

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

123. In accordance with a recommendation of the Sixth Meeting of the Commission (CCAMLR-VI, paragraph 99), the Commission established a Standing Committee on Observation and Inspection. The United States was elected Chairman of the Committee and Spain, Vice-Chairman. A copy of the Standing Committee's Report is Annex H.

124. On the recommendation of the Committee, the Commission adopted the following provisions pursuant to Article XXIV of the Convention to verify compliance with measures in effect under the Convention:

125. Observation and Inspection System

- I. Each Member of the Commission may designate observers and inspectors referred to in Article XXIV of the Convention.
 - (a) Designated observers and inspectors shall be familiar with the fishing and scientific research activities to be observed and inspected, the provisions of the Conventions and measures adopted under it.
 - (b) Members shall certify the qualifications of each observer and inspector they designate.
 - (c) Observers and inspectors shall be nationals of the Contracting party which designates them and, while carrying out observation and inspection activities, shall be subject solely to the jurisdiction of that Contracting Party.
 - (d) Observers and inspectors shall be able to communicate in the language of the Flag State of the vessels on which they carry out their activities.
 - (e) Observers and inspectors shall be accorded the status of ship's officer while on board such vessels.

- (f) Names of designated observers and inspectors shall be communicated to the Commission by 1 May each year. Designations shall remain valid until July 1 of the following year.
- II. The Commission shall maintain a register of certified observers and inspectors designated by Members.
 - (a) The Commission shall communicate the register of observers and inspectors to each Contracting Party by 31 May each year.
- III. In order to verify compliance with measures adopted under the Convention, observers and inspectors designated by Members shall be entitled to carry out observation and inspection activities on board vessels engaged in scientific research or harvesting of marine living resources in the area to which the Convention applies.
 - (a) Observation and inspection may be carried out by designated observers and inspectors from vessels of the designating states.
 - (b) Ships carrying observers or inspectors shall carry a special flag or pennant approved by the Commission to indicate that the observers or inspectors on board are carrying out observation and inspection duties in accordance with this system.
 - (c) Such observers and inspectors may also be placed on board vessels, with the schedule of embarkation and disembarkation of observers and inspectors subject to arrangements to be concluded between the designating State and the Flag State.
- IV. Each Contracting Party shall provide to the Commission by 1 May each year a list of all of its flag vessels intending to harvest marine living resources in the Convention Area during the year beginning 1 July. Such list shall include:
 - name of vessel;
 - call sign of the vessel registered by appropriate authorities of the Flag state;
 - home port and nationality of vessel;

- owner or charterer of vessel;
 - notification that the master of the vessel has been informed of the measures in force for the area or areas where the vessel will be harvesting marine living resources in the Convention Area.
- (a) The Commission shall communicate to all Parties by 31 May each year a consolidated list of all such vessels. The list shall also include the names of research vessels contained in the Register of Permanent Research Vessels compiled in accordance with paragraph 60 of the Report of the Fifth Meeting of the Commission.
- (b) Each Contracting Party shall also notify the Commission as soon as possible of any of its flag vessels added to or deleted from the list during an ongoing fishing season. The Commission shall promptly communicate this information to the other Contracting Parties.

V.

- (a) Any vessel present in the Convention Area for the purpose of harvesting or conducting scientific research on marine living resources shall, when given the appropriate signal in the International Code of Signals by a ship carrying an observer or inspector (as signified by flying the flag or pennant referred to above), stop or take such other actions as necessary to facilitate the safe and prompt transfer of the observer or inspector to the vessel, unless the vessel is actively engaged in harvesting operations, in which case it shall do so as soon as practicable.
- (b) The master of the vessel shall permit the observer or inspector, who may be accompanied by appropriate assistants, to board the vessel.

VI. Observers and inspectors shall have the authority to observe and inspect catch, nets and other fishing gear as well as harvesting and scientific research activities, and shall have access to records and reports of catch and location data insofar as necessary to carry out their functions.

- (a) Each observer and inspector shall carry an identity document issued by the designating State in a form approved or provided by the Commission stating

that the observer or inspector has been designated to carry out observation and inspection in accordance with this system.

