, seabirds, krill and all the other important animals in the Southern Ocean. We will miss your dedication, knowledge, humour and passion. Lastly, we appreciate your sensitivity to future generations. We do not say goodbye, we say good luck and that we are eager to see you take up your next endeavour to continue conservation of the Southern Ocean and all its creatures.’

22.2 The European Community thanked the Chair for his leadership and effectiveness in the conduct of the meeting and for concluding the meeting in a timely fashion. The European Community also thanked all delegations for moving forward with the Performance Review Panel's recommendations despite some criticism over the past two years. As a result of the delegations' mutual understanding and cooperation, important decisions had been made during this meeting. The European Community thanked the Chairs of the Scientific Committee, SCAF, SCIC and the Conservation Measures Drafting Group who contributed exceptionally to the work achieved.

22.3 On behalf of the European Community, Mr R. Cesari thanked the outgoing Executive Secretary, Dr Denzil Miller, for his outstanding service and contribution to Antarctic issues, from which he had personally learned a great deal.

22.4 Mr Cesari also extended the European Community's appreciation to the Secretariat which it deemed as one of the best and which had contributed largely to the success of the meeting.

22.5 New Zealand joined the appreciation expressed by the European Community for the important results achieved in this meeting.

22.6 Mr T. Hughes, on behalf of New Zealand, said that for many, Dr Miller was the embodiment of CCAMLR and that he would be missed very much. Mr Hughes said that Dr Miller had been an asset to the Antarctic Treaty System and hoped that he would stay engaged within it in another capacity.

22.7 The Chair said that these sentiments were shared by all. The Commission expressed its gratitude to Dr Miller with a standing ovation for his leadership of the Secretariat over the last eight years.

22.8 In appreciation, the Chair presented Dr Miller with a personalised CCAMLR banner which had been signed by many present at CCAMLR-XXVIII.

22.9 An emotional Dr Miller thanked all in attendance and said that 'this was consensus at work'. He asked Dr Mayekiso, Representative of the South African Delegation, to read the following words from Johan Jamneck who was a South African expeditioner who lost his life in the Antarctic on 4 October 2009:

'I have always been under the impression that the bulk of life is to be found in the tropics and that there is an indirect proportionality in the number of species at higher latitudes. However, the Antarctic is the exception to this rule in so far that what we find there confirms. It could just be that the ecology at the bottom of the world is more complex than we previously thought and that the heartbeat of life here, in its full splendour, is just as vivid and amazing as that in the Amazon.

This moves me to ask what wonders remain in this frigid world waiting to be discovered.

Only time will tell!

But I know that what I have found here in this land of ice and snow has led to a broadening of my own personal knowledge and the upliftment of my spirit.'



22.10 Dr Miller concluded by thanking his staff.

22.11 The Chair, on behalf of the Commission, thanked Dr Miller for all he had done for CCAMLR and for the Antarctic over such a long period of time in an extremely distinguished career. The Chair had first met Dr Miller in CCAMLR's early days. During the time he had been privileged to Chair the meeting, he had been struck by the extent to which CCAMLR had moved on. Reports of early meetings reflect what a thin organisation it was and the thin discussions that took place, compared now to the wealth of the work that comes from the Scientific Committee and the wealth of the measures that are adopted these days. The Chair reflected that one of the things that has characterised CCAMLR is that one starts with small steps and then takes bigger and bigger steps. There could be no doubt of the commitment of the Member representatives present to the objectives in Article II of the CAMLR Convention. The Chair said this shared commitment by everyone had made it a pleasure for him to chair the meeting and he thanked Members for giving New Zealand the opportunity to do so.

22.12 The Chair said that it had been an immense privilege to work with all colleagues present. He particularly thanked the Chair of the Scientific Committee (Mr Iversen), the Chair of SCIC (Ms Dawson-Guynn), the Chair of SCAF (Mr Pandian) and its Vice-Chair (Mr Mayekiso) who presented SCAF's report to plenary, and the Chair of the Conservation Measures Drafting Group (Ms Slocum) for their excellent contributions to their respective committees and the Commission. The Chair said it was a tightly knit web of people who make an extraordinary contribution to the Antarctic and Antarctic marine living resources. He thanked all involved for the huge amount of work which had gone into CCAMLR-XXVIII.

22.13 The Chair again expressed his appreciation to Dr Miller for his support throughout the meeting and to all of the Secretariat staff for doing a superb job. He also thanked the interpreters and all who had attended for their contribution to the meeting.

22.14 The Chair closed the Twenty-eighth Meeting of CCAMLR.

Table 1: Members and number of vessels notified for exploratory fisheries for toothfish (*Dissostichus* spp.), krill (*Euphausia superba*) and crab (*Paralomis* spp.) in 2009/10.

Member	Toothfish							Krill	Crab	
	48.6	58.4.1	58.4.2	58.4.3a	58.4.3b	88.1	88.2	48.6	48.2	48.4
Argentina						1	1			
Japan	1	1	1	1	1					
Korea, Republic of	3	5	4	2	1	4	4			
New Zealand		2	1			4	4			
Norway								1		
Russia						2	2		1	1
South Africa	1				1					
Spain		1	1			1	1			
UK						2	2			
Uruguay		1	1		1	1	1			
No. of vessels	5	10	8	3	4	15	15	1	1	1

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Mr Alexey Ivacheff

Ms Roslyn Lacey

Ms Isabel Lira

Mr Marc Orlando

Mr Peter Peterson

Dr Ludmila Stern

Mr Philippe Tanguy

Ms Irene Ulman

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- CCAMLR-XXVIII/BG/22 Report on the abandoned gillnet retrieval operation conducted by Australia in CCAMLR Statistical Division 58.4.3b (BANZARE Bank)  
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- CCAMLR-XXVIII/BG/23 Heard Island and McDonald Islands Exclusive Economic Zone 2008/09 IUU catch estimate for Patagonian toothfish  
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- CCAMLR-XXVIII/BG/27 The need for interim protective measures for Antarctic krill fishing in Area 48  
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- CCAMLR-XXVIII/BG/28 The case for special protection of the Ross Sea  
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- CCAMLR-XXVIII/BG/29 Taking action on CCAMLR's Performance Review  
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- CCAMLR-XXVIII/BG/30 CCAMLR's 3-year challenge: delivering a comprehensive and representative protected areas network in the Southern Ocean  
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SC-CAMLR-XXVIII/5	Report of the Working Group on Statistics, Assessments and Modelling (Bergen, Norway, 29 June to 3 July 2009)
SC-CAMLR-XXVIII/6	Report of the Joint SC-CAMLR–CEP Workshop (Baltimore, USA, 3 and 4 April 2009)
SC-CAMLR-XXVIII/7	A proposal for a ‘roadmap’ for the CCAMLR Scientific Committee to respond to the recommendations of the CCAMLR Performance Review Panel Acting Chair of the Scientific Committee
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SC-CAMLR-XXVIII/9	Report of the Ad Hoc Technical Group for At-Sea Operations (Bergen, Norway, 4 and 5 July 2009)
SC-CAMLR-XXVIII/10	Report of the Workshop on Vulnerable Marine Ecosystems (La Jolla, CA, USA, 3 to 7 August 2009)
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SC-CAMLR-XXVIII/12	Developing options to build capacity in science to support SC-CAMLR Delegations of Australia, the United Kingdom and New Zealand
SC-CAMLR-XXVIII/13	Report of the MPA Special Fund Correspondence Group Submitted by the MPA Special Fund Correspondence Group

- SC-CAMLR-XXVIII/14 Preliminary proposal for marine spatial protection around the South Orkney Islands  
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- SC-CAMLR-XXVIII/15 Report of the Working Group on Incidental Mortality Associated with Fishing  
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- SC-CAMLR-XXVIII/BG/1 Catches in the Convention Area 2007/08 and 2008/09  
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- SC-CAMLR-XXVIII/BG/2 Summary of scientific observation programs undertaken during the 2008/09 season  
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- SC-CAMLR-XXVIII/BG/3 Data Management: report on activities in 2008/09  
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- SC-CAMLR-XXVIII/BG/4 Observer's Report from the 61st Meeting of the Scientific Committee of the International Whaling Commission  
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- SC-CAMLR-XXVIII/BG/6 Calendar of meetings of relevance to the Scientific Committee in 2009/10  
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- SC-CAMLR-XXVIII/BG/9 Development and implementation of an accreditation framework for participation in the CCAMLR Scheme of International Scientific Observation  
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SC-CAMLR-XXVIII/BG/10	On methods of the experiment carried out to determine the rate of ‘escape mortality’ on fishing or research vessels during Antarctic krill fishery Delegation of Ukraine
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SC-CAMLR-XXVIII/BG/12	Field identification guide to Heard Island and McDonald Islands (HIMI) benthic invertebrates: a guide for scientific observers aboard fishing vessels Delegation of Australia
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SC-CAMLR-XXVIII/BG/20	Bioregionalisation and spatial ecosystem processes in the Ross Sea region Delegation of New Zealand
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**AGENDA FOR THE TWENTY-EIGHTH MEETING  
OF THE COMMISSION**



## **AGENDA FOR THE TWENTY-EIGHTH MEETING OF THE COMMISSION**

1. Opening of meeting
2. Organisation of meeting
  - (i) Adoption of agenda
  - (ii) Chair's Report
3. Finance and administration
  - (i) SCAF Report
  - (ii) Audited Financial Statements for 2008
  - (iii) Audit requirement for 2009 Financial Statements
  - (iv) Secretariat matters
  - (v) Contingency Fund
  - (vi) Special funds
  - (vii) Cost recovery from krill fisheries
  - (viii) Budgets for 2009, 2010 and 2011
  - (ix) Members' contributions
  - (x) SCIC meeting space
  - (xi) SCAF Chair
4. Scientific Committee
  - (i) Climate change
5. Fisheries management and conservation under conditions of uncertainty
  - (i) Fishery Management Plans
  - (ii) Bottom fishing in CCAMLR high-seas areas
6. Assessment and avoidance of incidental mortality
  - (i) Marine debris
  - (ii) Incidental mortality of seabirds and marine mammals during fishing operations
7. Marine Protected Areas
8. Implementation and compliance
  - (i) SCIC Report
  - (ii) Compliance with conservation measures
  - (iii) Compliance evaluation procedure
  - (iv) Catch Documentation Scheme for *Dissostichus* spp. (CDS)
9. Illegal, unregulated and unreported (IUU) fishing in the Convention Area
  - (i) SCIC Report
  - (ii) Current level of IUU fishing
  - (iii) Review of current measures aimed at eliminating IUU fishing
10. Scheme of International Scientific Observation

11. New and exploratory fisheries
12. Conservation measures
  - (i) Review of existing measures
  - (ii) Consideration of new measures and other conservation requirements
13. Data access and security
14. Cooperation with Antarctic Treaty System
  - (i) Cooperation with Antarctic Treaty Consultative Parties
  - (ii) Cooperation with SCAR
  - (iii) Proposals for Antarctic Specially Protected Areas and Specially Managed Areas that include marine areas
15. Cooperation with international organisations
  - (i) Reports of observers from international organisations
  - (ii) Reports from CCAMLR representatives at meetings of international organisations in 2008/09
  - (iii) Cooperation with CCSBT
  - (iv) Cooperation with WCPFC
  - (v) Partnership in FIRMS
  - (vi) Participation in CCAMLR meetings
  - (vii) Nomination of representatives to meetings of international organisations in 2009/10
16. Implementation of Convention objectives
  - (i) Performance review
17. Appointment of Executive Secretary
18. Election of Commission Vice-Chair
19. Next meeting
  - (i) Invitation of observers
  - (ii) Date and location
20. Other business
21. Report of Twenty-eighth Meeting of Commission
22. Close of meeting.

**REPORT OF THE STANDING COMMITTEE  
ON ADMINISTRATION AND FINANCE (SCAF)**

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## **REPORT OF THE STANDING COMMITTEE ON ADMINISTRATION AND FINANCE (SCAF)**

The Commission had deferred Item 3 (Finance and Administration) of its Agenda (CCAMLR-XXVIII/1, Appendix A) to the Standing Committee on Administration and Finance (SCAF). SCAF adopted the agenda attached at Appendix I.

### **EXAMINATION OF AUDITED FINANCIAL STATEMENTS FOR 2008**

2. SCAF noted that a full audit had been carried out on the 2008 Financial Statements. The report had identified no incidents of non-compliance with Financial Regulations or International Accounting Standards. The Committee **recommended that the Commission accept the Financial Statements as presented in CCAMLR-XXVIII/3.**

### **AUDIT REQUIREMENT FOR 2009 FINANCIAL STATEMENTS**

3. SCAF recalled the Commission decision of 2008 approving a full audit of the 2009 Financial Statements (CCAMLR-XXVII, paragraph 3.3) and further **recommended that the Commission require a full audit to be performed on the 2010 Financial Statements in view of a new Executive Secretary taking up appointment in 2010.**

### **APPOINTMENT OF AUDITOR**

4. The Australian National Audit Office (ANAO) has been the Commission's Auditor since the Commission was established. As the Office's current two-year appointment expires on completion of the 2009 audit, the Committee **recommended that the Commission appoint the ANAO as its auditor for the 2010 Financial Statements in accordance with Financial Regulation 11.1.**

### **SECRETARIAT STRATEGIC PLAN**

5. The Executive Secretary presented his report (CCAMLR-XXVIII/5). The Committee noted that this report forms a key element in annually assessing the Executive Secretary's performance. The report made specific reference to the Secretariat's Strategic Plan and Secretariat staff matters. The Executive Secretary advised that key Secretariat activities are executed under the Strategic Plan to address diverse, complex and extensive tasks identified by the Commission and the Scientific Committee.

6. SCAF noted the various key issues listed, including:
- taxation matters had been resolved
  - electronic archiving is almost complete
  - the Asset Replacement Reserve will have a balance of A\$90 000 by the end of 2009.

It also noted that all tasks were dealt with equal priority by the Secretariat and that the tasks were increasing and becoming more complex.

7. SCAF expressed concern at the size of the reports prepared for its consideration and the amount and level of detail of those reports, but recognised that, as these were the last prepared by the incumbent Executive Secretary, they would be useful to strengthen institutional memory of these matters.

8. Addressing the outcomes of the Executive Secretary's review of the Secretariat functions (CCAMLR-XXVIII/6) endorsed by the Commission in 2008 (CCAMLR-XXVII, paragraph 3.9), SCAF **recommended that:**

- **The initial grading of P-4 should be confirmed for the Science Officer and Data Manager and P-3 for the AFO. This should be the entry-level grading for the purpose of meeting the requirements of Staff Regulation 5.10.**
- **Subject to the Science Officer or Data Manager reaching the top of the P-4, and the AFO the top of the P-3 grading, and/or exceptional assessment of performance under the *CCAMLR Performance Management and Appraisal System (CPMAS)* endorsed by the Commission (CCAMLR-XXII, paragraph 3.4), advancement from ICSC Grading P-4 to P-5 should be considered for the former, along with advancement from Grading P-3 to P-4 for the latter, with the Commission's prior approval (Staff Regulation 5.5). Such consideration should be subject to independent evaluation by the ICSC. The process of considering such advancement would rest with the Commission.**

9. It also addressed the review of the Compliance Officer's post following the Commission's decision of 2008 (CCAMLR-XXVII, paragraph 3.10) and accepted that, to address the current lack of salary advancement available for the Compliance Officer post beyond Paypoint 30 (Pay Band 8) of the General Services Staff pay scale, consideration be given to providing further salary advancement based on the incumbent officer's performance and in recognition of the post's growing responsibilities and workload. It also accepted that subsequent increment advances should be subject to annual reviews of performance in accordance with the CPMAS. The suggested salary advancement should be set at CPI plus 3.0%. This would be consistent with both the proportionate salary advancements attached to the ICSC P-3 Grading and those currently implemented through the General Services Staff pay scale.

10. SCAF noted that a review of the Communication Officer's post could be undertaken in 2010.

11. SCAF noted the report *CCAMLR Secretariat Staff Succession Strategy* (CCAMLR-XXVIII/8) prepared by the Executive Secretary, and suggested that some of the suggestions fall within the delegated authority of the Executive Secretary and do not require detailed approval by SCAF.

12. SCAF noted the incumbent Executive Secretary's specific suggestions made in CCAMLR-XXVIII/8, namely:

- (i) Some of the Communication Officer's more routine tasks could be delegated to the Publications Officer (formerly the Publication and Website Assistant). The Communications Officer should also liaise directly with the incoming Executive Secretary on a number of CCAMLR activities.
- (ii) A part-time Publications and Website Assistant could be appointed to assume the former Publications and Website assistant's more routine tasks.
- (iii) The Data Administration Officer could be provided with a part-time understudy to assist her in the execution of her current tasks, as well as provide the necessary expertise to ensure the succession of functions in the future.
- (iv) The WISO should be encouraged to complete all currently outstanding tasks prior to leaving the Secretariat. Recruitment of a replacement should focus on a candidate with the necessary technical skills with induction developing essential workplace and organisational competencies.

13. SCAF advised that these suggestions should be provided to the new Executive Secretary for future consideration, recognising that any recommendations with budgetary implications will need to be referred to SCAF.

#### REVIEW OF 2009 BUDGET

14. SCAF noted the expected 2009 budgetary outcomes presented in CCAMLR-XXVIII/4.

15. SCAF received advice that additional surplus income of A\$207 000 was brought forward from 2008 and that interest income increased by an additional A\$90 000 due to a change in accounting for payments to the Staff Termination Fund (STF). From 2009 all interest accruing to the General Fund will be shown as income and the total transfer payment to the STF would be made from the Salaries and Allowances subitem.

16. SCAF noted that expenditure across all subitems, except Salaries and Allowances, was less than approved in 2008, but there was still some uncertainty around the Meeting Facilities and Sundry subitems which could not be accurately predicted until the end of the current meetings and costs associated with utilities respectively, were known. The increased expenditure in the Salaries and Allowances subitem was the result of the additional payment to the Staff Termination Fund.

17. SCAF received advice that two investments totalling A\$1.6 million were still in an uncertain situation with respect to their anticipated financial returns but that no losses have been made to date. SCAF agreed that the Secretariat should keep these investments under review.

