

ESTABLISHMENT OF A SYSTEM OF OBSERVATION AND INSPECTION,
ARTICLE XXIV OF THE CONVENTION

94. This item was considered in a Working Group convened by the United States. The Working Group elaborated the following provisions with respect to Article XXIV of the Convention:

- A. Each Member of the Commission may designate inspectors and observers referred to in Article XXIV of the Convention:
 - (i) Designated inspectors and observers shall be familiar with the fishing and/or scientific research activities to be observed and/or inspected and the provisions of the Convention and measures adopted under it.
 - (ii) Members shall certify the qualifications of each inspector and/or observer they designate.
- B. The Commission shall maintain a register of certified inspectors and observers designated by Members.
- C. In order to verify compliance with measures adopted under the Convention, inspectors and observers designated by Members shall be entitled to carry out inspection and observation activities on board vessels engaged in scientific research or harvesting of marine living resources in the area to which the Convention applies.
- D. Inspectors and observers on board vessels shall have the authority to observe catch, nets and other equipment and shall have access to records of catch, research or other fishing activities insofar as necessary to carry out their functions.
- E. Inspectors and observers shall be able to communicate in the language of the flag state of the vessels on which they carry out their activities and shall carry out such activities so as not to interfere unduly with vessel operations. They shall be accorded the status of ship's officer while onboard such vessels.
- F. Inspectors and observers, while carrying out inspection and observation activities, shall be solely subject to jurisdiction of the Contracting Party of which they are nationals.

- G. Inspectors and observers shall prepare detailed reports on their observation and inspection activities. These reports shall be provided to the designating Member which shall in turn report to the Commission.
- H. Such reports shall be provided to the flag state and the flag state shall be afforded the opportunity to comment on reports referred to in paragraph G prior to the consideration by the Commission.
- I. If, as a result of inspection and observation activities carried out in accordance with these provisions, there is evidence of violation of measures adopted under the Convention, the flag state shall take steps to prosecute and, if necessary, impose sanctions. The flag state shall report any such prosecutions and sanctions to the Commission.
- J. There shall be established a Standing Committee on Observation and Inspection to advise the Commission on these paragraphs. The Committee shall, inter alia:
- (i) provide advice on procedures in accordance with Article XXIV 2(a) and terms and conditions in accordance with Article XXIV 2(b) in relation to observation and inspection activities;
 - (ii) provide advice on the nature of the authority and access referred to in paragraph D and the reporting formats and procedures referred to in paragraphs G and H;
 - (iii) provide advice on inspection and observation priorities and, if necessary, coordination of inspection and observation activities to ensure representative coverage in the Convention Area of:
 - (a) harvesting and research activities aimed at each of the primary target species and any species being caught in significant quantities incidental to fishing operations;
 - (b) harvesting and research activities in each of the CCAMLR statistical areas particularly those in which fisheries and research activities are concentrated;

- (iv) review inspection and observation reports, as well as steps taken by Members to enforce compliance with measures adopted under the Convention, and, as appropriate, advise the Commission.

K. These provisions shall be implemented in accordance with Article XXIV of the Convention and paragraphs 4 and 5 of the May 19, 1980 statement of the Chairman of the Conference on the Conservation of Antarctic Marine Living Resources included in the Final Act of the Conference.

95. In the Commission's consideration of the provisions elaborated by the Working Group, Members agreed that these provisions would be without prejudice to Article IV of the Convention including their positions on the nature of inspection and observation and enforcement rights applicable in the Convention Area.

96. It is understood for present working purposes that the term 'measures' used in the above provisions on inspection and observation would include not only conservation measures adopted under Article IX of the Convention, but also other measures adopted under the Convention.

97. The delegation of France stated that in accordance with paragraph K of the provisions on observation and inspection, those provisions would not apply in the waters adjacent to Kerguelen and Crozet.

98. The Working Group noted that the terms 'inspector' and 'observer' are used interchangeably in Article XXIV of the Convention. It recommended that in future discussion of the issue the distinction, if any, between these terms should be clarified.

99. The Commission decided that the Standing Committee on Observation and Inspection referred to in paragraph J of provisions elaborated by the Working Group, with the terms of reference also included in paragraph J, should be established at the next meeting of the Commission. The Commission also agreed that the Standing Committee should, in carrying out the tasks identified in its terms of reference, proceed on the basis of paragraphs 94 – 98 above.

100. In the Working Group there was considerable discussion of the question of the costs of carrying out the inspection and observation activities. The view was expressed that decisions on this issue were not required at this stage.

101. Nevertheless, there was discussion of whether, in the longer term, the Commission should provide funding for the system of observation and inspection and, if so, on what basis. Several

Members referred to existing international practice and proposed that, on the basis of such practice, the Member of the Commission designating an inspector and/or observer should cover the costs of carrying out the resulting inspection and observation activities. Other Members felt that, since all Members of the Commission shared an interest in an effective system of observation and inspection, funding arrangements should be developed to provide for costs to be met by contributions from the designating Member, the state of the vessel being inspected and from the Commission. It was noted that elaboration of such arrangements would raise a number of technical questions, as well as issues relating to the size of the Commission's budget.

102. One delegation suggested that it would be fruitful to look at the actual categories of costs which would be incurred in conducting inspections foreseen in the CCAMLR system of observation and inspection. These included costs of transportation to and from the Convention Area, support costs (per diem and food/lodging) in the Convention Area and support costs (per diem and food/lodging) while actually on board vessels engaged in research or harvesting of Antarctic marine living resources. Designating Members (with respect to the first category), the Commission (with respect to the second), and the flag state of the vessel (with respect to the third), might all play a role in meeting inspection costs.

103. The Commission recognised that at least in the initial period, costs of such activities could be dealt with on an ad hoc basis. The Commission further noted that the question of costs required further discussion and that such discussion could be continued in the Standing Committee on Observation and Inspection.