

CONSERVATION MEASURE 10-07 (2009)
Scheme to promote compliance by non-Contracting Party vessels with CCAMLR conservation measures

Species	all
Area	all
Season	all
Gear	all

The Commission,

Convinced that illegal, unreported and unregulated (IUU) fishing compromises the objective of the Convention,

Aware that a significant number of vessels registered to non-Contracting Parties are engaged in activities which diminish the effectiveness of CCAMLR conservation measures,

Recalling that Contracting Parties are required to cooperate in taking appropriate action to deter any activities which are not consistent with the objective of the Convention,

Resolved to reinforce its integrated administrative and political measures aimed at eliminating IUU fishing in the Convention Area,

hereby adopts the following conservation measure in accordance with Article IX.2(i) of the Convention:

1. The Contracting Parties request non-Contracting Parties to cooperate fully with the Commission with a view to ensuring that the effectiveness of CCAMLR conservation measures is not undermined.
2. At each annual meeting the Commission shall identify those non-Contracting Parties whose vessels are engaged in IUU fishing activities in the Convention Area that threaten to undermine the effectiveness of CCAMLR conservation measures, and shall establish a list of such vessels (NCP-IUU Vessel List), in accordance with the procedures and criteria set out hereafter.
3. This identification shall be documented, *inter alia*, on reports relating to the application of Conservation Measure 10-03, trade information obtained on the basis of the implementation of Conservation Measure 10-05 and relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) and other national or international verifiable statistics, as well as any other information obtained from Port States and/or gathered from the fishing grounds which is suitably documented.
4. A non-Contracting Party vessel which has been sighted engaging in fishing activities in the Convention Area or which has been denied port access, landing or transshipment in accordance with Conservation Measure 10-03 is presumed to be undermining the effectiveness of CCAMLR conservation measures. In the case of any transshipment activities involving a sighted non-Contracting Party vessel inside or outside the Convention Area, the presumption of undermining the effectiveness of CCAMLR conservation measures applies to any other non-Contracting Party vessel which has engaged in such activities with that vessel.
5. When a non-Contracting Party vessel referred to in paragraph 4 enters a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials in

accordance with Conservation Measure 10-03 and shall not be allowed to land or tranship any fish species subject to CCAMLR conservation measures it might be holding on board unless the vessel establishes that the fish were caught in compliance with all relevant CCAMLR conservation measures and requirements under this Convention.

6. A Contracting Party which sights a non-Contracting Party vessel engaging in fishing activities in the Convention Area or denies a non-Contracting Party port access, landing or transhipment under paragraph 5 shall attempt to inform the vessel that it is presumed to be undermining the effectiveness of CCAMLR conservation measures, and that this information will be distributed to the Executive Secretary, all Contracting Parties and the Flag State of the vessel.
7. Information regarding such sightings or denial of port access, landings or transhipments, and the result of all inspections conducted in the ports of Contracting Parties, and any subsequent action shall be transmitted within one business day to the Commission in accordance with Article XXII of the Convention. The Executive Secretary shall transmit this information to all Contracting Parties, within one business day of receiving it, and to the Flag State of the vessel concerned as soon as possible and to appropriate regional fisheries organisations. At this time, the Executive Secretary shall, in consultation with the Chair of the Commission, request the Flag State concerned that, where appropriate, measures be taken in accordance with its applicable laws and regulations to ensure that the vessel desists from any activities that undermine the effectiveness of CCAMLR conservation measures, and that the Flag State report back to CCAMLR on the results of such enquiries and/or on the measures it has taken in respect of the vessel. The other Contracting Parties and non-Contracting Parties cooperating with the Commission by participating in the Catch Documentation Scheme for *Dissostichus* spp. (CDS) shall be invited to communicate any information available to them in respect of the vessels referred to above, including their ownership, operators and their trade activities.
8. Where a Contracting Party obtains information that a non-Contracting Party vessel has engaged in activities set out in paragraph 9, it shall submit a report containing this information, within 30 days of having become aware of it, to the Executive Secretary (including where such information has already been transmitted under paragraph 7). Contracting Parties shall indicate that the information is provided for the purposes of considering whether to include the vessel concerned in the NCP-IUU Vessel List under Conservation Measure 10-07. In addition, the Contracting Party may also submit the report directly to the non-Contracting Party concerned. The Executive Secretary shall promptly forward the information to the non-Contracting Party concerned, indicating that it has been provided for the purposes of considering whether to include the vessel concerned in the NCP-IUU Vessel List under Conservation Measure 10-07. The Executive Secretary shall request that the Flag State take action to prevent the vessel undertaking any activities that undermine the effectiveness of CCAMLR conservation measures and that the Flag State report back to CCAMLR on the measures it has taken in respect of the vessel concerned. The Executive Secretary shall circulate the information and any report from the Flag State to all other Contracting Parties as soon as possible.