18. **SCAF recommended that the revised Budget for 2009, as set out in Appendix II of this report, should be adopted by the Commission. This included a surplus of A\$440 000 to be carried forward to 2010.**

## REVIEW OF TRANSLATION REQUIREMENTS

19. From CCAMLR-XXVIII/10 Rev. 1, prepared by the Executive Secretary, SCAF noted the growing extent and complexity of CCAMLR's translation commitments. In 2009, these commitments were met by a one-off budget contribution of A\$100 000 for 2009 (CCAMLR-XXVII, paragraph 3.28). However, based on an analysis provided by the Secretariat to deal with future translation commitments, SCAF noted that translation will always have a significant impact on the budget.

20. Therefore, SCAF noted the various suggestions provided in the above paper as well as other ideas for reducing the cost of translations. These included:

- limiting the number of document pages;
- reducing the number of documents;
- reducing bottlenecks in available time for translation by setting earlier paper submission deadlines;
- limiting translation of working papers to specific sections such as the abstract, summary, conclusions and recommendations etc.;
- condensing translated reports to salient points only;
- utilising computerised translation support (CCAMLR-XXVIII/10 Rev. 1, paragraph 41);
- requiring authors to indicate which sections of submitted papers they wished translated;
- using only English as a medium for certain categories of papers that are not currently translated.

21. SCAF stressed that all possible options for reducing translation requirements should be investigated before any proposal for additional translation staff be considered. It also recognised the need for language parity across all four of the official CCAMLR languages while acknowledging the highly specialised nature of some reports.

22. SCAF therefore agreed that a 'blanket' approach to translation needs was not appropriate. SCAF reiterated its request from the 2008 SCAF meeting to the Secretariat to



consult informally with Members requiring translation to or from each of the four languages to determine their specific needs. In addition, potentially specialised needs of the CCAMLR scientific community and individual authors should be taken into consideration. SCAF also requested the Secretariat to come up with concrete proposals for how to reduce the amount of translation required. The outcomes of these requests will be considered at SCAF's 2010 meeting.

#### ADDITIONAL MEETING SPACE FOR SCIC

23. SCAF noted SCIC's support for the proposal to provide additional meeting space for the latter (CCAMLR-XXVIII/11). SCAF **recommended the construction of the additional space at a cost of A\$130 000 to be funded partly from the Asset Replacement Reserve (A\$40 000) with the balance (A\$90 000) amortised over 10 years from interest accruing to the Special Funds.** It encouraged the Secretariat to further liaise with the owner/developer of the premises with a view to cost-sharing the extension and expediting its completion in early 2010.

#### DEVELOPMENT OF COST RECOVERY

24. SCAF noted that SCIC was considering the question of cost recovery for processing krill fishery notifications.

#### CONTINGENCY FUND

25. SCAF noted that no expenditure had been incurred from the Contingency Fund in 2009. In keeping with past practice, SCAF **recommended that the balance of the Fund in excess of A\$110 000, following the transfer of forfeited funds from new and exploratory fisheries applications, should be transferred to the General Fund.**

#### CDS FUND

26. SCAF noted that no expenditure was incurred from this fund since the 2008 meeting. **It also noted that the CDS panel's requests for expenditure of A\$19 877 for CDS Training Materials and an upper limit of A\$70 000 for IUU Fishing in the CAMLR Convention Area – African Capacity Building Training would be considered by the Commission.**

## MULTI-YEAR FUNDING OF SCIENTIFIC COMMITTEE TASKS

27. SCAF noted the requests of the Scientific Committee to carry forward funds currently held in the Scientific Multi-Year Special Fund for part of the Review of the *Scientific Observers Manual* and the publication of papers arising from the Joint CCAMLR–IWC Workshop held in 2008. A total of \$90 000 is currently available in the Fund.

## BUDGET FOR 2010

### Advice from SCIC and the Scientific Committee

28. The Chair of SCIC advised that the DOCEP Workshop had been deferred until 2011 and that the group would endeavour to carry out its work intersessionally via electronic means. SCAF noted that the deferral of the DOCEP Workshop to 2011 would have budgetary implications for that year. SCIC had also advised that it strongly supported the extension of the SCIC meeting room (paragraph 23) and that Japan would be making a new proposal regarding cost recovery for the processing of krill fishery notifications to SCIC in 2010.

29. SCAF received advice from the Chair of the Scientific Committee on the Scientific Committee's budget for 2010 and on relevant items in the Commission's budget for the work of the Scientific Committee.

30. SCAF noted that the meeting of the Working Group on Incidental Mortality Associated with Fishing (WG-IMAF) would not be held in 2010, reducing the Scientific Committee's budget request by A\$39 000. The Committee had proposed an Ad Hoc Technical Group for At-Sea Operations (TASO) meeting be scheduled for 2010 at an additional cost of A\$40 000. This effectively neutralises the WG-IMAF saving alluded to above.

31. SCAF noted that the length of intersessional meetings should be carefully considered by the Scientific Committee. Some Members also suggested that the length of the 2010 ad hoc TASO meeting should be considered in particular.

32. SCAF suggested that the number of participants likely to attend intersessional meetings should be monitored and that such information may be used to decide whether a meeting actually takes place or not.

33. SCAF advised the Scientific Committee of its concerns with the costs of translating papers and reports and urged the Scientific Committee to minimise translations required. SCAF expressed particular concern at the size of the Fishery Reports and the number of working papers. The Chair of the Scientific Committee responded that many papers require translating if the authors are unable to attend the relevant meetings (see paragraph 36) and that translation of papers provides for a more inclusive consideration of scientific issues across all the Scientific Committee's subsidiary bodies.

34. **SCAF recommended that the Commission approve the proposed 2010 Scientific Committee budget of A\$347 500.** SCAF noted that the overall funding requested by the

Scientific Committee had been provided for in the 2010 draft budget (CCAMLR-XXVIII/4). The Committee noted that the Scientific Committee budget for 2010 was less than for 2009.

#### Overall budget advice

35. In considering the draft budget for 2010, SCAF did not support a submission for additional part-time staff to assist the Data Administration Officer and a part-time Publications and Website Assistant (CCAMLR-XXVIII/8, paragraph 42(iii)). It agreed that such consideration should be referred to the incoming Executive Secretary before possible future resubmission to SCAF given the financial implications associated with such appointments. SCAF also decided that it would not consider the request for three additional part-time translators (CCAMLR-XXVIII/8, paragraph 42(i)) until after a thorough and detailed review of translation requirements has been carried out (paragraphs 20 and 21).

36. Given the current difficulties being experienced in meeting current demands for translation expenditure (paragraph 33), the Committee decided that the 2009 and 2010 Fishery Reports should not be translated and strongly **recommended that the Commission concur in this decision**. It also urged that submitters of documents requiring translation should exercise discipline and restraint while ensuring the documents are brief and concise.

37. The Committee noted that the Secretariat will be invited to, and should attend, the Antarctic Treaty Meeting of Experts on Climate Change to be held in Norway in 2010.

38. SCAF **recommended that in the future, budget presentations should only include the current income and subitem expenditure items. Detailed expenditure aligned with the Secretariat functional units identified in the Secretariat Strategic Plan should then be attached as an explanatory annex to the Financial Statements.**

39. SCAF noted that overall budgeted expenditure proposed for 2010 stands at A\$4 484 000. Individual Member's contributions for 2010 are presented in Appendix III. This constitutes a 1.02% decrease over the 2009 budget contributions. Compared to an inflation increase of 1.5%, this is well within the zero real growth budgetary target of the Commission. SCAF **recommended that the Commission approve the proposed 2010 budget.**

#### MEMBERS' CONTRIBUTIONS

40. SCAF highlighted that the CCAMLR Financial Year commences on 1 January. Under Financial Regulation 5.6, contributions are due for payment on that date and shall be paid no later than 60 days after that date. Under the same regulation, the Commission has the authority to permit extension of the due date for a period of up to 90 days (i.e. until 31 May of the year in which the contribution falls due) for individual Members who are unable to comply with the regulation due to the timing of their financial years (Financial Regulation 5.6 as amended in 1999, CCAMLR-XVIII, paragraph 3.5).

41. SCAF considered the rights of Members defaulting in payment of their contributions to the Commission to participate in the decision-making process of the Commission. As

default in payment of contributions by any Member creates cash-flow problems, SCAF suggested the reiteration of the provisions of Convention Article XIX.6 by the Commission, for Members to adhere scrupulously to the payment schedule.

#### Timing of contributions

42. The Committee **recommended that, in accordance with Financial Regulation 5.6 and in accordance with past practice, the Commission grant extensions to 31 May 2010 for Argentina, Belgium, Brazil, China, Germany, India, Japan, Republic of Korea, South Africa, Spain, USA and Uruguay in respect of the due date for payment of their 2010 Members' contributions.**

#### Distribution of surpluses

43. SCAF noted that no proposals for the distribution of surpluses had been received and agreed that the status quo remains. Surpluses carried forward to future years will continue to be offset against expenditure for that year and are to be handed back to Members through lower Members' contributions.

#### FORECAST BUDGET FOR 2011

44. SCAF presented a forecast budget for 2011 to the Commission, noting that an increase in Members' contributions was anticipated following the increased costs and reduced income resulting from the 2009 balanced budget with no carry-forward surplus included.

45. However, SCAF recalled its advice of previous years that the forecast budget figures are indicative only and that care should be taken when they are used as a basis for financial budgeting by individual Members. SCAF noted the importance of reducing expenditure wherever possible to maintain the budget within its customary target of zero real growth (i.e. within inflationary limits only).

#### OTHER BUSINESS

46. SCAF noted CCAMLR-XXVIII/BG/15, *Notes on Recruitment of Executive Secretary*, and agreed that it provided a record of experiences with the recruitment process in 2009. In this regard, it may be of some use to future consideration(s) of the Executive Secretary recruitment procedures.

## ELECTION OF SCAF CHAIR FOR 2010 AND 2011

47. SCAF unanimously agreed that India serve as SCAF Chair from the end of the 2009 meeting until the end of the 2011 meeting. The Committee also thanked India for its sterling service in fulfilling this role in 2008 and 2009.

## ADOPTION OF THE REPORT

48. The report of the meeting was adopted.

## CLOSE OF MEETING

49. The Chair, Mr K.P. Pandian (India) advised SCAF of his inability to attend the Commission meeting and requested the Vice-Chair (South Africa) to present the SCAF report. The Committee thanked Mr Pandian for his excellent chairmanship. The Chair closed the meeting.

**AGENDA**

Standing Committee on Administration and Finance (SCAF)  
(Hobart, Australia, 26 to 30 October 2009)

1. Organisation of meeting
2. Examination audited Financial Statements for 2008
3. Audit requirement for 2009 Financial Statements
4. Secretariat Strategic Plan
  - (i) Review of Professional Officers' positions
  - (ii) Review of Compliance Officer's position
  - (iii) Secretariat Succession Plan
5. Review of 2009 budget
6. Review of translation requirements
7. Additional meeting space for SCIC
8. Development of cost recovery
9. Contingency Fund
10. CDS Fund
11. Multi-year funding of Scientific Committee tasks
12. Budget for 2010
  - (i) Scientific Committee budget
  - (ii) Advice from SCIC
13. Members' contributions
  - (i) Timing of Members' contributions
  - (ii) Distribution of surpluses
14. Forecast budget for 2011
15. Other business
16. Election of SCAF Chair
17. Adoption of report
18. Close of meeting.

## APPENDIX II

**REVIEW OF 2009 BUDGET, BUDGET FOR 2010 AND FORECAST FOR 2011**

(all amounts in Australian dollars)

Budget for 2009				2010	2011*
Adopted in 2008	Revised	Variance		Budget	Forecast
<b>INCOME</b>					
3 200 000	3 200 000	0	Members' Annual Contributions	3 159 000	3 602 000
0	0	0	New Members' Contributions	0	0
125 000	275 000	(150 000)	From (to) Special Funds	165 000	265 000
96 000	186 000	(90 000)	Interest	190 000	110 000
520 000	520 000	0	Staff Assessment Levy	530 000	545 000
392 000	599 000	(207 000)	Surplus from Prior Year	440 000	0
<u>4 333 000</u>	<u>4 780 000</u>	<u>(447 000)</u>		<u>4 484 000</u>	<u>4 522 000</u>
<b>EXPENDITURE</b>					
655 000	493 000	162 000	Data Management	529 000	533 000
583 000	590 000	(7 000)	Science	629 000	633 000
310 000	305 000	5 000	Compliance	328 000	330 000
1 000 000	1 120 000	(120 000)	Communications	1 215 000	1 229 000
325 000	270 000	55 000	Information Services	300 000	302 000
396 000	377 000	19 000	Information Technology	399 000	402 000
1 064 000	1 185 000	(121 000)	Administration	1 084 000	1 093 000
<u>4 333 000</u>	<u>4 340 000</u>	<u>(7 000)</u>		<u>4 484 000</u>	<u>4 522 000</u>
<b>Expenditure allocated by subitem</b>					
2 920 000	3 092 000	(172 000)	Salaries and Allowances	3 237 000	3 257 000
225 000	210 000	15 000	Equipment	210 000	210 000
120 000	110 000	10 000	Insurance and Maintenance	120 000	120 000
19 000	10 000	9 000	Training	10 000	10 000
330 000	310 000	20 000	Meeting Facilities	320 000	323 000
382 000	300 000	82 000	Travel	294 000	300 000
67 000	67 000	0	Printing and Copying	70 000	72 000
81 000	81 000	0	Communication	83 000	85 000
189 000	160 000	29 000	Sundry	140 000	145 000
<u>4 333 000</u>	<u>4 340 000</u>	<u>(7 000)</u>		<u>4 484 000</u>	<u>4 522 000</u>
Surplus for the year		(440 000)			

\* Subject to consideration of the outcomes of the requests concerning translation requirements referred to in paragraphs 22 and 33.

**MEMBERS' CONTRIBUTIONS 2010**  
 General Fund Contributions – Payable by 1 March 2010  
 (all amounts in Australian dollars)

Member	Basic	Fishing	Total
Argentina*	121 486	1 000	122 486
Australia	121 486	10 190	131 676
Belgium*	121 486	-	121 486
Brazil*	121 486	-	121 486
Chile	121 486	2 583	124 069
China, People's Republic of *	121 486	-	121 486
European Community	121 486	-	121 486
France	121 486	24 274	145 760
Germany*	121 486	-	121 486
India*	121 486	-	121 486
Italy	121 486	-	121 486
Japan*	121 486	13 805	135 291
Korea, Republic of *	121 486	19 431	140 917
Namibia	121 486	1 000	122 486
New Zealand	121 486	6 905	128 391
Norway	121 486	16 280	137 766
Poland	121 486	2 993	124 479
Russia	121 486	2 190	123 676
South Africa*	121 486	2 187	123 673
Spain*	121 486	3 601	125 087
Sweden	121 486	-	121 486
Ukraine	121 486	3 208	124 694
UK	121 486	9 898	131 384
USA*	121 486	-	121 486
Uruguay*	121 486	2 305	123 791
	<u>3 037 150</u>	<u>121 850</u>	<u>3 159 000</u>

\* Extension of deadline requested by Members



**REPORT OF THE STANDING COMMITTEE ON  
IMPLEMENTATION AND COMPLIANCE (SCIC)**

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## **REPORT OF THE STANDING COMMITTEE ON IMPLEMENTATION AND COMPLIANCE (SCIC)**

### **OPENING OF THE MEETING**

1.1 The meeting of the Standing Committee on Implementation and Compliance (SCIC) was held in Hobart, Australia, from 26 to 30 October 2009.

1.2 The Chair of SCIC, Ms K. Dawson-Guynn (USA), opened the meeting and all Members of the Commission participated. Observers invited by the Commission to participate at CCAMLR-XXVIII were welcomed and invited to participate in the meeting of SCIC as appropriate.

1.3 The Committee considered and adopted the Provisional Agenda. The adopted Agenda and the List of Documents are provided in Appendices I and II respectively.

### **REVIEW OF COMPLIANCE AND IMPLEMENTATION-RELATED MEASURES AND POLICIES**

#### **System of Inspection**

2.1 During the 2008/09 intersessional period, a total of 62 inspectors were designated by Australia, Chile, France, New Zealand and the UK. A total of nine at-sea inspections were conducted; six by UK-designated CCAMLR inspectors in Subarea 48.3, two by Australian-designated inspectors in Division 58.4.3b and one by French-designated inspectors in Division 58.5.1. The reports submitted by inspectors cited no contraventions with CCAMLR measures.

2.2 The UK indicated that a combination of poor weather and other operational priorities were the reason for the reduced number of inspections when compared to previous seasons. The UK indicated that it remained committed to the CCAMLR System of Inspection, that it would endeavour to undertake more inspections in future seasons and it encouraged other CCAMLR Contracting Parties to undertake inspections under the System of Inspection.

2.3 The Committee considered a proposal to update the System of Inspection submitted by the USA (CCAMLR-XXVIII/40 Rev. 1). The USA reminded Members that the matter had been discussed over the past three years and that its proposal was not intended to make radical changes to the existing system, but rather to build on previous efforts to provide a comprehensive modernisation of this 20-year old scheme. The USA felt that the System of Inspection was relevant to several parties other than inspectors and so the rights and obligations of all parties should be explicit in the text.

2.4 Several Members expressed support for the proposal, noting that the existing text of the System of Inspection was more than 20 years old and that an update to the text was overdue, whilst several other Members expressed some concerns.

2.5 The Committee extensively considered and discussed details of the proposed changes, including its practical implications for inspectors, fishing vessels, Flag States and the Designating Member. The Committee was, however, unable to reach agreement on the proposal.

2.6 The USA advised SCIC that it regretfully withdrew the proposal. The USA expressed its appreciation for the efforts made by many delegations to reach consensus on the proposed amendments but noted that the deliberations had revealed entrenched positions on several key issues. In light of this, the USA advised that it would consider submitting a revised proposal in future.

2.7 Noting that this was the fourth consecutive year that SCIC had considered a revision to the System of Inspection, several Members thanked the USA for submitting the proposal and expressed their disappointment. These Members hoped that the proposal would be reconsidered in the future.

