

OBSERVATION AND INSPECTION

8.1 The Chairman of SCOI, Dr W. Figaj (Poland) presented the Committee's report to the Commission. The report of SCOI is appended as Annex 5.

8.2 The Chairman of SCOI expressed his gratitude to all Members for their most constructive contribution to the Committee deliberations, in particular on the issue of illegal, unreported and unregulated fishing in the Conventions Area.

8.3 The report of SCOI was endorsed in general. In considering the report Members made the following comments which are reflected below.

8.4 In considering implementation of Conservation Measures in the 1996/97 season, Uruguay added that amongst other provisions, measures adopted by Uruguay require that all vessels of its flag intending to fish in the Convention Area hold a 'Fishing Permit' issued by the Ministry of Livestock, Agriculture and Fisheries, through the National Fisheries Institute in accordance with the Inter-Ministerial Commission of CCAMLR Affairs. In order to obtain a permit operators must give a written commitment to comply with conservation measures in force concerning catch limits, species and fishing areas, as well as with the System of Inspection as appropriate. The main reason Uruguay did not authorise its vessels to be present in the Convention Area in the past season was that provisions currently in force (SCOI-97/15) had not yet been approved.

8.5 In considering Coastal State, Port State and Flag State cooperation in combating illegal fishing activities, Chile addressed paragraph 1.47 of the report, seeking further clarification and explanation of its position. Chile valued the reference in ASOC's paper (CCAMLR-XVI/BG/38) to additional international instruments which were not discussed but indicated a trend in international law. The reference to cooperation within the framework of the 1995 Straddling Stock Agreement was better directed to compliance than to enforcement; and the reference to articles in the Agreement could be enlarged to encompass Articles 19 to 23 since all of them contained provisions that might prove useful in attempting to control illegal fishing activities that undermine conservation measures.

8.6 The Commission then considered all recommendations made by SCOI to the Commission.

Illegal, Unregulated and Unreported Fishing in the Convention Area

8.7 Several recommendations were made in the form of proposed conservation measures. Chile noted that although the usual procedure of previous advice by the Scientific Committee had not been followed, due to the political nature of the matter (Article X) these draft measures fell within the objective of conservation under Article XI.2(i). Members agreed with that assessment and generally supported casting these SCOI recommendations as conservation measures even though some of them expressed that they could also support any form of presentation of these measures as long as it was binding in its nature.

8.8 Amendments and editorial changes were proposed and, after revision, the following conservation measures dealing with the issue of illegal, unreported and unregulated fishing in the Convention Area, were adopted by the Commission (Annex 5, paragraphs 1.22 and 1.41):

- (i) Conservation Measure 118/XVI 'Scheme to Promote Compliance by non-Contracting Party Vessels with CCAMLR Conservation Measures' (Annex 5, Appendix III);
- (ii) Conservation Measure 119/XVI 'Requirement for Contracting Parties to Licence their Flag Vessels in the Convention Area' (Annex 5, Appendix IV); and
- (iii) Conservation Measure 120/XVI 'Prohibition of Directed Fishing for *Dissostichus* spp. except in Accordance with Specific Conservation Measures' (Annex 5, Appendix V).

8.9 With regard to concerted political action which may be taken by the Commission and by individual Members, vis-a-vis non-Contracting Parties, the Commission approved the SCOI recommendation to continue the existing procedures of transmitting the CCAMLR Commission's concerns to the attention of non-Contracting Parties, by means of a letter from the Chairman of the Commission (Annex 5, paragraph 1.23). The text of the agreed letter is given in Annex 6 (Letter I).

8.10 The Commission also agreed to invite the Governments of Mauritius and Namibia to participate as observers at the Seventeenth Meeting of the Commission with a view to encouraging these States to accede to the Convention and also to cease providing port or landing facilities for vessels which carried out unregulated fishing in the Convention Area (Annex 5, paragraph 1.24). For details see paragraphs 5.36 and 5.37.

8.11 In considering trade-related measures the Commission amended a recommendation proposed by SCOI and adopted it as follows (Annex 5, paragraph 1.39) Members should:

- (i) collect information related to trade of *Dissostichus* spp. in order to better understand the international flows (including where it is landed, transhipped or imported and under what product names it is being marketed); and
- (ii) provide that information to the Secretariat for distribution to Members for consideration in advance of the next annual meeting of CCAMLR.

8.12 Bearing in mind Articles 19 to 23 of the 1995 UN Straddling Stock Agreement, the Commission agreed that an exchange of information should be established by CCAMLR on all vessels known to have fished in contravention of CCAMLR conservation measures (Annex 5, paragraph 1.48).

8.13 The following recommendations of SCOI were endorsed by the Commission:

- (i) Members are urged to consider the acceptance of the 1993 FAO Compliance Agreement, noting that it would contribute to the elimination of unregulated fishing by non-Contracting Parties (Annex 5, paragraph 1.45);

- (ii) the Secretariat is requested to research other measures to combat illegal, unregulated or unreported fishing and report them for consideration at CCAMLR-XVII (Annex 5, paragraph 1.50); and
- (iii) all Contracting Parties are requested to submit to the Secretariat any suggestions or information they might have in regard to (ii) above for inclusion in the Secretariat's report to CCAMLR-XVII (Annex 5, paragraph 1.50).