9. In order for a non-Contracting Party's vessel to be included in the NCP-IUU Vessel List, there must be evidence, gathered in accordance with paragraphs 3 and 8, that the vessel has:
- (i) been sighted engaging in fishing activities in the CAMLR Convention Area; or
 - (ii) been denied port access, landing or transshipment in accordance with Conservation Measure 10-03; or
 - (iii) transhipped or participated in joint fishing operations with, supported or resupplied other vessels identified by CCAMLR as carrying out IUU fishing activities (i.e. vessels on the NCP-IUU Vessel List or the CP-IUU Vessel List established under Conservation Measure 10-06); or
 - (iv) failed to provide, when required under Conservation Measure 10-05, a valid catch document for *Dissostichus* spp.; or
 - (v) engaged in fishing activities in a manner that undermines the attainment of the objectives of the Convention in waters adjacent to islands within the area to which the Convention applies over which the existence of State sovereignty is recognised by all Contracting Parties, in the terms of the statement made by the Chairman on 19 May 1980; or
 - (vi) engaged in fishing activities contrary to any other CCAMLR conservation measures in a manner that undermines the attainment of the objectives of the Convention according to Article XXII of the Convention.

Draft NCP-IUU Vessel List

10. The Executive Secretary shall, before 1 July of each year, draw up a draft list ('the Draft NCP-IUU Vessel List'), listing all non-Contracting Party vessels that, on the basis of the information gathered in accordance with paragraphs 3 and 8 and any other information that the Executive Secretary might have obtained in relation thereto, might be presumed to have engaged in any of the activities referred to in paragraph 9 during the period beginning 30 days before the start of the previous CCAMLR annual meeting. The Draft NCP-IUU Vessel List shall be distributed immediately to the non-Contracting Parties concerned and to all Contracting Parties.
11. The Executive Secretary shall invite non-Contracting Parties whose vessels are included in the Draft NCP-IUU Vessel List to transmit their comments to the Executive Secretary before 1 September, including verifiable VMS data and other supporting information showing that the vessels listed have not engaged in the activities which led to their inclusion in the Draft NCP-IUU Vessel List.

Provisional NCP-IUU Vessel List

12. The Executive Secretary shall create a new list ('the Provisional NCP-IUU Vessel List') which shall comprise the Draft NCP-IUU Vessel List and all information received pursuant to paragraph 11. Before 1 October, the Executive Secretary shall transmit the Provisional NCP-IUU Vessel List, the NCP-IUU Vessel List agreed at the previous CCAMLR annual meeting, and any evidence or documented information received since

that meeting regarding vessels on the Provisional NCP-IUU Vessel List or the NCP-IUU Vessel List to all Contracting Parties and non-Contracting Parties cooperating with the Commission by participating in the CDS. The Executive Secretary shall at the same time:

- (i) request non-Contracting Parties cooperating with the Commission by participating in the CDS that, to the extent possible in accordance with their applicable laws and regulations, they do not register or de-register vessels that have been placed on the List until such time as the Commission has had the opportunity to consider the List and has made its determination;
- (ii) invite non-Contracting Parties cooperating with the Commission by participating in the CDS to submit any evidence or documented information regarding vessels on the Provisional NCP-IUU Vessel List and NCP-IUU Vessel List, at the latest 30 days before the start of the next CCAMLR annual meeting. Where the incident occurs within the month preceding the next CCAMLR annual meeting, evidence or documented information should be provided as soon as possible;
- (iii) transmit the Provisional NCP-IUU Vessel List and any evidence or documented information received regarding vessels on that List to all non-Contracting Parties whose vessels are included in the List and who are not non-Contracting Parties cooperating with the Commission by participating in the CDS.

13. Contracting Parties shall take all necessary measures, to the extent possible in accordance with their applicable laws and regulations, in order that:

- (i) they do not register vessels that have been placed on the Provisional NCP-IUU Vessel List until such time as the Commission has had the opportunity to examine the List and has made its determination;
- (ii) if they do de-register a vessel on the Provisional NCP-IUU Vessel List they inform, where possible, the Executive Secretary of the proposed new Flag State of the vessel, whereupon the Executive Secretary shall inform that State that the vessel is on the Provisional NCP-IUU Vessel List and urge that State not to register the vessel.

Proposed and Final NCP-IUU Vessel List

14. Contracting Parties shall submit to the Executive Secretary any additional information which might be relevant for the establishment of the NCP-IUU Vessel List within 30 days of having become aware of such information and at the latest 30 days before the start of the CCAMLR annual meeting. A report containing this information shall be submitted in the format set out in paragraph 20, and Contracting Parties shall indicate that the information is provided for the purposes of considering whether to include the vessel concerned in the NCP-IUU Vessel List under Conservation Measure 10-07. The Executive Secretary shall collate all information received and, where this has not been provided in relation to a vessel, attempt to obtain the information in paragraphs 20(i) to (vii).