2.8 Whilst thanking all Members participating in the deliberations, Argentina agreed that clear regulations were desirable but noted that inspections conducted in the Convention Area could be regarded as contact between two States within the Antarctic Treaty System and that this contact requires regulations in order that it be constructive for all parties concerned. Argentina believed that the current System of Inspection offered the benefit of flexibility to all parties and recommended that Members seek other ways to address the issue by means of approaching it with imagination and creativity. These views were also shared by other Members.

2.9 The UK also thanked the USA and expressed disappointment that the proposal had been unable to proceed. The UK also pointed out that inspectors in the Southern Ocean were performing a very important and difficult job and expressed its gratitude to all individuals undertaking this work. The UK trusted, however, that the lack of progress in no way demonstrated any lack of commitment by the Commission to the existing System of Inspection. Australia endorsed the comments made by the UK.

## Reports on compliance with conservation measures

### Conservation Measure 10-08 – control of nationals

2.10 Spain reported progress on actions taken in accordance with Conservation Measure 10-08 against its nationals, or companies, connected with IUU activities. Fines of €60 000 were imposed on the captains and owners of the *Galaecia* and *Perseverance* for participating in, or supporting, IUU activities. Spain also reported that actions in respect of the owners of the *Paloma V* are under way.

### Notifications of exploratory and krill fisheries

2.11 The Committee considered notifications for krill and exploratory fisheries as provided in CCAMLR-XXVIII/12 Rev. 1 and CCAMLR-XXVIII/13 respectively.

2.12 The Committee noted the Secretariat's report on the completeness of krill and exploratory notifications which had been presented in CCAMLR-XXVIII/BG/7 and that some notifications were incomplete.

2.13 The Committee also noted advice from the Scientific Committee regarding a krill notification from Chile which had been submitted after the deadline and had therefore not been considered by WG-EMM or the Scientific Committee.

2.14 Chile advised the Committee that, as a result of the late notification, it would not participate in a krill fishery in the 2009/10 season. Chile advised that it intended to fish in the 2010/11 season and assured Members that it would submit its notification for that season in good time.

2.15 Several Members thanked Chile and expressed their appreciation for its stance.

#### Tagging protocol

2.16 The Committee considered information from scientific observer reports on the tagging program during the 2008/09 season as well Scientific Committee advice on the matter.

2.17 SCIC noted that the overall rate of tagging was generally high and that only one vessel had failed to achieve the required tagging rate in Subareas 88.1 and 88.2 during the 2008/09 season.

2.18 Spain noted that the vessel *Tronio* had been identified in the WG-FSA report as displaying a low overlap between the catch-weighted length frequency of tagged and released *Dissostichus* spp. (SC-CAMLR-XXVIII, Annex 5, Table 11). Spain advised that scientific advice had not indicated any non-compliance but that it would provide additional information as it became available.

2.19 Whilst welcoming the improvement in the overall tagging rate, SCIC also noted advice from the Scientific Committee that some vessels had not tagged *Dissostichus* spp. continuously whilst fishing, and some vessels had only tagged small specimens of *Dissostichus* spp. and had not tagged sufficient fish in proportion to the size distribution of the catch, as required by Annex C of Conservation Measure 41-01.

2.20 The Committee therefore concluded that the full requirements of Conservation Measure 41-01 were not being met by several vessels fishing in the Convention Area. This was seen to be jeopardising the quality of information for use in future stock assessments. Members were urged to ensure that their flag vessels fully complied with the requirements of Conservation Measure 41-01 in future. This issue was referred to the Workshop on the Development of a Compliance Evaluation Procedure (DOCEP) for further consideration in its work.

## Mitigation and environmental protection measures

2.21 The Committee considered summaries of information provided by the Scientific Committee and the Secretariat regarding international scientific observer reports on vessels' implementation of Conservation Measures 25-02, 25-03, 26-01 and 51-01.

2.22 The Committee noted advice from the Scientific Committee that a number of vessels appeared not to have complied with mitigation and environmental measures during the 2008/09 fishing season.

2.23 Vessels which were reported to have not fully implemented the requirements of Conservation Measure 25-02 during the 2008/09 season were:

- (i) *Jung Woo No. 2*, which exceeded the maximum spacing between weights on longlines;
- (ii) *Shinsei Maru No. 3*, due to the discharge of hooks in offal;
- (iii) *Insung No. 1*, which used streamers that did not meet the minimum length specified;
- (iv) *Austral Leader II*, which did not use a streamer line during one night set due to a technical problem;
- (v) *Koryo Maru No. 11* and *Austral Leader II*, which did not use haul-scaring devices on all hauls.

2.24 Vessels which were reported to have not fully implemented the requirements of Conservation Measure 26-01 during the 2008/09 season were:

- (i) *Antarctic Chieftain* and *Jung Woo No. 3*, which had plastic packaging bands to secure bait boxes on board during cruises in the Convention Area;
- (ii) *Argos Froyanes*, which discharged oil.

2.25 A vessel which was reported to have not fully implemented the requirements of Conservation Measure 25-03 during the 2008/09 season was:

- (i) *Dongsan Ho*, which discharged offal during net shooting while trawling.

2.26 A vessel which was reported to have not fully implemented the requirements of Conservation Measure 51-01 was:

- (i) *Dalmor II*, which did not use a marine mammal exclusion device.

2.27 The Republic of Korea advised that *Jung Woo No. 3*'s plastic packaging band issue was due to a miscommunication between the observer and the master.

2.28 The UK advised SCIC that it had investigated the report of the discharge of oil from the *Argos Froyanes* and found that the oil being discharged was hydraulic oil escaping through the hauling room. Whilst the vessel had made every attempt to address the problem

whilst at sea, it had been unable to completely prevent the discharge because the problem was external to the vessel. The amount of oil discharged was reported to be minor and its impact on the marine environment was believed to be negligible. The defective seal had been replaced and the problem had been resolved. The UK therefore considered that no further action was required.

2.29 The Republic of Korea advised SCIC that the *Jung Woo No. 2*'s minimum line length spacing was 37 m according to the report from the company concerned.

2.30 Poland advised that it had taken steps to verify the report that the *Dalmor II* had failed to use a marine mammal exclusion device during all hauls. Poland hoped to be able to provide a full report in due course.

2.31 Australia provided advice to SCIC in relation to the report that the *Austral Leader II* had not deployed streamer lines during all sets. Australia advised that twin streamer lines complying with the requirements of Conservation Measure 25-02 had been deployed on all longline sets. Australia referred SCIC to the WG-IMAF report (SC-CAMLR-XXVIII, Annex 7), paragraph 3.38, which stated that, during one night setting of an integrated weighted line, the streamer line became entangled with the main fishing line and subsequently broke. It was impractical and unsafe for the crew to attempt to retrieve or replace the broken streamer line during the night set. The broken streamer lines were retrieved during hauling on the following day. There was a minimal risk of seabird by-catch and no seabird by-catch was recorded during the setting of gear whilst the streamer line had broken. Australia therefore believed that this did not constitute an incident of non-compliance.

2.32 Australia also provided advice to SCIC in relation to the report that the *Austral Leader II* had not used haul-scaring devices on all hauls. Australia advised that a haul mitigation device had not been deployed during one longline haul due to adverse weather conditions which had caused waves to wash over the vessel's hauling bay. Australia advised that, in such conditions, haul mitigation devices could become entangled with the hauling winches or fishing line and posed a safety risk to crew, and noted that WG-IMAF had recognised that weather can affect the performance of haul mitigation devices. Given the adverse weather conditions at the time, there was minimal risk of seabird by-catch and again Australia confirmed that no seabird by-catch had been recorded during hauling whilst the mitigation device had not been deployed. Australia therefore believed that this did not constitute an incident of non-compliance.

2.33 South Africa advised that haul mitigation measures were used 98% of the time by the *Koryo Maru No. 11*. The remaining 2% of the time that they were not used was during four hauls due to poor weather.

2.34 Australia advised SCIC that it had investigated the report that the *Antarctic Chieftain* had used plastic packaging bands to secure bait boxes. Australia advised that observer coordinators from Australia and South Africa had both confirmed that an error had been made in the observer report and that bait box packaging bands had not been present on board the *Antarctic Chieftain*. The discrepancy had been resolved and an amended observer report had been submitted to the Secretariat.

2.35 New Zealand thanked Australia for its advice and invited other Members whose vessels had been identified and who had not provided information to comment on these reports.

#### Preliminary assessments of proposed bottom fishing

2.36 SCIC considered summaries of preliminary assessments submitted in accordance with Conservation Measure 22-06, Annex 22-06/A.

2.37 The UK recalled that there had been some ambiguity in 2008 as to whether preliminary assessments were required prior to the commencement of fishing. The UK reminded Members that Conservation Measure 22-06 had therefore been revised to clearly state that preliminary assessments must be provided no later than three months in advance of the Commission meeting.

2.38 The Republic of Korea noted that it had submitted its exploratory fishery notification in time and that its preliminary assessment had been submitted after the deadline. Several Members also noted that Korea's preliminary assessment had been submitted after the deadline and that Russia had submitted an exploratory notification which had not included a preliminary assessment.

2.39 Members also noted the Scientific Committee's advice as to the variable quality of preliminary bottom fishing assessments. Some Members asked the Chair of the Scientific Committee about the potential impact of this on the Scientific Committee's role.

2.40 The Chair of the Scientific Committee advised that progress had been made despite the variability of assessments.

2.41 Several Members noted that the Scientific Committee did not consider the late assessment from the Republic of Korea and the missing assessment from Russia. These Members also pointed out that the Members concerned should therefore be regarded as having failed to comply with the requirements of Conservation Measure 22-06. SCIC requested those Members which had not submitted a preliminary assessment to inform SCIC as to how they intended to proceed.

2.42 The Republic of Korea advised SCIC that its failure to submit a preliminary assessment in accordance with the deadline had been an error. It also advised SCIC that it would improve its internal checking procedures and fully submit all required information next year. It also advised Members that it had required the companies concerned to withdraw one vessel notification in Subarea 88.1 and another in Subarea 88.2. The Republic of Korea further recognised that several of its flag vessels had not fully implemented the requirements of several measures and advised that, if the vessels continued to exhibit non-compliance in 2010, stronger sanctions would be applied.

2.43 New Zealand and the UK recalled that there was an onus on all Members to check and verify information submitted as part of assessments rather than simply forwarding information provided by fishing companies. The UK acknowledged that meeting deadlines was often difficult but stressed that the rules existed in order to create a level playing field and that any erosion of existing benchmarks should be avoided.



2.44 Russia circulated a preliminary assessment during the meeting of SCIC. Russia advised the Committee that it had been unable to provide a full assessment due to unforeseen circumstances but reminded Members that it had submitted its exploratory notification in good time and that the preliminary assessment should be regarded as supplementary information. Russia noted that Conservation Measure 22-06, in particular its pro forma, was a relatively new requirement. A few Members also pointed out that other incomplete notifications had been submitted to CCAMLR over the years and that there was a case of such incomplete notifications this year. The Republic of Korea and Russia therefore urged all Members to accept their preliminary assessments in the spirit of cooperation under which CCAMLR worked.

2.45 Australia noted that, while the pro forma had only been adopted at last year's meeting, the requirement to provide preliminary assessments had been in place for two years.

2.46 The USA noted that SCIC was not the appropriate body to review the document to determine whether the activities would contribute to having a significant adverse impact on VMEs in the Convention Area. Several Members reminded SCIC of the importance of submitting preliminary assessments in good time in order that they could be fully assessed by the Scientific Committee in terms of both their individual and collective impacts on the Antarctic marine environment. These Members believed that the Scientific Committee's ability to perform this important task was undermined if not all assessments were available.

2.47 New Zealand noted that under Conservation Measure 22-06 Contracting Parties which proposed to take part in bottom fishing activities were obliged to submit to the Scientific Committee and the Commission a preliminary assessment no less than three months in advance of the next Commission meeting. New Zealand recalled that the Secretariat had reminded Members of this requirement in COMM CIRC 09/66 of 16 June 2009, which set out the notification procedures for the 2009/10 season. New Zealand also drew attention to the fact that the Commission, at its Twenty-fourth Meeting, had agreed that future notifications for exploratory fisheries would not be considered if they were incomplete. Several Members endorsed the statement of New Zealand.

2.48 Some Members furthermore expressed the view that late notifications could not be considered by the Commission and, consequently, that fishing could not occur.

2.49 Russia, Ukraine and the Republic of Korea urged Members to take a unified approach to all documents submitted by all delegations. Russia reserved the right to raise the matter in the Commission and advised Members that it may find itself in a position where it had no option but to block decisions this year in respect of all notifications.

2.50 Russia also pointed out that the Scientific Committee had drawn to SCIC's attention reports that a number of vessels had been reported to have discharged skates in Divisions 58.4.3a and 58.4.3b and Subarea 88.1. Russia urged SCIC to examine this issue more closely in order that CCAMLR could ensure that discards of skates were controlled.

2.51 New Zealand advised that one of the four vessels referred to by the Scientific Committee was a New Zealand-flagged vessel. New Zealand had investigated the matter and found a data-entry error on one haul in the observer logbook.

2.52 South Africa confirmed that its international observer on board the New Zealand vessel had not observed any discard of skates during the voyage.

2.53 Ukraine reminded SCIC that the 2008/09 season was the Year-of-the-Skate and requested Members to take more care to implement the requirements of skate measures in future.

#### Closure of fisheries

2.54 New Zealand noted that in accordance with the requirements of Conservation Measure 31-02, paragraph 6, it had submitted a report (CCAMLR-XXVIII/BG/20) on its investigation of the *San Aspiring* which had fishing gear in the water at the time of closure of SSRUs B, C and G in Subarea 88.1 of the Convention Area on 22 December 2008. New Zealand recalled that other Members had notified the Secretariat that their vessels had not been able to remove all fishing gear by the notified closure date and time. New Zealand invited these other Members to submit their reports as required under paragraph 6 of Conservation Measure 31-02.

2.55 The UK reported that it had submitted two reports to the Secretariat in respect of the *Argos Froyanes* and *Argos Helena* which had been unable to remove all gear and exit closed areas on 22 January and 8 February 2009 due to hazardous weather and ice conditions. The UK noted that, on the first occasion, all gear had been hauled within 35 minutes of the closure notice and on the second occasion, all gear had been removed prior to the deadline contained in the closure notice. Gear had not been set after the closure notification was received on either occasion. The UK therefore believed that the vessels had made every reasonable effort to remove their gear and depart the closed areas and that no further action against the vessels was required.

2.56 SCIC requested that, in future, the Secretariat's report on the implementation of conservation measures include Conservation Measure 31-02.

2.57 In considering its advice to the Commission regarding compliance with conservation measure, SCIC reiterated that it took all cases of non-compliance with CCAMLR measures in force seriously and urged all Members to address any reported instances of non-compliance as a matter of priority.

#### Compliance Evaluation Procedure

2.58 The Convener of the DOCEP Workshop, Ms Dawson-Guynn, presented the report of DOCEP, held in Norway in July 2009. The full Report of DOCEP is in Annex 6.

2.59 In presenting the work of DOCEP to SCIC, the Convener of DOCEP explained that DOCEP was proposing the adoption of a matrix to review compliance with conservation measures on a vessel-by-vessel basis. The matrix would be applied to individual cases of non-compliance to provide each case with a score which reflected the severity of the

non-compliance. DOCEP had also produced a list of suggested responses to identified non-compliance, as well as a number of issues which required further consideration and scientific advice.

2.60 Members considered the work of DOCEP to be very useful and valuable and thanked the Convener of DOCEP and participants for their efforts.

2.61 The Convener of DOCEP advised SCIC that DOCEP had considered the use of data collected by international scientific observers. SCIC noted DOCEP's advice that it had restricted its recommendations on the use of observer data to those data already being reviewed by WG-IMAF and presented to SCIC for consideration by the latter in reviewing compliance with conservation measures in force.

2.62 Ukraine expressed the view that the data collected by international scientific observers could not be used as a reliable source in reviewing compliance with conservation measures in force.

2.63 Whilst noting that there is a growing trend in fisheries management to use observers for more compliance-related work, the UK was of the opinion that the role of the observer must not shift from science-related activity and that the workload of the observers is already significant. The UK was of the opinion that if more compliance data are required, additional compliance-related resources would need to be found.

2.64 In particular, Members were urged to obtain views from their Scientific Committee representatives in respect of DOCEP's proposed questionnaire intended to determine impact categories for all conservation measures relating to vessel activity.

2.65 In considering a recommendation of DOCEP that it continue to meet in person over the next three years, SCIC considered a range of options as to how future work of DOCEP might be conducted. It acknowledged that the progress achieved at the five-day DOCEP workshop in Norway far exceeded progress made via email over the preceding two years.

2.66 Whilst agreeing that face-to-face meetings were the most desirable option, Members generally agreed that the cost of attending such meetings precluded the participation of many Members. The USA noted that there may be some specific and concrete tasks that could be carried out intersessionally and recommended that the Convener of DOCEP compile a list of such tasks so that work could begin via correspondence. SCIC therefore decided to defer the proposed DOCEP Workshop in 2010 and instead to instruct DOCEP to begin to address recommendations and issues contained in the DOCEP report via an intersessional email contact group to include all Members of SCIC. The progress of this group would be reviewed at the 2010 SCIC meeting with the possibility that a recommendation be made that another DOCEP Workshop be convened in 2011.

2.67 The Convener of DOCEP urged those Members who had not been able to take part in the DOCEP Workshop to participate in future intersessional work.

## Proposals for new and revised measures

2.68 A number of proposals for new and revised measures were submitted by Members and considered by the Committee. The Committee agreed to forward a number of proposals to the Commission together with a recommendation that they be adopted.

### Ratification of the Salvage Convention

2.69 The UK reported that the Korean-flagged *Insung No. 22* had caught fire in Subarea 48.3 on 16 June 2009 and required the assistance of UK-flagged vessels. Consequently, the UK recommended the adoption of a new resolution urging Members to ratify the Salvage Convention (The IMO International Convention on Salvage, 1989) in order to ensure swift intervention in the event of a maritime accident without undue delay due to concern about the process to recover costs (CCAMLR-XXVIII/30).