- (b) On boarding a vessel, an observer or inspector shall present the document described in VI (a) above.
 - (c) The observation and inspection shall be carried out so that the vessel is subject to the minimum interference and inconvenience. Inquiries shall be limited to the ascertainment of facts in relation to compliance with the Commission measures in effect for the Flag State concerned.
 - (d) Observers and inspectors may take photographs as necessary to document any alleged violation of Commission measures in effect. Duplicate photographs shall be taken, one of which shall be attached to the notice of alleged violations provided to the vessel master in accordance with paragraph VIII below.
 - (e) Observers and inspectors shall affix an identification mark approved by the Commission to any net or other fishing gear which appears to have been used in contravention to conservation measures in effect and shall record this fact in the reports and notification referenced in paragraph VIII below.
 - (f) Observers and inspectors shall be provided appropriate assistance by the master of the vessel in carrying out their duties, including access as necessary to communications equipment.
- VII. If a vessel refuses to stop or otherwise facilitate transfer of an observer or inspector, or if the master or crew of a vessel interferes with the authorised activities of an observer or inspector, the observer or inspector involved shall prepare a detailed report, including a full description of all the circumstances and provide the report to the designating state to be transmitted in accordance with the relevant provisions of paragraphs VIII and IX.
- (a) Interference with an observer or inspector or failure to comply with reasonable requests made by an observer or inspector in the performance of his duties shall be treated by the Flag State as if the observer or inspector were an observer or inspector of that State.
 - (b) The Flag State shall report on actions taken under this paragraph in accordance with paragraph X below.

- VIII. Observers and inspectors 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.
- (a) Before leaving vessels that have been observed and inspected, the observer or inspector shall give the master of the vessel a Certification of Inspection and a written notification of any alleged violations of Commission measures in effect and shall afford the master opportunity to comment in writing on any such notification;
- (b) The ship's master shall sign the notification to acknowledge receipt and the opportunity to comment on it.
- IX. Reports referred to in paragraph VIII shall be provided to the Flag State and the Flag State shall be afforded the opportunity to comment on them prior to their consideration by the Commission.
- X. If, as a result of observation and inspection 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.

126. With reference to paragraph 4 of the Report of the Standing committee, the Commission confirmed that paragraph 104 of CCAMLR-VI set out procedures for such cases.

Future Steps

127. Since the provisions of the system of observation and inspection elaborated in paragraph 125 above could be implemented as early as the 1989/90 fishing season, the Commission requested that the Executive Secretary review existing international systems of observation and inspection and, based upon this review, prepare and distribute the following to Contracting Parties in advance of the Eighth Meeting of the Commission:

- a proposed design for a flag or pennant to be flown by vessels to indicate that they are carrying observers or inspectors designated by Contracting Parties pursuant to paragraph III (b) above;

- a draft of the Certificate of Inspection, identity documents, and a proposed mark for identifying fishing gear, as provided for in paragraph VI of the system;
- a list of the Commission measures currently in effect;
- a list of observers and inspectors that have been designated by Parties pursuant to paragraph I (f) of the system;
- a list of the vessels which Contracting Parties, in respect to paragraph IV of the system, have advised the Commission are intending to harvest marine living resources in the Convention Area during the 1989/90 season; and
- a description of costs and funding of other international fishery inspection schemes.

128. Recognising that it would be desirable to work towards the standardisation of reporting by observers and inspectors, the Commission also requested that the Executive Secretary prepare and distribute in advance of the next Commission meeting, taking into account existing international practice, drafts of:

- (i) a check list that could be used by observers and inspectors to facilitate compliance monitoring;
- (ii) a format for reporting the results of observation and inspection for compliance monitoring;
- (iii) a dictionary of questions and terms, in the languages of Contracting Parties conducting harvesting activities, to assist observers and inspectors in carrying out their duties; and
- (iv) such other information as may be deemed necessary or useful.

129. Members' attention was drawn to the Committee's request for copies of relevant domestic laws and regulations governing the performance and requirements of observers and inspectors.

130. Japan's concerns about the possible size of inspection teams and the need to define the term 'assistant' were shared by the USSR.

131. The Commission noted the specific comments included in paragraphs 5 to 12 of the Report of the Standing Committee. The Commission looked forward to further progress and to the early implementation of the system.