15. The Executive Secretary shall circulate to Contracting Parties, at the latest 30 days before the start of the CCAMLR annual meeting, all evidence or documented information received under paragraphs 12 and 13, together with any other evidence or documented information received in terms of paragraphs 3 and 8.
16. At each CCAMLR annual meeting, the Standing Committee on Implementation and Compliance (SCIC) shall, by consensus:
 - (i) adopt a Proposed NCP-IUU Vessel List, following consideration of the Provisional NCP-IUU Vessel List and information and evidence circulated under paragraph 14. The Proposed NCP-IUU Vessel List shall be submitted to the Commission for approval;
 - (ii) recommend to the Commission which, if any, vessels should be removed from the NCP-IUU Vessel List adopted at the previous CCAMLR annual meeting, following consideration of that List and information and evidence circulated under paragraph 14.
17. SCIC shall include a vessel on the Proposed NCP-IUU Vessel List only if one or more of the criteria in paragraph 9 have been satisfied.
18. SCIC shall recommend that the Commission should remove a vessel from the NCP-IUU Vessel List if the non-Contracting Party proves that:
 - (i) the vessel did not take part in the activities described in paragraph 9 which led to the inclusion of the vessel in the NCP-IUU Vessel List; or
 - (ii) it has taken effective action in response to the activities in question, including prosecution and imposition of sanctions of adequate severity; or
 - (iii) the vessel has changed ownership including beneficial ownership if known to be distinct from the registered ownership and that the new owner can establish the previous owner no longer has any legal, financial, or real interests in the vessel, or exercises control over it and that the new owner has not participated in IUU fishing; or
 - (iv) it has taken measures considered sufficient to ensure the granting of the right to the vessel to fly its flag will not result in IUU fishing.
19. In order to facilitate the work of SCIC and the Commission, the Executive Secretary shall prepare a paper for each CCAMLR annual meeting, summarising and annexing all the information, evidence and comments submitted in respect of each vessel to be considered.
20. The Draft NCP-IUU Vessel List, Provisional NCP-IUU Vessel List, Proposed NCP-IUU Vessel List and the NCP-IUU Vessel List shall contain the following details:
 - (i) name of vessel and previous names, if any;
 - (ii) flag of vessel and previous flags, if any;
 - (iii) owner of vessel and previous owners including beneficial owners, if any;

- (iv) operator of vessel and previous operators, if any;
 - (v) call sign of vessel and previous call signs, if any;
 - (vi) Lloyds/IMO number;
 - (vii) photographs of the vessel, where available;
 - (viii) date vessel was first included on the NCP-IUU Vessel List;
 - (ix) summary of activities which justify inclusion of the vessel in the List, together with references to all relevant documents informing of and evidencing those activities;
 - (x) date and location of subsequent sightings of the vessel in the Convention Area, if any, and of any other related activities performed by the vessel contrary to CCAMLR conservation measures;
 - (xi) an indication of whether the Flag State of the vessel has given permission to one or several Contracting parties to inspect the vessel.
21. On approval of the NCP-IUU Vessel List, the Commission shall request non-Contracting Parties whose vessels appear thereon to take all necessary measures to address these activities, including if necessary, the withdrawal of the registration or of the fishing licences of these vessels, the nullification of the relevant catch documents and denial of further access to the CDS, and to inform the Commission of the measures taken in this respect.
22. Contracting Parties shall take all necessary measures, subject to and in accordance with their applicable laws and regulations and international law, in order that:
- (i) the issuance of a licence to vessels on the NCP-IUU Vessel List to fish in waters under their fisheries jurisdiction is prohibited;
 - (ii) fishing vessels, support vessels, refuel vessels, mother-ships and cargo vessels flying their flag do not in any way assist vessels on the NCP-IUU Vessel List by participating in any transshipment or joint fishing operations, supporting or resupplying such vessels;
 - (iii) vessels on the NCP-IUU Vessel List should be denied access to ports unless for the purpose of enforcement action or for reasons of *force majeure* or for rendering assistance to vessels, or persons on those vessels, in danger or distress. Vessels allowed entry to port are to be inspected in accordance with relevant conservation measures;
 - (iv) where port access is granted to such vessels:
 - (a) documentation and other information, including DCDs where relevant are examined, with a view to verifying the area in which the catch was taken; and where the origin cannot be adequately verified, the catch is detained or any landing or transshipment of the catch is refused; and