2.70 The Republic of Korea expressed its thanks to the UK for its assistance.

2.71 SCIC considered the proposed resolution and agreed to forward it as revised to the Commission together with a recommendation that it be adopted.

### Information on IUU vessels

2.72 France submitted a proposal that Conservation Measure 10-07 be amended in order to include information on the IUU Vessel Lists as to whether Flag States of IUU vessels had granted permission for CCAMLR Members to board and inspect these vessels on previous occasions (CCAMLR-XXVIII/35). France's proposal also recommended that Contracting Parties would notify CCAMLR of any responses received from non-Contracting Parties, particularly information on measures taken by non-Contracting Parties to improve the effectiveness of CCAMLR measures. France proposed that the Secretariat would place all such information on a password-protected section of the CCAMLR website. France believed that this information would be beneficial to all Members.

2.73 SCIC considered the proposal and agreed to forward it to the Commission with a recommendation that it be adopted.

### E-CDS format

2.74 Australia presented a proposal to amend Conservation Measure 10-05 to adopt the E-CDS format as a mandatory requirement (CCAMLR-XXVIII/41). Australia reminded SCIC that all CDS Parties had been using the E-CDS format for nearly two years and that it had proven to be an efficient and effective system.

2.75 The proposal was modified to take the concerns of some Members into consideration and SCIC agreed to forward it to the Commission with a recommendation that it be adopted.

## Transshipment notifications

2.76 New Zealand and Australia presented a proposal to amend Conservation Measure 10-09 (CCAMLR-XXVIII/44) to change the time frame for notifications of transshipments of products other than harvested marine living resources, bait or fuel. The USA noted that the issue of transshipment had been taken up by some RFMOs and recommended that Members reflect on the work of those RFMOs next year in the review of the implementation of Conservation Measure 10-09 in accordance with paragraph 7 of that conservation measure.

2.77 Several Members expressed general support for this proposal but felt that an advance notification of the presence of cargo vessels in the Convention Area may be a useful enforcement tool. The proposal was amended to take the concerns of these Members into consideration. The Committee decided to forward a revised version of the proposal to the Commission with a recommendation that it be adopted.

## Prohibition of fishing for *Dissostichus* spp. in depths shallower than 550 m

2.78 New Zealand presented a proposal to cover paragraph references across several exploratory measures which prohibited fishing for *Dissostichus* spp. in depths shallower than 550 m in CCAMLR's exploratory fisheries (CCAMLR-XXVIII/45).

2.79 The Committee decided to forward a revised version of New Zealand's proposal to the Commission with a recommendation that it be adopted.

## Daily reporting

2.80 New Zealand and the UK presented a proposal to adopt a daily reporting system for CCAMLR exploratory fisheries (CCAMLR-XXVIII/43).

2.81 The Committee decided to forward a revised version of the proposal to the Commission with a recommendation that it be adopted.

2.82 The Committee referred a number of other proposals to the Commission for further consideration:

- (i) a proposal to revise Conservation Measure 10-08 to deter IUU fishing and to promote compliance of CCAMLR conservation objectives (Argentina, CCAMLR-XXVIII/33);
- (ii) a proposal to amend Conservation Measure 10-03 to adopt a standard reporting format for port inspections (Australia, New Zealand and the European Community, CCAMLR-XXVIII/42);
- (iii) a proposal for the adoption of a conservation measure concerning the adoption of market-related measures to promote compliance (European Community, CCAMLR-XXVIII/46);

- (iv) a proposal for the adoption of a conservation measure to require systematic observer coverage and biological data reporting for krill vessels (European Community, CCAMLR-XXVIII/47).

#### Conservation Measure 10-08

2.83 Argentina presented a proposal to expand the scope of Conservation Measure 10-08 to include provision for taking action against beneficiaries of IUU fishing, including beneficial owners, and an explicit mechanism for the exchange of information which would provide a basis for Members to take action against their nationals as appropriate. Argentina explained that those who enjoyed the economic benefits are the basis of IUU fishing. It also noted that this proposal is in agreement with the recommendations of the Performance Review Panel.

2.84 In considering the proposal, several Members expressed their thanks to Argentina for the proposal and indicated general support for the objectives it was seeking to deliver. However, the European Community felt that the current version of Conservation Measure 10-08 was sufficient but that progress also needed to be made in other areas. This is due to the fact that Conservation Measure 10-08 represents only one instrument necessary for addressing IUU fishing and a more complete arsenal of tools, such as market-related measures, are indispensable to comprehensively combat IUU fishing.

2.85 The Committee agreed to forward the proposal to the Commission for further consideration.

#### Port inspection reports

2.86 Australia, New Zealand and the European Community presented a proposal to provide further clarification on the information sought and the timing of submission of CCAMLR port inspection reports (CCAMLR-XXVIII/42). The proposed amendments would ensure consistent and timely submission of port inspection reports and assist Contracting Parties to meet their CCAMLR obligations. Most Members expressed their support for the proposal. One Member requested further time to consider the proposal. The Committee agreed to forward the proposal to the Commission for further consideration.

#### Market-related measures

2.87 The European Community re-presented a proposal for the adoption of market-related measures to promote compliance (CCAMLR-XXVIII/46). The European Community reminded SCIC that Article VIII of the Convention bestows legal personality upon CCAMLR and, consequently, CCAMLR has the right to take such measures. The European Community equally reiterated that the adoption of market-related measures is compatible with WTO rules as it falls under Article XX(g) of GATT. The European Community urged Members to support the adoption of a trade measure in order to demonstrate their full cooperation with the objectives of the Convention.

2.88 Most Members thanked the European Community for its proposal and expressed support for it. These Members were of the view that market-related measures were an invaluable addition to measures already adopted by CCAMLR to combat IUU fishing.

2.89 Argentina recalled its presentation at CCAMLR-XXVII and noted that therefore it could not support the imposition by an organisation such as CCAMLR, although it enjoys legal personality, of measures on States, including States which are not party to CCAMLR. Argentina reiterated that CCAMLR should observe the cooperative principles of the Antarctic Treaty System.

2.90 The USA noted that there was no legal problem with adopting the proposal made by the European Community.

2.91 Namibia advised that it was involved in ongoing consultations in relation to market-related measures with other fora and, until these had concluded, it was not in a position to support the proposal at this time.

2.92 SCIC agreed to defer discussion on the matter and forward the proposal to the Commission for further consideration. Members which had supported the proposal consistently since it was first introduced in 2006, expressed their disappointment.

#### Krill measure

2.93 In considering Japan's proposal to revise Conservation Measure 21-03 to make vessels, which had submitted a krill notification for three, subsequently reduced to two, consecutive years but had not subsequently fished, ineligible to submit a notification for the following season, several Members queried the impact that this approach might have. It was pointed out that this constituted a penalty for vessels which did not fish, which seemed disproportionate compared with the lack of penalties for vessels which fished in a non-compliant manner.

2.94 Japan's initial proposal had also included a proposed revision to the formula for calculating Members' contributions (CCAMLR-XXVIII/29).

2.95 Other Members suggested alternative proposals for reducing the number of notifications which were not subsequently followed by fishing, including the introduction of a fee to accompany krill notifications, an approach that would be consistent with the approach taken in other CCAMLR fisheries. These Members also noted that this was not the first time the Commission had considered the issue of fees in the krill fishery. Japan subsequently withdrew its proposal and advised Members that it may revisit the issue next year.

#### VMS reporting

2.96 France had submitted a proposal to amend Conservation Measure 10-04 to introduce uniform real-time reporting and require that all C-VMS data submitted for vessels fishing inside the Convention Area be reported on a real-time basis (CCAMLR-XXVIII/36). Several Members supported this proposal.

2.97 France regretfully informed the Committee that political problems had prevented it from pursuing its proposal. France noted that C-VMS is an important tool and that its use has placed CCAMLR at the forefront of the fight against IUU fishing. France considered that its proposal was very much in accordance with the objectives of the Commission and would have been beneficial to both France and other Members which had supported it.

## IUU FISHING IN THE CONVENTION AREA

### Current level of IUU fishing

3.1 The Committee reviewed Scientific Committee and Secretariat reports on estimates of IUU catches in the Convention Area during the current season. It noted, in particular, that the IUU fleet now most likely exclusively comprises gillnet vessels.

3.2 The Committee expressed its deep concern at the use of gillnets by IUU vessels in the Convention Area. The Committee recalled that the use of gillnets was prohibited, highly destructive and that their potential impact on the Antarctic marine environment should not be underestimated.

3.3 Whilst concern remained about the impact of gillnet fishing on marine living resources in the Convention Area, SCIC noted a number of reports that indicated that the IUU fleet operating inside the Convention Area appeared to have decreased and welcomed this development.

3.4 SCIC noted that patrols undertaken in the Convention Area during 2008/09 had, for the first time, gathered more information on the likely catch rates and trip duration of gillnet vessels and that this information had been used in the 2008/09 estimate of IUU catches in the Convention Area.

3.5 SCIC considered information submitted by France (CCAMLR-XXVIII/37) on IUU activity in Area 58 of the Convention Area which reported a considerable reduction in IUU fishing, although all vessels appeared to be deploying gillnets. France also advised that IUU activity had again commenced during the austral summer but that minimal activity had been observed to be occurring during the austral winter.

3.6 France recommended that all information collected on CCAMLR Member nationals reported to be on board IUU fishing vessels be disseminated as widely as possible in order for Members to be able to take effective action in accordance with Conservation Measure 10-08.

3.7 In relation to the hauling of an abandoned gillnet in Division 58.4.3b (CCAMLR-XXVIII/BG/22), Australia advised SCIC that an Australian patrol had sighted gillnet buoys on 23 April 2009. Australia had contacted vessels in the area in order to determine ownership of the gillnet. As no vessels in the vicinity had claimed ownership, the gillnet was deemed to be abandoned. Australia advised that a known IUU vessel, *Trosky* (formerly *Paloma V*) had been present in the area and that the vessel had been photographed with discoloured water discharging from its hull which suggested that it may have been processing fish at the time.

3.8 Australia estimated that the gillnet was a total length of 130 km of which 8 km were able to be retrieved. The remaining net was collapsed to minimise environmental damage.



The majority of catch was *Dissostichus mawsoni* but a number of other species were also identified. Australia advised that many of the *D. mawsoni* retrieved were large specimens.

3.9 SCIC noted that this had been an expensive and hazardous exercise. It expressed its appreciation for the efforts of Australia and recommended that Australia's efforts be conveyed to the Commission together with SCIC's recommendation that the Commission commend these efforts.

3.10 SCIC also noted the Scientific Committee's advice that gillnets were less selective than longlines and potentially had an extremely serious impact on Antarctic marine living resources, particularly in relation to levels of by-catch. The Scientific Committee had also advised that levels of incidental mortality of marine mammals and diving seabirds as a result of gillnet fishing were largely unknown.

#### IUU Vessel Lists

3.11 The Committee noted that all vessels sighted reported engaged in IUU activities in the Convention Area during 2008/09 were already included on the NCP-IUU Vessel List and that no reports relating to other relevant criteria under paragraphs 14 and 18 of Conservation Measures 10-06 and 10-07 respectively had been received. Consequently, there was no Provisional CP or NCP-IUU Vessel List for 2009.

3.12 The Committee reviewed the CP and NCP-IUU Vessel Lists adopted in previous years. In so doing, the Committee considered information from Australia and the Secretariat in respect of vessels included on the NCP-IUU Vessel List.

3.13 The Committee agreed to recommend to the Commission that:

- (i) *Taruman* (Cambodia) be deleted from the NCP-IUU Vessel List as it had been deconstructed by Australia in January 2009 and that this deconstruction had been sufficiently documented;
- (ii) *Sibley* (Panama) be deleted from the NCP-IUU Vessel List as various reports submitted to the Secretariat, as well as in the media, had reported the vessel to have caught fire and sunk off the coast of Kenya in March 2009. The Secretariat had also advised that Lloyds had recorded the vessel as a total loss.

3.14 China provided information on *North Ocean*, *East Ocean*, *West Ocean* and *South Ocean* to SCIC. SCIC recalled that the Commission agreed in CCAMLR-XXVII, paragraph 10.10, that the vessels *North Ocean*, *East Ocean*, *West Ocean* and *South Ocean* 'shall be deemed removed from the adopted CP-IUU Vessel List once China informs the Commission via a Commission Circular that the vessels have been sold to Insung Corp. of Korea and that the sales are final'.

3.15 China informed SCIC that in accordance with CCAMLR-XXVII, paragraph 10.10, China sent a letter to the Secretariat dated 16 October informing that *East Ocean* and *South Ocean* had been sold to Insung Corp. of Korea by China National Fisheries Corporation and included documentation that indicated that the sales agreement had been signed and the deposit had been paid. China believed that implementing the arrangement by

CCAMLR-XXVII, paragraph 10.10, the two vessels should be removed automatically from the CP-IUU Vessel List. Regarding the other two vessels, *West Ocean* and *North Ocean*, the Government of China would continue to request the Chinese company to finalise the sale access as soon as possible.

3.16 The Secretariat circulated China's correspondence to all Members on 21 October in COMM CIRC 09/119.

3.17 China asked the Secretariat to clarify why in the document CCAMLR-XXVIII/15 Rev. 2, *East Ocean* and *South Ocean* reappeared in the CP-IUU Vessel List while in the document CCAMLR-XXVIII/15 Rev. 1, the two vessels had been removed. China expressed its disappointment about the Secretariat's document preparation work and explanation about it. China asked the Commission to remove these two vessels from the CP-IUU Vessel List taking into account that the sale is irreversible.

3.18 In support of China's position, the Republic of Korea confirmed that the sale of the *East Ocean* and *South Ocean* was irreversible, and asked the Commission to remove the two vessels from the CP-IUU Vessel List.

3.19 On reviewing documentation contained in the attachments to COMM CIRC 09/119, some Members felt that the documentation provided by China did not prove the sale of the vessels was final. The documents indicated that full payment had not been made, the vessels' titles had not been transferred and that the contract appeared to contain a cancellation clause. These Members believed that the vessels should remain on the CP-IUU Vessel List until adequate documentation had been submitted in order that the sale could be deemed to be final.

3.20 Namibia indicated that the information submitted by China met the conditions of CCAMLR-XXVII, paragraph 10.10. In this regard, Namibia was of the opinion that SCIC should consider to recommend to the Commission the deletion of the two vessels from the CP-IUU Vessel List, in accordance with paragraph 12(ii) of Conservation Measure 10-06.

3.21 Other Members believed that the conditions of CCAMLR-XXVII, paragraph 10.10, had been met and that China and the Republic of Korea had presented sufficient guarantees that the sale would be fully completed. These Members pointed out that the vessels had had their licenses revoked, had been inactive in port for a period of three years on orders of the Government of China and had consequently foregone considerable revenue. Therefore, these Members were of the view that the vessels had already been adequately sanctioned.

3.22 South Africa pointed out that sales contracts varied between countries, and Members should not necessarily view the conditions of sale in a similar context to practises in their own countries. South Africa was also of the view that China and the Republic of Korea had provided a commitment to Members that the sale was final and this commitment should be taken by Members in good faith.

3.23 Argentina believed that it was unhelpful to take into account details which were not pertinent to the objectives of Conservation Measure 10-06. Argentina also believed that assurances by China and the Republic of Korea that the sale was final should be accepted by CCAMLR Members in good faith.

3.24 China added that the four vessels were included on the IUU Vessel List before China's accession to the CAMLR Convention. China also indicated that great efforts had been made by the Government of China in implementing CCAMLR conservation measures and severe sanctions imposed on the vessels had been maintained for three consecutive years. China held that it was in the interests of the Commission and all Members to remove these two vessels from the CP-IUU Vessel List, and hoped that its efforts in implementing the conservation measures could be recognised by Members and that the progress of the work of the Commission on this issue could be recorded rightfully.

3.25 The Committee agreed that it was highly desirable to find a solution during the current meeting. The Committee was, however, unable to reach consensus on the issue and decided to refer the matter to the Commission for further consideration.

3.26 In respect of the remaining two vessels, *North Ocean* and *West Ocean*, China proposed that they could be sold to any CCAMLR Member with an active commercial toothfish fishery under the same conditions as in CCAMLR-XXVII, paragraph 10.10. Some Members disagreed, noting that such conditions would not satisfy the criteria for delisting established by Conservation Measure 10-06, paragraph 14(iii).

3.27 Members recalled that in CCAMLR-XXVII, paragraph 10.10, the Commission had agreed to delist the *North Ocean*, *East Ocean*, *South Ocean* and *West Ocean*, once the vessels had been sold to Insung Corp. of Korea and the sales were final. Some Members noted that this decision was made with the understanding that such final sales would meet the requirements of Conservation Measure 10-06, paragraph 14(iii).

#### Diplomatic demarches

3.28 New Zealand advised the Committee of diplomatic demarches following the sighting of the *Bigaro* in Division 58.4.1 by a New Zealand patrol. New Zealand had subsequently drawn the matter to the attention of Spain as a Spanish company had been implicated as a possible owner. New Zealand had also approached Togo as the Flag State of the vessel but had not received any response.

3.29 The European Community informed the Committee of diplomatic demarches extended to Equatorial Guinea and Togo in respect of IUU vessels during the 2008/09 intersessional period but had not made any significant progress to date. The European Community advised that it would keep the Commission informed of any progress reported by its delegations in those countries.

#### CATCH DOCUMENTATION SCHEME (CDS)

4.1 The Secretariat reported on the implementation and operation of the CDS during the 2008/09 intersessional period contained in CCAMLR-XXVIII/BG/8 Rev. 1.

4.2 The Committee noted that Lithuania and Cayman Islands were now implementing the CDS as part of the European Community and the UK respectively.

4.3 The Committee also noted that the CDS was being implemented only partially by Singapore via the issue of re-export documents but that Singapore did not exert any control over landings or imports of toothfish. The Committee further noted that IUU vessels in the Convention Area had reported to patrol operations that Singapore had been their last port of call.

