

## 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).

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the Scientific Committee's advice that Conservation Measure 91-02 (Protection of the Cape Shirreff CEMP site) be rescinded with the protection of Cape Shirreff continuing under the management plan of ASPA 149 (SC-CAMLR-XXVIII, Annex 4, paragraph 5.29).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.

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

12.6 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;

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



- (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.

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.