

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.