4.4 The Committee noted that the Hong Kong Special Administrative Region (SAR) was reported to have imported significant quantities of toothfish during 2008/09 and asked China if it had made any progress on the voluntary implementation of the CDS by Hong Kong SAR.

4.5 China reminded Members that Hong Kong SAR was exempt from the provisions of the CAMLR Convention but that it had nevertheless consulted with Hong Kong SAR regarding the CDS. In contradiction to reports of exports submitted by CCAMLR Members under the CDS, Hong Kong SAR had reported that the volume of toothfish it imported was low. China advised that Hong Kong SAR had an existing system of control on the import and export of fish products and that it would continue to implement this and to further consider the necessity of implementation of the CDS.

4.6 The Secretariat reported on work undertaken in accordance with enhancing cooperation with non-Contracting Parties under Conservation Measure 10-05, Annex 10-05/C. The Secretariat reported that, during the 2008/09 intersessional period, it had contacted Cambodia, Equatorial Guinea, Nigeria, Democratic People's Republic of Korea, Panama, Sierra Leone, Togo, Kenya, Mozambique, Malaysia, Columbia, Mexico, Morocco, Philippines, Thailand, United Arab Emirates and Vietnam and invited them to consider cooperation with CCAMLR and voluntary implementation of the CDS.

4.7 The USA referred to the use in CCAMLR-XXVIII/BG/8 of ISO code 'TW', which refers to 'Taiwan, Province of China.' The USA indicated that, as noted in CCAMLR-XXVII, paragraphs 20.13 to 20.15, it and other Members did not support references to 'Taiwan, Province of China' in CCAMLR documents, and the USA asked that the Secretariat avoid the code 'TW' in the future.

4.8 China asked the Secretariat to objectively quote the ISO codes without any change when referring to Taiwan, Province of China. China complained about the change that had been made by the Secretariat in CCAMLR-XXVIII/BG/8. China also expressed its strong opposition to any reference to 'Chinese Taipei' in any CCAMLR documents. As noted in CCAMLR-XXVII, paragraphs 20.14 and 20.15, China and other Members were of the view that the use of 'Taiwan, Province of China' in CCAMLR documents is appropriate. China asked the Secretariat to consult with China on any reference to Taiwan, Province of China, in preparing CCAMLR documents in the future.

4.9 In response, the USA asked the Secretariat to consult with the USA on any reference to Taiwan, Province of China, in preparing CCAMLR documents in the future.

4.10 The UK and Australia noted that they held the same position as the USA.

4.11 SCIC thanked the UK for submitting CCAMLR-XXVIII/BG/13 which included an Identification Guide and Fact Sheet to assist port and customs officers to identify and handle *Dissostichus* spp. It was suggested that this might be helpful for the development of CDS training materials by the Secretariat.

## SCHEME OF INTERNATIONAL SCIENTIFIC OBSERVATION

5.1 All scientific observation programs undertaken in 2008/09 are summarised in SC-CAMLR-XXVIII/BG/2.

5.2 The Committee noted that scientific observers appointed under the CCAMLR Scheme of International Scientific Observation were deployed on all vessels in all finfish fisheries in the Convention Area. A total of 59 observation programs were undertaken of which 38 were conducted in longline finfish fisheries, 11 in finfish trawl and two in pot fishing. Eight observation programs were undertaken on krill vessels.

## ADVICE FROM THE SCIENTIFIC COMMITTEE

6.1 The Chair of the Scientific Committee, Mr S. Iversen (Norway), presented the Scientific Committee's preliminary advice on topics relevant to the work of SCIC (SC-CAMLR-XXVIII, paragraphs 12.2 to 12.4). SCIC considered this advice and made a number of comments recorded in paragraphs 6.3 to 6.6.

6.2 Advice from the Scientific Committee in respect of krill and exploratory notifications is provided in paragraph 2.13. Advice from the Scientific Committee on mitigation and environmental measures is included in paragraphs 2.21 to 2.26, on bottom fishing in paragraphs 2.39 to 2.41, and in respect of IUU fishing in paragraph 3.10.

6.3 The Chair of the Scientific Committee advised that several Members had not fully implemented the research requirements of Conservation Measure 41-01 and that this had limited WG-FSA's ability to develop assessments in some exploratory fisheries.

6.4 The Scientific Committee clarified that information prepared by WG-IMAF on vessels' conformity with conservation measures reported by scientific observers did not necessarily constitute compliance information until such time as these reports had been reviewed by SCIC and endorsed by the Commission as compliance issues that required action.

6.5 SCIC also noted that the Scientific Committee had decided that WG-IMAF would meet on a biennial basis in future and that the next meeting of WG-IMAF would not be convened until 2011. As a result, the annual summaries of scientific observations would be forwarded directly to SCIC for evaluation in those years when WG-IMAF did not meet.

6.6 Several Members enquired as to the procedures involved in this evaluation and were advised by the Secretariat that the process normally took one to two full working days. The Secretariat also advised that it was not in a position to make any pronouncements on the compliance with conservation measures in force by vessels.

## Performance Review

7.1 The Committee recalled that it had agreed in 2008 that the Performance Review should remain on the agenda of SCIC until such time as SCIC felt that outstanding matters had been fully addressed.

7.2 SCIC therefore revisited recommendations contained in Chapter 4 of the Performance Review Panel (PRP) Report<sup>1</sup> which were identified by SCIC at CCAMLR-XXVII. SCIC recorded the following actions taken to address these items:

- (i) *Monitoring Control and Surveillance (PRP Report, paragraph 4.3), especially formally linking the CDS with daily catch reports (PRP Report, paragraph 4.3.1(1)) and real-time C-VMS reporting (PRP Report, paragraph 4.3.1(2)):*
  - (a) SCIC adopted a proposal to implement daily catch reporting in several CCAMLR exploratory fisheries.
- (ii) *Market-related measures (PRP Report, paragraph 4.6), especially the E-CDS becoming mandatory with immediate effect (PRP Report, paragraph 4.6.1(1)):*
  - (a) SCIC adopted a proposal to amend Conservation Measure 10-05 to adopt the E-CDS format as a mandatory requirement.

7.3 At CCAMLR-XXVII, SCIC had agreed that a number of items from other chapters of the PRP Report were also relevant to the work of SCIC, and SCIC noted progress made in respect of these items. These were:

- (i) *Further mechanisms for enhanced surveillance and enforcement (PRP Report, paragraph 3.1.2(1)):*
  - (a) SCIC noted that Spain had submitted a report on actions taken in respect of Spanish nationals in accordance with Conservation Measure 10-08 (SCIC-09/3). Spain's actions were assisted, in part, by information submitted by CCAMLR Members, particularly New Zealand.
- (ii) *CCAMLR's relationships with non-cooperating non-Contracting Parties (PRP Report, paragraph 6.3.1):*
  - (a) SCIC endorsed two proposals in support of the Cooperation Enhancement Program for a regional training and capacity-building project in southern Africa in 2010 and the development of key CDS-related training materials and a toothfish identification poster and fact sheet designed to assist non-Contracting Parties.
- (iii) *Cooperation with other international organisations (PRP Report, paragraph 6.4):*

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<sup>1</sup> Available on the CCAMLR website – [www.ccamlr.org/pu/E/revpanrep.htm](http://www.ccamlr.org/pu/E/revpanrep.htm).

- (a) SCIC noted that in 2009, CCAMLR had invited ACAP, CCSBT, CEP, CITES, CPPS, FAO, FFA, IATTC, ICCAT, IOC, IUCN, IWC, SCAR, SCOR, SEAFO, SPC and WCPFC to attend CCAMLR-XXVIII as observers. CCAMLR had also sent observers to the meetings of ICCAT, NAFO and SEAFO. The CCAMLR Secretariat had also cooperated with the Secretariats of other organisations on an ongoing basis as appropriate.

7.4 Australia informed SCIC that addressing the priority recommendations from the Performance Review was a key priority for Australia and considered that proposals submitted to CCAMLR-XXVIII reflected this. Australia announced that it was pleased with the progress made by SCIC to date and hoped that SCIC and the Commission would be in a position to move forward and adopt proposals submitted which reflect the recommendations of the Performance Review.

7.5 In regard to Chapter 8 of the executive summary report of the Performance Review, France drew the attention of SCIC to the paper presented by France relating to the evaluation of the conformity of French law and practice with CCAMLR conservation measures (CCAMLR-XXVIII/34).

7.6 The USA expressed strong support for progress made in relation to recommendations contained in the Performance Review. It acknowledged that addressing all recommendations was a long-term project and thanked all Members that had submitted proposals to date.

## OTHER BUSINESS

### Additional space for SCIC meetings

8.1 SCIC considered a proposal submitted by the Secretariat to extend the Wombat Room in 2010 (CCAMLR-XXVIII/11). Whilst SCIC recognised that the proposal was ultimately a matter for SCAF and the Commission to decide, it noted that over-crowding in the SCIC room was a serious impediment to the efficient work and orderly conduct of SCIC. SCIC therefore expressed its enthusiasm for a proposal to increase the size of the Wombat Room and conveyed this endorsement to SCAF.

## ADVICE TO THE COMMISSION

9.1 The Committee prepared a summary of advice to be considered by the Commission (CCAMLR-XXVIII/BG/39). Proposals for new measures recommended by SCIC for adoption by the Commission were provided to the Commission in CCAMLR-XXVIII/BG/40. Proposals for new and revised measures forwarded by SCIC for further consideration by the Commission were provided to the Commission in CCAMLR-XXVIII/BG/41.

## ADVICE TO SCAF

10.1 SCIC did not make any decisions with financial implications which needed to be brought to the attention of SCAF. However, it advised SCAF that:

- (i) SCIC had decided, in the interests of economy, to defer a DOCEP Workshop in 2010, but that it would instead direct DOCEP to work intersessionally via email. SCIC would, however, review DOCEP intersessional progress in 2010 and advised SCAF that it was possible that SCIC would recommend that another DOCEP Workshop be convened in 2011;
- (ii) it wished to convey its support for the proposal to expand the SCIC room;
- (iii) it had considered two proposals to access the CDS Fund and, whilst recognising that the proposals were a matter for the Commission to decide, it nevertheless wished to indicate its general support for both proposals.

## ADOPTION OF THE REPORT AND CLOSE OF THE MEETING

11.1 The Committee thanked the Chair for her excellent work in chairing the 2009 meeting of SCIC. The Chair thanked the Committee for its work and commended it for the progress it had made. The Chair thanked Ms G. Slocum (Australia) for her outstanding work as convener of the Conservation Measures Drafting Group. The Chair also thanked the Secretariat, particularly Ms N. Slicer, for support provided to the meeting of SCIC.

11.2 The Report of SCIC was adopted and the meeting was closed.



**AGENDA**

Standing Committee on Implementation and Compliance (SCIC)  
(Hobart, Australia, 26 to 30 October 2009)

1. Opening of meeting
  - (i) Adoption of agenda
  - (ii) Organisation of meeting
  - (iii) Review of submitted papers, reports and other presentations
2. Review of compliance and implementation-related measures and policies
  - (i) Compliance with conservation measures in force
  - (ii) Compliance evaluation procedure
  - (iii) Proposals for new and revised measures
3. IUU fishing in Convention Area
  - (i) Current level of IUU fishing
  - (ii) IUU Vessel Lists
4. Catch Documentation Scheme (CDS)
5. Scheme of International Scientific Observation
6. Advice from the Scientific Committee
7. Performance Review
8. Other business
9. Advice to the Commission
10. Advice to SCAF
11. Adoption of report
12. Close of meeting.

## LIST OF DOCUMENTS

Standing Committee on Implementation and Compliance (SCIC)  
(Hobart, Australia, 26 to 30 October 2009)

SCIC-09/1	Provisional Agenda for the 2009 Meeting of the CCAMLR Standing Committee on Implementation and Compliance (SCIC)
SCIC-09/2	List of documents (includes List of Documents by agenda item)
SCIC-09/3	Report on the measures taken by the maritime authority in relation to specific ships implicated in illegal fishing in waters under the control of the Commission for the Conservation of the Antarctic Marine Living Resources (CCAMLR) Spain
SCIC-09/4	Extracts from the Report of the Working Group on Fish Stock Assessment (total removals of <i>Dissostichus</i> spp. including IUU catches in the Convention Area) Secretariat
SCIC-09/5	Progress report on the proceedings initiated against the <i>Paloma V</i> Spain
Other Documents	
CCAMLR-XXVIII/11	Additional space for SCIC meetings Executive Secretary
CCAMLR-XXVIII/12 Rev. 1	Summary of notifications of krill fisheries for 2009/10 Secretariat
CCAMLR-XXVIII/13	Summary of notifications for new and exploratory fisheries in 2009/10 Secretariat
CCAMLR-XXVIII/15 Rev. 2	Implementation of Conservation Measures 10-06 and 10-07 IUU Vessel Lists 2009 Secretariat

CCAMLR-XXVIII/16	Report of the Workshop for the Development of a Compliance Evaluation Procedure (DOCEP) (Bergen, Norway, 6 to 10 July 2009)
CCAMLR-XXVIII/17	CDS Fund panel proposal – CDS training materials Secretariat
CCAMLR-XXVIII/29	Proposal for revising Conservation Measure 21-03 (2008) as well as revising the calculation formula for Members' financial contributions Delegation of Japan
CCAMLR-XXVIII/30	Fire on board the <i>In Sung 22</i> in CCAMLR Statistical Subarea 48.3 Delegation of the United Kingdom
CCAMLR-XXVIII/33	Draft conservation measure to deter illegal, unreported and unregulated fishing and to promote compliance of CCAMLR conservation objectives Delegation of Argentina
CCAMLR-XXVIII/34	Evaluation of the conformity of French law and practice with CCAMLR conservation measures Delegation of France
CCAMLR-XXVIII/35	Proposal to amend Conservation Measure 10-07 to improve the dissemination of available information on Flag States of IUU-NCP vessels Delegation of France
CCAMLR-XXVIII/36	Amendment of Conservation Measure 10-04 'Automated Satellite-linked Vessel Monitoring Systems' Delegation of France
CCAMLR-XXVIII/37	Information on illegal fishing in Statistical Area 58 Report of observations and inspections in the CCAMLR Area 2008/09 season (1 July 2008 – 15 August 2009) Delegation of France
CCAMLR-XXVIII/38	Catch Documentation Scheme (CDS) Fund proposal – illegal, unregulated and unreported (IUU) fishing in the CCAMLR Convention Area – African Capacity Building Training Event Delegations of Australia, South Africa, the United Kingdom and the Secretariat

CCAMLR-XXVIII/40 Rev. 1	Revision of CCAMLR's System of Inspection Delegation of the USA
CCAMLR-XXVIII/41	Proposal to amend Conservation Measure 10-05 Catch Documentation Scheme for <i>Dissostichus</i> spp. to reflect current reporting practises Delegation of Australia
CCAMLR-XXVIII/42	Proposal for improvements to CCAMLR port inspections Delegations of Australia, New Zealand and the European Community
CCAMLR-XXVIII/43	Daily reporting system for CCAMLR exploratory fisheries Delegations of New Zealand and the United Kingdom
CCAMLR-XXVIII/44	Proposed amendment to Conservation Measure 10-09 (2008) Notification system for transshipments within the Convention Area Delegations of New Zealand and Australia
CCAMLR-XXVIII/45	Proposed conservation measure: prohibition of fishing for <i>Dissostichus</i> spp. in depths shallower than 550 m in CCAMLR's exploratory fisheries Delegation of New Zealand
CCAMLR-XXVIII/46	EC proposal for a conservation measure concerning the adoption of market-related measures to promote compliance Delegation of the European Community
CCAMLR-XXVIII/47	EC proposal for a CCAMLR conservation measure for krill fisheries Delegation of the European Community
CCAMLR-XXVIII/BG/6	Implementation of fishery conservation measures in 2008/09 Secretariat
CCAMLR-XXVIII/BG/7	Implementation of the System of Inspection and other CCAMLR enforcement provisions in 2008/09 Secretariat
CCAMLR-XXVIII/BG/8	Implementation and operation of the Catch Documentation Scheme in 2008/09 Secretariat

CCAMLR-XXVIII/BG/13	Identification guide and fact sheet for toothfish Delegation of the United Kingdom
CCAMLR-XXVIII/BG/20	Flag State Report – General measure for the closure of all fisheries (Conservation Measure 31-02, paragraph 6) Delegation of New Zealand
CCAMLR-XXVIII/BG/22	Report on the abandoned gillnet retrieval operation conducted by Australia in CCAMLR Statistical Division 58.4.3b (BANZARE Bank) Delegation of Australia
CCAMLR-XXVIII/BG/23	Heard Island and McDonald Islands Exclusive Economic Zone 2008/09 IUU Catch Estimate for Patagonian toothfish Delegation of Australia
CCAMLR-XXVIII/BG/37	Implementation of Conservation Measure 10-08 (2006) Delegation of Australia
SC-CAMLR-XXVIII/BG/2	Summary of scientific observation programs undertaken during the 2008/09 season Secretariat
WG-FSA-09/5 Rev. 1	Estimation of IUU catches of toothfish inside the Convention Area during the 2008/09 fishing season Secretariat
WG-IMAF-09/6 Rev. 2	A summary of scientific observations related to Conservation Measures 25-02 (2008), 25-03 (2003), 26-01 (2008) Secretariat

**REPORT OF THE WORKSHOP FOR THE DEVELOPMENT  
OF A COMPLIANCE EVALUATION PROCEDURE (DOCEP)**  
(Bergen, Norway, 6 to 10 July 2009)

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**REPORT OF THE WORKSHOP FOR THE DEVELOPMENT  
OF A COMPLIANCE EVALUATION PROCEDURE (DOCEP)**  
(Bergen, Norway, 6 to 10 July 2009)

#### OPENING OF MEETING

The DOCEP Workshop was held from 6 to 10 July 2009 in Bergen, Norway. The workshop was convened by Ms K. Dawson-Guynn (USA).

2. The draft agenda was adopted and is contained in Appendix I. A List of Documents is provided in Appendix II. DOCEP had previously also considered a number of papers which had been developed during intersessional work and presented at previous meetings of the Commission (CCAMLR-XXV/37, CCAMLR-XXVII/44, SCIC-06/10).