- (b) where possible
 - i. in the event catch is found to be taken in contravention of CCAMLR conservation measures, catch is confiscated;
 - ii. all support to such vessels, including non-emergency refuelling, resupplying and repairs is prohibited;
 - (v) the chartering of vessels on the NCP-IUU Vessel List is prohibited;
 - (vi) granting of their flag to vessels on the NCP-IUU Vessel List is refused;
 - (vii) imports, exports and re-exports of *Dissostichus* spp. from vessels on the NCP-IUU Vessel List are prohibited;
 - (viii) 'Export or Re-export Government Authority Validation' is not certified when the shipment (of *Dissostichus* spp.) is declared to have been caught by any vessel on the NCP-IUU Vessel List;
 - (ix) importers, transporters and other sectors concerned are encouraged to refrain from dealing with and from transshipping of fish caught by vessels on the NCP-IUU Vessel List;
 - (x) any appropriate information which is suitably documented is collected and submitted to the Executive Secretary, to be forwarded to Contracting Parties and non-Contracting Parties, entities or fishing entities cooperating with the Commission by participating in the CDS, with the aim of detecting, controlling and preventing the importation or exportation of, and other trade-related activities relating to, catches from vessels on the NCP-IUU Vessel List intended to circumvent this conservation measure.
23. The Executive Secretary shall place the NCP-IUU Vessel List approved by the Commission on the public section of the CCAMLR website. Furthermore, the Executive Secretary shall communicate the NCP-IUU Vessel List to the FAO and appropriate regional fisheries organisations to enhance cooperation between CCAMLR and these organisations for the purposes of preventing, deterring and eliminating IUU fishing.
24. The Executive Secretary shall circulate to non-Contracting Parties cooperating with the Commission by participating in the CDS the NCP-IUU Vessel List, together with the request that, to the extent possible in accordance with their applicable laws and regulations, they do not register vessels that have been placed on the List unless they are removed from the List by the Commission.
25. If Contracting Parties obtain new or changed information for vessels on the NCP-IUU Vessel List in relation to the details in paragraphs 20(i) to (vii), they shall notify the Executive Secretary who shall place a notification on the secure section of the CCAMLR website and advise all Contracting Parties and the non-Contracting Party concerned of the notification. If there are no comments on the information within seven (7) days, the Executive Secretary will revise the NCP-IUU Vessel List.

26. Without prejudice to their rights to take proper action consistent with international law, Contracting Parties should not take any trade measures or other sanctions which are inconsistent with their international obligations against vessels using as the basis for the action the fact that the vessel or vessels have been included in the Draft NCP-IUU Vessel List drawn up by the Executive Secretary, pursuant to paragraph 10.
27. The Chair of the Commission shall request the non-Contracting Parties identified pursuant to paragraph 1 to take all necessary measures to avoid diminishing the effectiveness of CCAMLR conservation measures resulting from their vessels' activities, including, if necessary, withdrawal of a vessel's registration or fishing licence, nullification of the relevant CDS documents and denial of further access to the CDS, and to advise the Commission of actions taken in that regard.
28. Contracting Parties shall jointly and/or individually request non-Contracting Parties identified pursuant to paragraph 2 to cooperate fully with the Commission in order to avoid diminishing the effectiveness of conservation measures adopted by the Commission. Contracting Parties shall notify the CCAMLR Secretariat of any response received from non-Contracting Parties, particularly information on measures taken by non-Contracting Parties to improve the effectiveness of CCAMLR conservation measures. Such information shall be placed online in the password-protected section of the CCAMLR website, under the heading 'SCIC Information/Diplomatic actions undertaken with regard to IUU fishing' (www.ccamlr.org/prm/cc/scic/dipacts.htm). A list of the non-Contracting Parties having authorised one or several Contracting Parties to inspect their vessel(s) in accordance with the CCAMLR System of Inspection, or having reported any other measure taken with regard to vessels flying their flag likely to facilitate their inspection within the CCAMLR Area, shall also be included.
29. The Commission shall review, at subsequent CCAMLR annual meetings, as appropriate, action taken by those non-Contracting Parties to which requests have been made pursuant to paragraph 26, and identify those which have not rectified their activities.
30. The Commission shall decide appropriate measures to be taken in respect to *Dissostichus* spp. so as to address these issues with those identified non-Contracting Parties. In this respect, Contracting Parties may cooperate to adopt appropriate multilaterally agreed trade-related measures, consistent with their obligations as members of the World Trade Organization, that may be necessary to prevent, deter and eliminate the IUU activities identified by the Commission. Multilateral trade-related measures may be used to support cooperative efforts to ensure that trade in *Dissostichus* spp. and its products does not in any way encourage IUU fishing or otherwise diminish the effectiveness of CCAMLR's conservation measures which are consistent with the United Nations Convention on the Law of the Sea 1982.