#### OBJECTIVES OF MEETING

3. In considering its terms of reference, DOCEP recalled that its remit was primarily to develop a model of a standard evaluation procedure that can consistently be used to evaluate performance of vessels with conservation measures in force (Appendix VI and paragraphs 19 to 26).

4. DOCEP agreed that a compliance evaluation would assist Members to review the performance of their flag vessels and help to identify any recurring patterns of non-compliance. It would also facilitate the review of the effectiveness of individual measures over time.

#### Flag State responsibility

5. Whilst acknowledging that it was not within DOCEP's terms of reference to evaluate non-compliance of Flag States, DOCEP participants nevertheless agreed that several aspects of compliance, which were the responsibility of Contracting Parties, were closely linked to vessels' performance.

6. DOCEP noted that non-compliance is usually attributable to a vessel failing to provide information or acting in a manner contrary to the provisions of a conservation measure. DOCEP concluded that even where it is clear that the vessel is the primary entity required to act in accordance with the specific provisions of such a measure, it remains incumbent upon the Flag State to ensure that their vessels comply with conservation measures.

7. DOCEP found it difficult to decouple the compliance of a vessel and the control of the Flag State over that vessel. It did, however, recognise the importance of gathering information regarding any steps taken by the Flag State to address non-compliance of its vessels. With this in mind, any evaluation of non-compliance based on vessel activity alone may not fully capture the extent and the causes of non-compliance. DOCEP therefore recommended that Standing Committee on Implementation and Compliance (SCIC) consider



whether DOCEP's terms of reference might be expanded to include evaluation of Flag State performance. DOCEP noted that the results of FAO initiatives aimed at Flag State performance may be relevant in the future.

8. DOCEP noted that SCIC would benefit from examining whether there is a need for Flag States to improve compliance with conservation measures in respect of reporting of information on vessel activity.

## REVIEW OF EXISTING METHODOLOGY

### Compliance evaluations by other organisations

9. DOCEP briefly reviewed compliance evaluation methodologies used by other organisations such as ICCAT, NAFO and CCSBT. DOCEP concluded that these evaluations focused on evaluating compliance by members of those organisations rather than of vessels. DOCEP believed that they may, therefore, not provide suitable models for developing a methodology for use by CCAMLR. DOCEP noted, however, that the Dolphin Safe program of the Agreement on the International Dolphin Conservation Program (AIDCP) has a detailed vessel-by-vessel compliance evaluation procedure. Items of particular reference to DOCEP's work included aspects such as the use of observer data (paragraph 16), actions to be taken in improving compliance (paragraph 27) and ways in which to remove bias in the assessment of compliance via the use of coded vessel identity (paragraph 49).

10. It was noted that ICCAT had recently held a session of its Compliance Committee, where it directed self-assessment questionnaires to its members as a way to facilitate discussion on the extent and causes of non-compliance. DOCEP believed that the use of questionnaires might be useful to CCAMLR, where systemic or chronic non-compliance with a particular conservation measure has been detected or where CCAMLR is having difficulty understanding the causes of non-compliance.

### Performance Review

11. DOCEP noted that a number of key findings of the CCAMLR Performance Review Panel (PRP) could be addressed by, and were consistent with, DOCEP's work. In particular, DOCEP noted that the PRP had made several recommendations relating to evaluating and ensuring compliance with CCAMLR conservation measures. Some of these included matters related to Flag State responsibility (PRP Report<sup>1</sup>, paragraph 4.4.1) and the use of Port State and market-related measures (PRP Report, paragraph 4.2.1).

12. DOCEP noted that enhancement of CCAMLR's procedures for port inspections might include the adoption of standard procedures and reporting formats. It recalled the PRP's recommendation to set standard reporting formats for port inspections and determine clear minimum timelines for the submission of information (PRP Report, paragraph 4.2.1). DOCEP agreed that such formats and timelines would facilitate compliance evaluation and could offer a way to improve compliance with conservation measures.

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<sup>1</sup> Available on the CCAMLR website – [www.ccamlr.org/pu/E/revpanrep.htm](http://www.ccamlr.org/pu/E/revpanrep.htm).

13. DOCEP also supported the PRP recommendations on following up on infringements (PRP Report, paragraph 4.4.1) as well as cooperative mechanisms to detect and deter non-compliance (PRP Report, paragraph 4.5.1). By identifying non-compliance, DOCEP felt that it was well placed to take forward such considerations.

14. It was also noted that the PRP was of the opinion that ‘the compliance and enforcement arrangements that have been developed and implemented by CCAMLR over the years have been relatively effective’. However, DOCEP believed that, using an agreed framework for a compliance evaluation, SCIC would be able to achieve a better understanding of whether CCAMLR’s conservation measures are being fully implemented and how effective they are.

## DEVELOPMENT OF A MODEL STANDARD COMPLIANCE EVALUATION PROCEDURE

### Review of key compliance measures

15. DOCEP identified those elements of fishery-related conservation measures which were the responsibility of vessels (Appendix IV and DOCEP-09/5, Table 1).

16. It was noted that an evaluation of compliance with certain conservation measures, such as seabird mitigation measures, would depend on information collected by international scientific observers. Whilst agreeing that the objectives of the Scheme of International Scientific Observation were primarily scientific, and that observers should not perform a compliance role, DOCEP noted that some observer-sourced information on individual vessel activities related to seabird mitigation measures was already being reviewed by WG-IMAF and the Scientific Committee and provided to SCIC for consideration. Conservation measures other than compliance measures require, for example, that data be provided by the vessel as well as by an observer as part of the reporting requirements of the observer (Conservation Measure 41-01, Annex C, paragraph 4). This effectively incorporates information collected under the Scheme of International Scientific Observation into an evaluation of compliance. DOCEP recommended that SCIC consider whether or not other information collected by international scientific observers should be used for evaluating compliance in cases where such information is the best available on relevant vessel activities.

### Compliance evaluation procedure

17. Taking into account the preliminary matrix developed by the DOCEP Intersessional Group (CCAMLR-XXVI/BG/32), DOCEP further developed it in order to assign a score to reported incidents of non-compliance. This score is a function of impact and frequency of non-compliance, i.e.  $\text{score} = \text{impact} \times \text{frequency}$  (paragraphs 19 to 26). The matrix and its associated reference table is provided in Appendix V.

## Impact

18. DOCEP discussed in detail the criteria for each category of impact. It was noted that incidents of non-compliance could impact on harvested and dependent and related populations as well as the ecosystem as a whole.
19. As an initial step, DOCEP identified five categories of impact. These were:
  - Impact 1 – Negligible: Where an incident of non-compliance has a negligible impact on the ecosystem or harvested, dependent or related populations. The impact on the management objectives of the fishery would be negligible.
  - Impact 2 – Minor: Where an incident of non-compliance has a minor impact on the ecosystem or harvested, dependent or related populations with no medium- or long-term effects. The impact on the management objectives of the fishery would be minor.
  - Impact 3 – Major: Where an incident of non-compliance has a major impact on the ecosystem or harvested, dependent or related populations with no long-term effects. The impact on the management objectives of the fishery would be major.
  - Impact 4 – Serious: Where an incident of non-compliance has a serious impact on the ecosystem or harvested, dependent or related populations with potential long-term effects. The impact on the management objectives of the fishery would be serious.
  - Impact 5 – Critical: Where an incident of non-compliance has a critical or irreversible impact on the ecosystem or harvested, dependent or related populations with potentially enduring effects. The impact on the management objectives of the fishery would be critical.
20. DOCEP assigned an impact for non-compliance based on a 1 (negligible) to 5 (critical) ranking of the impact of non-compliance on the ecosystem and harvested, dependent and related populations.
21. DOCEP recognised that there may be a number of ways in which such rankings could be derived. It was, however, acknowledged that it would be difficult to reach agreement on a single impact score, therefore DOCEP used an overall average of its members' rankings as a consensus value for the impact scores in each of the two case studies. The benefits of this approach were clearly acknowledged by DOCEP and it was recommended to SCIC as a way forward.
22. As a part of this discussion, participants identified the need to take into account conservation measure provisions related to unlikely events that have the potential to result in irreversible impacts on the resources of the Convention Area (e.g. the introduction of disease or a non-native species). DOCEP concluded that the potential consequences of such an event should be carefully weighed when determining the potential impact of non-compliance.
23. DOCEP also recommended that, once impacts had been determined, they should be reviewed periodically or when conditions change.

## Frequency

24. The matrix includes the frequency of non-compliance incidents by vessels for a particular conservation measure. The frequency is counted as the number of years of non-compliance. Multiple incidents of non-compliance recorded in a single fishing season are counted as one incident of non-compliance (i.e. a score of 2 equals two years of recorded non-compliance).

## Severity

25. The matrix multiplies impact and frequency to arrive at a score reflecting the severity of the non-compliance. DOCEP identified four categories of severity (Appendix V):

- Minor: impact × frequency = severity score of 1–4
- Major: impact × frequency = severity score of 5–9
- Serious: impact × frequency = severity score of 10–15
- Critical: impact × frequency = severity score of 16–25.

26. In the case of full compliance none of these would apply.

## Responses

27. The outputs of the evaluation procedure provide a characterisation of the severity of non-compliance. This prioritisation mechanism developed by DOCEP provides a range of possible responses to be considered by SCIC (Appendix VI). The possible responses are tailored to reflect the severity of non-compliance identified by the product of the impact and frequency of the recorded non-compliance. DOCEP recognised that it should ultimately be left to the Flag State to prescribe any actions taken in respect of its flagged vessels.

## Application of the compliance evaluation procedure

28. DOCEP considered various alternatives for conducting a vessel-by-vessel evaluation as well as an evaluation of overall fleet performance in respect to an individual conservation measure.

29. DOCEP used the procedure outlined in paragraphs 19 to 26 as a tool to help identify which conservation measures might be considered for a detailed compliance evaluation and also applied it to case studies of individual conservation measures.

## Prioritising conservation measures

30. DOCEP noted that, while it would be extremely useful for it to evaluate all conservation measures, this was unrealistic. It therefore focused on identifying priority items for consideration by SCIC and the Commission.

31. DOCEP concluded that Conservation Measure 10-02 should be given overall priority as its requirements underpin vessel compliance with all conservation measures.

32. In addition to Conservation Measure 10-02, DOCEP provided SCIC with a list of draft priorities based on their level of assessed impact. These priority conservation measures include:

Critical –

- Conservation Measure 23-03, Monthly catch and effort reporting
- Conservation Measure 41-01, Annex 41-01/C, Tagging Program
- Conservation Measure 26-01, General environmental protection during fishing.

Serious –

- Conservation Measure 22-07, Vulnerable Marine Ecosystems
- Conservation Measure 23-01, Five-day catch and effort reporting
- Conservation Measure 23-02, Ten-day catch and effort reporting
- Conservation Measure 23-06, Data reporting for krill fisheries
- Conservation Measures 33-01, 33-02 and 33-03, By-catch in Subarea 48.3 and Division 58.5.2 and exploratory fisheries.

33. DOCEP noted that, while it was not necessary to have a full set of data to use the compliance evaluation procedure in testing the procedure on conservation measures in general, the illustrative case studies based on complete data (paragraphs 39 and 40) were considered.

34. In developing a prioritised list of compliance-related conservation measures for SCIC to evaluate for non-compliance, DOCEP identified an impact status for each. DOCEP noted that, in particular, while the compliance-related conservation measures may not have a direct impact on the ecosystem, or harvested and dependent populations, compliance with these measures underpins CCAMLR's ability to effectively assess and manage compliance with all the other measures in force. Using available data, DOCEP identified the relative level of frequency of non-compliance of particular conservation measures, based on a 1 to 5 ranking.

35. DOCEP noted that there were different sources and levels of information available on which to base its assessment. It concluded that its approach was appropriate for determining which conservation measures SCIC should prioritise in evaluating vessel compliance.

36. DOCEP agreed, however, that the question of assigning impacts to individual provisions of various conservation measures required further work, particularly if such provisions were to be considered on an area-by-area basis. DOCEP agreed that this topic should be referred to the Scientific Committee and the Commission for further consideration and advice.

37. Using the frequency data available, DOCEP evaluated the severity of non-compliance with fishery-related conservation measures (Appendix IV, Table 1, Column 7).

38. DOCEP also considered whether an evaluation of compliance performance by area, subarea or division was necessary where the conservation measure applies to the entire Convention Area. DOCEP felt that this was important in cases where conservation measures

were specific to particular areas and discussed whether the frequency and impacts of non-compliance may vary from area to area. DOCEP therefore agreed that a compliance evaluation could be performed by area based on advice from the Scientific Committee.

#### Case studies

39. DOCEP tested the matrix using available data collected under Conservation Measure 26-01 'General environmental protection during fishing' and Conservation Measure 41-01, paragraph 7, 'General measures for exploratory fisheries for *Dissostichus* spp. in the Convention Area', Annex 41-01/C 'Tagging Program for *Dissostichus* spp. and skates in exploratory fisheries'. The results of these case studies are provided in Appendix VII and are presented for a five-year period (2003–2008) (see also paragraph 40).

40. Consideration was also given to whether a compliance evaluation could include information reported in previous years. DOCEP agreed that a compliance evaluation conducted on a multi-year basis would allow the identification of systematic poor performance and would monitor whether compliance was improving over time or otherwise. DOCEP envisaged that the monitoring of compliance would progress from year to year in order to accumulate a compliance history (paragraph 43).

#### General

41. DOCEP recognised that the procedure was not able to include all factors which may need to be taken into consideration when determining a response to a severity score. One such factor would be whether a non-compliant vessel was still fishing or whether any infractions that had occurred in previous years had been addressed.

42. DOCEP agreed that it was highly desirable to allow for comments relating to the behaviour of an individual vessel or non-compliance event. Comments should include an indication of whether a vessel had recorded an incident of non-compliance during the current season or whether the incident had been recorded several years previously.

43. DOCEP noted that the outputs of a compliance evaluation should be archived and that further use of such outputs could be developed by SCIC and the Commission. This would facilitate evaluation of compliance trends through time and the monitoring of changes in performance. It would also promote transparency in the compliance evaluation process in the interests of improving identification of compliance failures.

44. DOCEP acknowledged that the evaluation of non-compliance is complementary to, but is not the same as, listing vessels on CCAMLR's IUU lists. It concluded, however, that information derived from the evaluation of non-compliance could be useful in IUU assessments. The conditions for designation of IUU vessels set out in paragraph 5 of Conservation Measure 10-06 remain to be applied in their own right.

## DATA ACCESS AND CONFIDENTIALITY

45. DOCEP considered the Rules for Access and Use of CCAMLR Data, including the Rules for Access to CDS Data. It noted that additional rules applied to VMS data. DOCEP agreed that further consideration is required by SCIC and the Commission to determine how CDS and VMS data could be applied, if required, to a compliance evaluation procedure.

46. DOCEP believed that data confidentiality should not create a barrier to conducting a compliance evaluation. It agreed that a credible compliance evaluation would necessarily require vessels to be identified at some stage in the evaluation process in order for the Flag State to take any steps if necessary.

47. DOCEP noted that knowledge of vessel identity could in some cases identify scientific observers. DOCEP agreed to seek SCIC's advice in this regard.

48. DOCEP reiterated that the safety and integrity of observers is a crucial issue. It noted that the role of the observer is to observe and report on the operation of fishing activities in the Convention Area. It was also noted that some vessel-specific data related to compliance conservation measures sourced from scientific observers was already being used by SCIC.

49. DOCEP agreed that the compliance evaluation procedure should be as objective as possible. One way of achieving this would be to reveal the identity of non-compliant vessels on completion of the evaluation process. Throughout the evaluation process, individual vessels should be coded and only linked to their identities by the Secretariat.

## CONCLUSIONS

50. DOCEP concluded that the assessment of non-compliance by vessels was a complex and sensitive issue. DOCEP recognised that a formal compliance evaluation procedure would take a number of years to refine and would require the support of all Members of the Commission if it is to better understand the levels of non-compliance. DOCEP further recognised that the procedure had significant potential to assist in SCIC's decision-making process. DOCEP did, however, note that to take the work forward it would need further guidance from SCIC, the Scientific Committee and the Commission.

51. DOCEP recognised that the draft matrix developed had not been exhaustively tested, particularly in respect of potential impacts. DOCEP therefore recommended that it continue to meet on an ad hoc basis for the next three years, either in conjunction with WG-EMM or immediately prior to the Commission meeting in order to conduct ongoing trials of the compliance evaluation procedure and to follow up on other work as directed by SCIC, taking into consideration advice from the Scientific Committee as appropriate. Once SCIC has approved a final evaluation procedure, including assigning the impact scores to particular conservation measures, future compliance evaluation would be compiled by the Secretariat for review by SCIC or a SCIC-appointed subgroup.

52. The steps outlined above should be subject to annual review by SCIC to assess whether the procedure is satisfactorily tracking trends in non-compliance and addressing compliance failures, particularly in the cases of serious and critical non-compliance.

## FUTURE WORK

53. DOCEP also recommended that SCIC attempt to identify where non-compliance is occurring and where there may be gaps in information available to SCIC to conduct more in-depth evaluations of non-compliance. DOCEP recognised that gaps in information could arise from a number of sources. For example, reporting provisions of some conservation measures may not be clear in respect to the actual information to be submitted, including the attached formats and deadlines for submission. Equally, information may not have been submitted in response to a conservation measure provision. In the first instance, SCIC may wish to consider determining whether these conservation measures require modification to improve the existing data collection requirements.

## SUMMARY OF RECOMMENDATIONS TO SCIC AND THE COMMISSION

54. DOCEP recommended that:

- (i) SCIC endorse the matrix provided in Appendix V which reviews compliance with conservation measures on a vessel-by-vessel basis for the previous five-years' worth of data for that vessel;
- (ii) SCIC note that application of the compliance evaluation procedure by DOCEP indicated a severity score of non-compliance of critical for Conservation Measures 26-01 and 41-01, Annex C;
- (iii) SCIC note that the impact scores from a first-order evaluation by DOCEP were critical for Conservation Measure 23-03 and serious for Conservation Measures 22-07, 23-01, 23-02, 23-06, 33-01, 33-02 and 33-03;
- (iv) once a compliance evaluation procedure had been fully developed and tested, SCIC would ultimately conduct a compliance evaluation on an annual basis;
- (v) vessel names would not be included in any preliminary compliance evaluation, but would be made available to SCIC if, and after, non-compliance had been identified;
- (vi) SCIC consider a range of considerations and actions which could be applied in cases of non-compliance;
- (vii) all CCAMLR Members be consulted by means of a questionnaire in order to assess the impact of non-compliance with aspects of conservation measures on the ecosystem and on harvested, dependent and related populations;
- (viii) the Commission consider instituting a process, which may include convening a working group of experts in order to index and/or review the links between all CCAMLR conservation measures in terms of their operative provisions;
- (ix) a standard set of procedures and reporting formats be developed for port inspections;



- (x) SCIC request the Secretariat to examine the CCAMLR Database in order to identify gaps and, where possible, assign frequencies to each fishery-related conservation measure. The results of this task should then be reviewed by SCIC, taking into account the Scientific Committee's advice;
- (xi) SCIC attempt to identify where non-compliance is occurring and where there may be gaps in information available to SCIC to conduct more in-depth evaluations of non-compliance.

#### SUMMARY OF MATTERS REFERRED TO SCIC FOR FURTHER CONSIDERATION

55. DOCEP referred the following matters to SCIC and requested that it consider them further and provide advice on:

- (i) whether any future ad hoc meeting of DOCEP be convened in conjunction with WG-EMM or with WG-IMAF and ad hoc TASO;
- (ii) all CCAMLR Members being consulted in order to assess the impact of non-compliance with aspects of conservation measures on the ecosystem and on harvested, dependent and related populations (paragraph 54(vii)). Impacts should be reviewed periodically;
- (iii) a range of responses which could be developed in cases of non-compliance, depending on the severity of the incidents;
- (iv) whether DOCEP's terms of reference might be expanded to include evaluation of Flag State performance;
- (v) endorsement of DOCEP's recommendation that vessels be identified in a compliance evaluation only if, and after, non-compliance had been detected.

#### ADOPTION OF THE REPORT AND CLOSE OF MEETING

56. The report of the meeting was adopted and the meeting was closed.

57. DOCEP expressed its thanks and appreciation to Norway for hosting the meeting and providing excellent facilities and support.

58. In closing the meeting, the Convener of DOCEP, Ms Dawson-Guynn, thanked participants and the Secretariat, particularly Ms N. Slicer, for their hard work and noted that they had made considerable progress in what had been a very complex task.

59. DOCEP also thanked the participants of the Intersessional Group for their work, particularly the Co-conveners, Ms K. Smith (Australia) and Ms T. Frantz (South Africa).

60. The participants thanked the Convener for her excellent leadership which had contributed to the success of the meeting.

**AGENDA**

Workshop on the Development of a Compliance Evaluation Procedure (DOCEP)  
(Bergen, Norway, 6 to 10 July 2009)

1. Review existing compliance methodologies in use by other RFMOs.
2. Discuss the Secretariat's identification of key compliance elements from various conservation measures, including data sources and coverage issues. Modify if needed.
3. Categorise compliance elements from Item 2 into three categories:  
Fisheries Administration  
Resource Management – Species/Environment  
Uncertainty (where impact is not clearly defined).
4. Rank 1–5 the level of impact the non-compliance has with regard to these categories above.
5. Analyse the frequency of non-compliance of key elements with the goal of quantifying the impact of repeated non-compliance (taking into consideration different time scales, e.g. one fishing season, annually, across years).
6. Discuss and develop a working matrix that encompasses the severity of the non-compliance using the combination of frequency and impact as developed in Items 4 and 5.
7. Develop appropriate responses to be utilised by the Secretariat and/or the Flag State depending on the category of non-compliance.
8. Document the final process and protocol for dealing with non-compliance into a usable product to present to the Commission.
9. Confidentiality and publication issues.
10. Annual procedure.
11. Advice to SCIC and the Commission.

**LIST OF DOCUMENTS**

Workshop on the Development of a Compliance Evaluation Procedure (DOCEP)  
(Bergen, Norway, 6 to 10 July 2009)

DOCEP-09/1	Agenda
DOCEP-09/4	Assessing compliance performance of CCAMLR Contracting Parties Secretariat
DOCEP-09/5	Identification of key compliance measures – update to SCIC-06/10 Secretariat
Other Documents	
CCAMLR-XXV/37	Evaluation of compliance with conservation measures: identification of key compliance elements Secretariat
CCAMLR-XXVI/BG/32	Convener's Report on the Work of the Intersessional Group for the Development of a Compliance Evaluation Procedure (Convener, South Africa)
CCAMLR-XXVII/44	Proposed work programme for the development of a Compliance Evaluation Procedure Working Group Report of the Co-conveners of the Working Group on the Development of a Compliance Evaluation Procedure
CCAMLR-XXVII/BG/8	Implementation of the System of Inspection and other CCAMLR enforcement provisions in 2007/08 Secretariat
SCIC-06/10	Identification of key compliance elements: summary of compliance information for 2005/06 season Secretariat
SCIC-08/3 Rev. 2	Retrospective analysis of scientific observer data relating to Conservation Measures 25-02, 25-03 (2006) and 26-01 (2007) Secretariat
WG-FSA-08/7 Rev. 2	A summary of scientific observations related to Conservation Measures 25-02 (2007), 25-03 (2003) and 26-01 (2006) Secretariat

**LIST OF PARTICIPANTS**

Workshop on the Development of a Compliance Evaluation Procedure (DOCEP)  
(Bergen, Norway, 6 to 10 July 2009)

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**KEY COMPLIANCE ELEMENTS**

## KEY COMPLIANCE ELEMENTS

Table 1: Breakdown of conservation measures. CM – conservation measure; ISMC – International Safety Management Code; SOPEP – Shipboard Oil Pollution Emergency Plan; ANI – *Champscephalus gunnari*; SQS – *Martialia hyadesi*; TOP – *Dissostichus eleginoides*; TOT – *Dissostichus* spp.

CM	Description	Responsibility for compliance	Source(s) of information	Category(ies)	Impact	Frequency	Severity
<b>Compliance</b>							
10-01	Marking of fishing vessels	Vessel	Flag State (via licence/ exploratory notification)	Fisheries administration	4	1	4
	Marking of fishing gear		Inspector (only if inspection conducted)				
10-02 and System of Inspection	Licensing Vessel to Flag State			Fisheries administration	5	1	5
	Notification by vessel of entry/exit to port	Vessel	Flag/Port State				
	Notification of entry/exit/movement		Flag State/Secretariat				
	Reporting of catch data		Flag State/Secretariat				
	Reporting of sightings of fishing vessels		Not able to be assessed				
	Operation of VMS		Flag State/Secretariat				
	ISMC and SOPEP provisions		Not reported to CCAMLR				
	Flag State to CCAMLR Licence notification	Flag State	Secretariat				
	Deadline		Not able to be assessed				
	Completeness		Secretariat				
	Vessel to carry licence	Vessel	Inspector (only if inspection conducted)				
	System of inspection						
	Stop if requested by identified inspector	Vessel					
	Facilitate safe and prompt transfer of inspector						
	Permit inspector to board						
	Provide access to records, gear and catch						
10-03	Port inspections	Contracting Parties	Contracting Party Port State	Fisheries administration			

(continued)

CM	Description	Responsibility for compliance	Source(s) of information	Category(ies)	Impact	Frequency	Severity
10-04	VMS Equipped Reporting to Flag State Reporting to Secretariat where applicable	Vessel Vessel Flag State, but may be designated to vessel	Flag State, Secretariat but may also involve vessel and external service providers	Fisheries administration	5	1	5
10-05	CDS	Contracting Parties but vessel has reporting obligations in respect of estimated catch to be landed and transshipment information	Catch documents submitted to Secretariat	Fisheries administration	5	0	0
10-09	Notification system for transshipments	Vessel to Flag State to Secretariat (may be designated to vessels)	Flag State/Secretariat	Fisheries administration	4	1	4
<b>General fisheries matters – Notifications</b>							
21-01	New fisheries	Members	Secretariat	Fisheries administration			
21-02	Exploratory fisheries notifications Data collection plan Deadline (3 months in advance of annual meeting) Completeness (as per paragraphs 3 and 5)	Members	Secretariat	Fisheries administration			
21-03	Krill fisheries notifications Data collection plan Deadline (1 June prior to season) Completeness (Annexes 21-03/A and 21-03/B)	Members	Secretariat	Fisheries administration			
<b>Gear regulations</b>							
22-01	Mesh size measurement	Vessel	Scientific observer	Environment	4	1.5	6
22-02	Mesh size	Vessel	Scientific observer	Environment	4	1.5	6
22-03	Mesh size for ANI	Vessel	Scientific observer	Environment	4	1.5	6
22-04	Prohibition on gillnetting	Flag State/Vessel	Flag State, inspector (if inspection conducted) Scientific observer	Environment	5	0	0

(continued)



CM	Description	Responsibility for compliance	Source(s) of information	Category(ies)	Impact	Frequency	Severity
22-05	Restrictions on the use of bottom trawling gear	Flag State/Vessel	Flag State (VMS) Inspector, scientific observer	Environment	5	0	0
22-06	Bottom fishing Require licence Preliminary assessment Notify VMEs encountered Cease fishing in identified VME, report to Secretariat	Flag State Flag State Flag State Flag State Vessel/Flag State	Flag State, scientific observer Inspector (if inspection conducted)	Environment	5	0	0
22-07 paragraph 3 paragraph 4 paragraph 5 paragraph 8	VMEs – Vessel requirements Mark fishing lines into segments 10+ indicator units – vessel to cease hauling/setting, report to Flag State, Secretariat 5+ indicator units – report to Flag State, Secretariat Report total benthos recovered in 5-day period	Vessel	Flag State, Secretariat Scientific observer	Environment	5	2	10
<b>Data reporting</b>							
23-01	5-day catch and effort reporting Deadline (end of reporting period) Completeness (total catch all species, days, hours, hooks, pots if applicable)	Vessel to Flag State, Flag State to CCAMLR, but may be directly designated to vessel	Flag State Secretariat	Fisheries administration	5	2.5	12.5
23-02	10-day catch and effort reporting Deadline (end of reporting period) Completeness (catch, days, hours, hooks if applicable)	Vessel to Flag State, Flag State to CCAMLR, but may be directly designated to vessel	Flag State Secretariat	Fisheries administration	5	2.5	12.5
23-03	Monthly catch and effort reporting Deadline (end of each month) Completeness (by-catch, IMAF)	Vessel to Flag State, Flag State to CCAMLR	Flag State Secretariat	Fisheries administration	5	3.5	17.5
23-05	Monthly biological reporting, trawl, longline, pot Deadline (end of each month) Completeness (length measurements, samples by grid)	Vessel to Flag State, Flag State to CCAMLR	Flag State Secretariat	Fisheries administration	1	3	3
23-06	Data reporting for krill fisheries	Flag State	Flag State Secretariat	Fisheries administration	4	3	12

(continued)

CM	Description	Responsibility for compliance	Source(s) of information	Category(ies)	Impact	Frequency	Severity
<b>Research and experiments</b>							
24-02	Longline weighting for seabird conservation Two longline sets Specified longline lengths Achieve sink rates 0.3 m/s (A and B) or 0.2 m/s (C) Further testing every 7 days	Vessel	Scientific observer, Secretariat, WG-IMAF report	Dependent and related species	4	3	8
<b>Minimisation of incidental mortality</b>							
25-02	Minimisation of incidental mortality, longliners Line weighting Night-time setting Dumping of offal whilst setting prohibited Dumping of offal whilst hauling Deploy streamer lines whilst setting Bird scare device whilst hauling if required	Vessel	Scientific observer, Secretariat, WG-IMAF report	Dependent and related species	4	2	8
25-03	Minimisation of incidental mortality, trawlers Prohibition of net monitor cables Minimise lighting Prohibition of discharge of offal during shooting/hauling Minimise time of net on water	Vessel	Scientific observer, Secretariat, WG-IMAF report	Dependent and related species	4	2	8
<b>Environmental protection</b>							
26-01	General environmental protection Disposal of plastic packaging bands Prohibition of discharge at high latitude (oil, food waste, poultry, sewage, offal, ash) Translocation of poultry	Vessel	Scientific observer/Secretariat	Environmental/dependent and related species	3.3	5	16
<b>Fishery regulations – General measures</b>							
31-02	General measure for the closure of fisheries No setting after closure notification received Depart area once all gear has been removed Notify Flag State if unable to do so	Vessel	Flag State/Secretariat	Target species	4	2	8

(continued)

CM	Description	Responsibility for compliance	Source(s) of information	Category(ies)	Impact	Frequency	Severity
<b>Fishing seasons, closed areas and prohibition of fishing</b>							
32-01	Fishing seasons	Flag State/vessel	Flag State	Target species/ dependent and related species			
32-02–32-17	Prohibition of directed fishing, various species, subareas	Vessel/Flag State (licence)	Flag State/Secretariat	Target species	5	0	0
32-18	Conservation of sharks	Vessel		Target species	5	1	5
<b>By-catch limits</b>							
33-01, 33-02, 33-03	By-catch in Subarea 48.3 and Division 58.5.2 and exploratory fisheries	Vessel	Flag State/Secretariat	Dependent and related species	5	2	10
<b>Toothfish</b>							
41-01 paragraph 2 paragraph 4 paragraph 5 paragraph 6 paragraph 7 Annex 41-01/A paragraph 7 Annex 41-01/B paragraph 7, Annex 41-01/C	General measures, TOP exploratory fisheries SSRU closure Regulation of by-catch as per CM 33-03 Report discards Scientific observers Data collection plan, implement Data collection plan, report <3 months after closure Research plan, implement Research plan, report <3 months after closure Tagging program	Vessel    Not specified Vessel Not specified Vessel	Flag State   Flag State/Designating State Flag State  Scientific observer Vessel, scientific observer	Target species/ dependent and related species	4.5        3.5	2        5	9        17.5
41-02–41-04	Catch limits TOP/TOT all subareas	Vessel to Flag State, Flag State to CCAMLR	Flag State/Secretariat	Target species			
<b>Icefish</b>							
42-01, 42-02	Catch limits ANI 48.3, 58.5.2	Vessel to Flag State, Flag State to CCAMLR	Flag State/Secretariat	Target species			
<b>Krill and crab</b>							
51-01–51-05, 52-01–52-02	Catch limits krill, all subareas	Vessel to Flag State, Flag State to CCAMLR	Flag State/Secretariat				
<b>Squid</b>							
61-01	Catch limits SQS	Vessel to Flag State, Flag State to CCAMLR	Flag State/Secretariat				

## IMPACTS

- Step 1 – Assign an impact for non-compliance based on a 1 (negligible) to 5 (critical) ranking of the impact of non-compliance on the ecosystem and harvested, dependent and related populations (see Table 1).
- Step 2 – Use an overall average of Members’ rankings as a consensus value for the impact scores.
- Step 3 – Multiply impact and frequency based on available data to arrive at a score reflecting the severity of non-compliance based on the five categories of severity (see Table 2).
- Step 4 – Consider possible actions and responses to cases and patterns of non-compliance tailored to reflect the severity identified by the product of the impact and frequency of the recorded non-compliance (see Appendix VI).

Table 1: Impacts of non-compliance on ecosystem, harvested, dependent or related populations.

Value	Potential impact <sup>1</sup>
1	Where an incident of non-compliance has a <b>negligible</b> impact on the ecosystem or harvested, dependent or related populations. The impact on the management objectives of the fishery would be negligible.
2	Where an incident of non-compliance has a <b>minor</b> impact on the ecosystem or harvested, dependent or related populations with no medium or long-term effects. The impact on the management objectives of the fishery would be minor.
3	Where an incident of non-compliance has a <b>major</b> impact on the ecosystem or harvested, dependent or related populations with no long-term effects. The impact on the management objectives of the fishery would be major.
4	Where an incident of non-compliance has a <b>serious</b> impact on the ecosystem or harvested, dependent or related populations with potential long-term effects. The impact on the management objectives of the fishery would be serious.
5	Where an incident of non-compliance has a <b>critical</b> or irreversible impact on the ecosystem or harvested, dependent or related populations with potentially enduring effects. The impact on the management objectives of the fishery would be critical.

<sup>1</sup> If any one condition listed under each category is fulfilled, this forms a basis for choosing or assigning the impact category.

A precautionary approach should be adopted where uncertainty is present.

Table 2: Matrix of the severity of non-compliance. The overall level of severity indicates the level of non-compliance. 1–4 = Minor, 5–9 = Major, 10–15 = Serious, 16–25 = Critical.

Frequency (no. of years non-compliant)	Impact				
	1	2	3	4	5
1	1	2	3	4	5
2	2	4	6	8	10
3	3	6	9	12	15
4	4	8	12	16	20
5	5	10	15	20	25

**POSSIBLE RESPONSES TO NON-COMPLIANCE**

The compliance evaluation procedure uses a matrix of impact and frequency of non-compliant activities to serve as the basis for assigning non-compliance status as minor, major, serious or critical, and in determining the urgency of further action. When seeking to address and better understand the causes of non-compliance, SCIC could consider the following in proportion to the status of non-compliance:

- (a) Any information relating to action taken to address non-compliance should be reported to CCAMLR at a minimum by the time of the next CCAMLR meeting.
- (b) Submission of information on incidents of non-compliance should be in writing. Considerations attached to the submission of such information could relate to the timing of submission and availability of time for analysis.
- (c) Any steps taken to address non-compliance and any other relevant information should be reported to CCAMLR at a minimum by the time of the next Commission meeting.
- (d) Where an evaluation has identified widespread non-compliance in any of the categories, SCIC is encouraged to assess the implementation of the relevant conservation measure, and, if necessary, the provisions of the conservation measure itself.
- (e) Account should be taken of uncertainty, including the absence of essential data, in performing an evaluation of non-compliance. In this event, SCIC should consider the consequences of being unable to assess compliance and identify further work for DOCEP if necessary.
- (f) Enhanced monitoring and reporting of vessel activity could be used to determine the causes of, and to address, non-compliance.
- (g) Where a non-compliance evaluation is hindered by a lack of information in respect of reporting requirements or other data gaps, SCIC should advise the Commission on obtaining such information for future compliance evaluations.
- (h) Flag States whose vessels have been evaluated as non-compliant should be informed of such non-compliance.
- (i) Evaluations of non-compliance could be used by SCIC in determining whether or not vessels should be included on the IUU Vessel List where the evaluation indicates serious or critical non-compliance.
- (j) In cases where the level of compliance does not improve in subsequent years and thereafter, SCIC should advise the Commission accordingly and afford priority to identify how compliance could be improved.
- (k) SCIC should advise the Commission of the result of any compliance evaluation as well as provide recommendations for addressing non-compliance, particularly in cases of serious and critical non-compliance.

## CASE STUDIES

Table 1: Example of compliance evaluation of Conservation Measure 26-01 'General environmental protection during fishing'.

Vessel	Subarea/ division	Impact	Frequency (no. of years non-compliant)	Severity	Status	Comments
1	All	3.3	5	16.5	Critical	All areas combined
2	All	3.3	5	16.5	Critical	All areas combined
3	48.3/4	3.3	1	3.3	Minor	
4	48.3/4	3.3	2	6.6	Major	
1	48.3/4	3.3	2	6.6	Major	
5	48.3/4	3.3	4	13.2	Serious	
6	48.3/4	3.3	1	3.3	Minor	
2	48.6	3.3	4	13.2	Serious	
2	58.4	3.3	1	3.3	Minor	
7	58.4	3.3	1	3.3	Minor	
8	58.4	3.3	1	3.3	Minor	
9	58.4	3.3	2	6.6	Major	
10	58.4	3.3	2	6.6	Major	
1	58.6/7	3.3	4	13.2	Serious	
11	88.1/2	3.3	1	3.3	Minor	
12	88.1/2	3.3	1	3.3	Minor	
13	88.1/2	3.3	1	3.3	Minor	

Table 2: Example of compliance evaluation of Conservation Measure 41-01, paragraph 7, Annex 41-01/C 'Tagging program'.<sup>1</sup>

Vessel	Impact	Frequency (no. of years non-compliant)	Severity	Status	Comments
2	3.5	1	3.5	Minor	
14	3.5	1	3.5	Minor	
15	3.5	1	3.5	Minor	
16	3.5	2	7	Major	
17	3.5	1	3.5	Minor	
18	3.5	2	7	Major	
19	3.5	1	3.5	Minor	
20	3.5	2	7	Major	
4	3.5	3	10.5	Serious	
21	3.5	3	10.5	Serious	
22	3.5	1	3.5	Minor	
7	3.5	2	7	Major	
23	3.5	3	10.5	Serious	
24	3.5	3	10.5	Serious	
25	3.5	1	3.5	Minor	
26	3.5	1	3.5	Minor	
10	3.5	2	7	Major	
27	3.5	1	3.5	Minor	
9	3.5	2	7	Major	
28	3.5	2	7	Major	
29	3.5	1	3.5	Minor	
30	3.5	1	3.5	Minor	
13	3.5	1	3.5	Minor	
31	3.5	1	3.5	Minor	

<sup>1</sup> The compliance evaluation undertaken in respect of this measure relates to all areas in which tagging is required and has not been broken down any further.



**WASHINGTON MINISTERIAL DECLARATIONS ON  
THE FIFTIETH ANNIVERSARY OF THE ANTARCTIC TREATY  
AND THE INTERNATIONAL POLAR YEAR AND POLAR SCIENCE**

**WASHINGTON MINISTERIAL DECLARATIONS ON  
THE FIFTIETH ANNIVERSARY OF THE ANTARCTIC TREATY  
AND THE INTERNATIONAL POLAR YEAR AND POLAR SCIENCE**

**1. WASHINGTON MINISTERIAL DECLARATION ON THE FIFTIETH ANNIVERSARY OF THE ANTARCTIC TREATY**

In the year of the fiftieth anniversary of the signing of the Antarctic Treaty (the “Treaty”) in Washington on December 1, 1959, the Consultative Parties to the Antarctic Treaty,

**Recognizing** the historic achievements of the Treaty in promoting peace and international cooperation in the Antarctic region over the past half century,

**Recognizing** that it is in the interest of all humankind that Antarctica continue to be used exclusively for peaceful purposes and shall not become the scene or object of international discord,

**Recognizing** the integrated and mutually supportive nature of the Antarctic Treaty system, encompassing, inter alia, the Protocol on Environmental Protection to the Antarctic Treaty, the Convention on the Conservation of Antarctic Marine Living Resources and the Convention for the Conservation of Antarctic Seals, and the central role of the Treaty within that system,

**Recalling** their commitment to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems, and the designation of Antarctica as a natural reserve, devoted to peace and science,

**Mindful** that freedom of scientific investigation is and continues to be a cornerstone of the Treaty,

**Recalling** that this anniversary takes place following the latest International Polar Year, a multidisciplinary scientific endeavor that was supported by all Parties and endorsed in the 2006 Edinburgh Antarctic Declaration on the International Polar Year,

**Acknowledging** the key role that Antarctic science plays in understanding the world’s climate system,

**Concerned** about the implications of global environmental change, in particular climate change, for the Antarctic environment and dependent and associated ecosystems,

**Mindful** to ensure that human activity in Antarctica, including tourism, is conducted in a manner that effectively promotes the continued protection of the Antarctic environment and minimizes cumulative impacts,

Hereby:

1. Reaffirm their continued commitment to the objectives and purposes of the Antarctic Treaty and the other elements of the Antarctic Treaty system;

2. Reaffirm the importance of the Treaty's provisions guaranteeing freedom of scientific investigation and reserving Antarctica exclusively for peaceful purposes, free from measures of a military nature;
3. Reaffirm the importance they attach to the contribution made by the Treaty, and by Article IV in particular, to ensuring the continuance of international harmony in Antarctica;
4. Underscore the importance of the Protocol on Environmental Protection to the Antarctic Treaty;
5. Reaffirm their commitment to Article 7 of the Environmental Protocol, which prohibits any activity relating to mineral resources, other than scientific research;
6. Underline the importance of cooperation related to the conservation of living marine resources and strengthened implementation under the Convention on the Conservation of Antarctic Marine Living Resources;
7. Pledge to strengthen their efforts to preserve and protect the Antarctic terrestrial and marine environments;
8. Welcome the increase in Parties to the Antarctic Treaty, from the original twelve signatories in 1959 to forty-seven Parties at the time of this anniversary, and encourage other States that are committed to the objectives of the Antarctic Treaty to accede in accordance with its terms;
9. Encourage Parties to work through other appropriate international organizations that have expertise in respect of certain activities that may also take place in the Antarctic Treaty area, in particular those relating to maritime and aviation activities, to give special consideration to the development, adoption and effective implementation of measures to promote safety and environmental protection in Antarctica;
10. Confirm their intention to work together to better understand changes to the Earth's climate and to actively seek ways to address the effects of climate and environmental change on the Antarctic environment and dependent and associated ecosystems;
11. Commit to support and build upon the innovative scientific programs relating to Antarctica initiated as part of the International Polar Year 2007-08, and promote education and outreach programs to enhance global understanding and commitment to protecting the Antarctic environment; and
12. Decide to continue and extend for the benefit of all humankind their cooperation established in the Treaty and in the Treaty system over the last fifty years.

Adopted at Washington, April 6, 2009.

## 2. WASHINGTON MINISTERIAL DECLARATION ON THE INTERNATIONAL POLAR YEAR AND POLAR SCIENCE

On the occasion of the conclusion of the fourth International Polar Year (IPY), the Member States of the Arctic Council and the Consultative Parties to the Antarctic Treaty,

**Observing** that the IPY occurred against a backdrop of rapid and significant climate and environmental change in the Polar Regions,

**Acknowledging** the unique scientific importance of the polar regions, both as actors and barometers of these changes, which are vital to the functioning of the earth's terrestrial, biological, climate, ocean and atmospheric systems,

**Recognizing** the need to improve the modeling and prediction of change on a regional basis,

**Recognizing** the significant work of the Intergovernmental Panel on Climate Change in assessing documented and predicted changes in Polar Regions and in relating them to larger global systems,

**Affirming** the importance of the IPY's findings to the scientific community, Arctic residents, including indigenous peoples, and to humanity as a whole,

**Observing** the success of participants in forming IPY collaborations that integrate the human, physical, and biological aspects of their research to achieve system-scale knowledge,

**Recognizing** the vital contributions toward understanding the characteristics and dynamics of polar regions and their roles for the world's ecosystems made by scientists and other participants from over sixty countries,

**Noting** the extensive efforts of the International Council for Science (ICSU), the World Meteorological Organization (WMO), the many IPY National Committees, and the scientists and other participants around the globe whose research made IPY a great success,

**Recalling** the goals for the IPY set forth in the 2006 Edinburgh Antarctic Declaration on the International Polar Year 2007-2008, and the strong support for IPY expressed by the Arctic Council in the 2006 Salekhard Declaration,

**Expecting** that the legacy of the IPY will continue well beyond its formal conclusion,

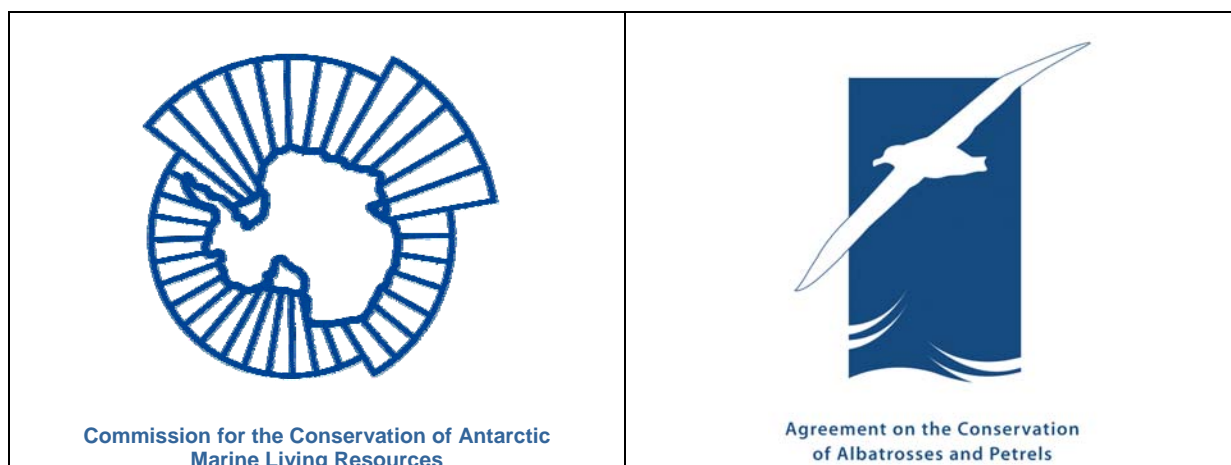
Hereby:

1. Urge states, national and international scientific bodies, and other interested parties to cooperate to deliver a lasting legacy from the IPY, and to support appropriate infrastructures to achieve this;
2. Commit themselves to reviewing key issues related to scientific cooperation and recent scientific findings at the biennial Ministerial Meetings of the Arctic Council and annual Antarctic Treaty Consultative Meetings, and further commit to using science to help inform the cooperative development of measures to address the threats to the polar regions;

3. Call upon IPY participants to continue to make data collected under IPY 2007–2008 and its legacy programs available in an open and timely manner, recall the obligations related to exchange of scientific information to this effect in the Antarctic Treaty, and encourage the same spirit of scientific openness among Arctic researchers;
4. Endorse the goal of strengthening international cooperation at all levels in polar regions among States, scientists, Arctic residents, including indigenous peoples, and their institutions in areas such as educational outreach, human and ecosystem health, environmental protection, and scholarships for young scientists;
5. Encourage the development of coordinated research and scientific observations at both poles to compare the current dynamics of polar areas and their contributions to the Earth's processes and changes;
6. Recommend that governments continue their support for efforts initiated during IPY to create and link observational systems in order to improve the modeling and prediction of climate change on both regional and temporal scales;
7. Encourage states and international bodies to use the scientific understandings derived from IPY research to support the development of concrete steps to protect the environment in the Polar Regions;
8. Support the analysis and use of scientific data and information collected from the polar regions as a result of IPY to contribute to future assessments by the Intergovernmental Panel on Climate Change, as well as other efforts to address climate change, and future Arctic Council assessments;
9. Call upon states, organizations, scientists, and other stakeholders to continue to engage with young people to cultivate the next generation of polar scientists, and to communicate with the general public to develop an awareness of the importance of polar research for life in all regions of the world; and
10. Affirm the value of collaboration and coordination between states and Arctic residents, including indigenous peoples, for the benefit of polar research.

Adopted at Washington, April 6, 2009.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN CCAMLR AND ACAP**



## MEMORANDUM OF UNDERSTANDING

between

**THE COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE  
LIVING RESOURCES**

and

**THE SECRETARIAT FOR THE AGREEMENT ON THE CONSERVATION  
OF ALBATROSSES AND PETRELS**

The Commission for the Conservation of Antarctic Marine Living Resources (hereafter CCAMLR) and the Secretariat for the Agreement on the Conservation of Albatrosses and Petrels (hereafter the ACAP Secretariat);

**ACKNOWLEDGING** that the *Agreement on the Conservation of Albatrosses and Petrels* (hereafter ACAP), developed under the auspices of the *Convention on the Conservation of Migratory Species of Wild Animals*, is a multilateral agreement which seeks to achieve and maintain a favourable conservation status for albatrosses and petrels by coordinating international activity to mitigate known threats to albatross and petrel populations;

**NOTING** that Article X(d) of ACAP authorises the ACAP Secretariat, on behalf of the ACAP Meeting of the Parties, to liaise with non-Party Range States and regional economic integration organisations and to facilitate coordination between Parties and non-Party Range States, and international and national organisations and institutions whose activities are directly or indirectly relevant to the conservation, including the protection and management, of albatrosses and petrels;

**NOTING FURTHER** that Article XI of ACAP authorises the ACAP Secretariat, on behalf of the ACAP Meeting of the Parties, to consult and cooperate, where appropriate, with the secretariats of other relevant conventions and international instruments in respect of matters of common interest, and to enter into arrangements, with the approval

of the Meeting of Parties, with other organisations and institutions as may be appropriate, and to consult and cooperate with such organisations and institutions in exchanging information and data;

**ACKNOWLEDGING** that the objective of the Convention on the Conservation of Antarctic Marine Living Resources (hereafter CAMLR Convention) is the conservation of Antarctic marine living resources, which includes rational use;

**ACKNOWLEDGING FURTHER** that Article II of the CAMLR Convention requires that any harvesting and associated activities in the CAMLR Convention Area shall be conducted in accordance with that Convention's provisions and with the specified principles of conservation which include, *inter alia*, maintenance of the ecological relationship between harvested, dependent and related populations of Antarctic marine living resources;

**CONSCIOUS** that some Members of CCAMLR are Parties to ACAP;

**NOTING** that under Article XXIII of the CAMLR Convention, CCAMLR and its Scientific Committee shall seek to develop cooperative working relationships, as appropriate, with intergovernmental and non-governmental organisations which could contribute to their work and that the Commission may enter into agreements with such organisations as may be appropriate;

**RECOGNISING** that the achievement of the objectives of CCAMLR and ACAP will benefit from cooperation, with a view to strengthening the conservation measures adopted in respect of albatrosses and petrels;

**DESIRING** to put into place arrangements and procedures to promote cooperation in order to enhance the conservation of albatrosses and petrels;

JOINTLY DECIDE as follows:

## **1. OBJECTIVE OF THIS MEMORANDUM**

The objective of this Memorandum of Understanding ('MOU') is to facilitate cooperation between CCAMLR and ACAP with a view to supporting efforts to minimise the incidental by-catch of albatrosses and petrels listed in Annex 1 of ACAP within the CAMLR Convention Area.

## **2. AREAS OF COOPERATION**

The CCAMLR Secretariat, acting upon authorisation and instruction by CCAMLR, and the ACAP Secretariat, on behalf of the ACAP Meeting of the Parties, may consult, cooperate and collaborate on areas of common responsibilities that are relevant to the conservation, including the protection and management, of albatrosses and petrels, including:

- (i) exchange of experience in the development of systems for collecting and analysing data, and exchanging information concerning the by-catch of albatrosses and petrels in the CAMLR Convention Area;



- (ii) exchange of information regarding management approaches relevant to the conservation of albatrosses and petrels;
- (iii) implementation of education and awareness programs for fishers who operate in areas where albatrosses and petrels may be encountered;
- (iv) exchange of information on the design, testing and implementation of albatross and petrel by-catch mitigation measures relevant to fishing operations in the CAMLR Convention Area;
- (v) examining the need for, and development of, training programs on conservation techniques and measures in order to mitigate threats affecting albatrosses and petrels;
- (vi) sharing of expertise, techniques and knowledge relevant to the conservation of albatrosses and petrels in the CAMLR Convention Area;
- (vii) reciprocal participation with observer status at relevant meetings of the ACAP Parties and CCAMLR, consistent with the requirements of CCAMLR and ACAP concerning observer status.

### **3. REVIEW AND AMENDMENT**

This MOU may be reviewed or amended at any time by the mutual written consent of CCAMLR and the ACAP Secretariat ('the Participants').

### **4. LEGAL STATUS**

The Participants acknowledge that this MOU is not legally binding between them.

### **5. COMING INTO EFFECT AND TERMINATION**

- (i) This MOU will remain in effect for three years. At that stage, the Participants will review the operation of the MOU and decide whether it will be renewed or amended.
- (ii) Either Participant may terminate this MOU by giving six months written notice to the other Participant.
- (iii) This MOU will come into effect on signature.

### **SIGNATURE**

Signed at Hobart this ..... day of ..... 20....

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Executive Secretary  
CCAMLR

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Executive Secretary  
ACAP Secretariat