8.14 Several amendments to the System of Inspection, recommended by SCOI, were adopted by the Commission (Annex 5, paragraphs 1.53, 1.59, 1.61 and 1.62). These amendments relate to paragraphs VIII(d) and (e), paragraph IV (change of nomenclature for the expression 'home port') and paragraph XI. France expressed a reservation regarding the application of the abovementioned amendments to paragraphs VIII(d) and (e) and IV of the System of Inspection to waters adjacent to Crozet and Kerguelen Islands². New subparagraphs to paragraph IV and paragraphs XII, XIII and XIV were also added. These amendments were adopted by the Commission without any changes.

Operation of the System of Inspection and Compliance with Conservation Measures

8.15 In respect of responsibility to report and assign catch, the Commission endorsed the general principle that Flag State Members are responsible for reporting, and will have assigned to them for the purposes of Article XIX.3 of the Convention, catches taken by their vessels on the high seas in the Convention Area. However, in cases of vessel charter between Members of the Commission, the Flag State and the State whose nationals control the vessel's operations may agree otherwise in respect of the responsibility for catch reporting and the attribution of the catch for the purposes of Article XIX.3 of the Convention (Annex 5, paragraph 2.10).

8.16 The Commission requested Members to provide information on such agreements to the Secretariat as soon as they are concluded (Annex 5, paragraph 2.11).

8.17 The Commission reiterated its decision that, in the case of joint ventures where one party is not a Member of CCAMLR, the party which is a Member of CCAMLR would be expected to assume responsibility for reporting data and ensuring compliance with conservation measures (CCAMLR-XII, paragraph 4.15).

8.18 The Commission considered the recommendation of SCOI with regard to the matter of non-compliance with the provisions of Conservation Measures 29/XV and 63/XV under its agenda item 'Assessment and Avoidance of Incidental Mortality of Antarctic Marine Living Resources' (see paragraphs 6.42 to 6.49).

² In correspondence dated 20 January 1998, France indicated that it wished to withdraw the reservation mentioned in paragraph 8.14 as not being necessary given that the Systems of Inspection and International Scientific Observation provided for in the Convention do not in any case apply to the waters around the Crozet and Kerguelen Islands unless France agrees that this be so, which is not anticipated at present (see the Statement made by the Chairman of the Conference on Conservation of Antarctic Marine Living Resources on 19 May 1980, *CCAMLR Basic Documents 1995*, and France's statement in paragraph 7.23 of the Report of the Fourteenth Meeting of the Commission).

Operation of the Scheme of International Scientific Observation

8.19 The Commission noted the significant role and contribution of CCAMLR scientific observers and agreed that there should be 100% observer coverage for all new and exploratory fisheries and fisheries for *C. gunnari*, *Dissostichus* spp. and *M. hyadesi* (Annex 5, paragraph 3.8).

8.20 The Commission noted the considerable benefits of having information on vessels fishing in the Convention Area in contravention of CCAMLR conservation measures. It also noted that international scientific observers might assist in this regard. While the Commission welcomed any information from observers, it agreed that caution was required to ensure that observers did not become involved in inspection or compliance related functions. As a means of exploring this matter further, the Commission asked Members to consider intersessionally the extent to which it would be appropriate to involve scientific observers in collecting such data and asked that SCOI consider this matter further at its next meeting and provide advice to the Commission. The Scientific Committee was also asked to examine to what extent collecting such data might compromise the other duties of the scientific observers.

8.21 The amendments proposed by SCOI to paragraphs A and C of the Scheme of International Scientific Observation were endorsed (Annex 5, paragraph 3.10). France expressed a reservation with regard to the application of these amendments to the waters adjacent to Crozet and Kerguelen Islands³.

8.22 The Chairman of the Scientific Committee drew the attention of the Commission to paragraphs 3.11 and 3.25 of the Scientific Committee report (SC-CAMLR-XVI) on duplication in the submission of fisheries biological data by Flag States and by Members designating scientific observers. There has been duplication in reporting the length composition measurements which each Contracting Party obtains from each of its vessels (Form B2, e.g. Conservation Measure 117/XV) and the data collected by scientific observers (e.g. logbooks for trawl and longline fisheries). In a number of cases the Secretariat received two sets of data, one of which was an exact repetition of another set. Other times they differed slightly. This duplication resulted in extra work for the Secretariat on the verification of data sources.

8.23 It was decided that duplication should be avoided. If a vessel does not collect fisheries biological data and chooses to copy data collected by the scientific observer, the source of data should be clearly indicated. On vessels without scientific observers, the collection and submission of these data to the Commission remains the responsibility of the Flag State.

General Matters

8.24 The Commission further endorsed the following requests of SCOI (Annex 5, paragraphs 6.1 to 6.3):

³ In correspondence dated 20 January 1998, France indicated that it wished to withdraw the reservation mentioned in paragraph 8.21, for the same reason as is indicated in the footnote to paragraph 8.14.

- (i) the Secretariat be requested to compile and circulate to Members a schedule of all information to be provided by Members and deadlines for submission in accordance with Conservation Measures 31/X and 65/XII, the System of Inspection and the Scheme of International Scientific Observation;
- (ii) the Executive Secretary be requested to write, at the conclusion of CCAMLR-XVI, a letter to all regional fisheries organisations with which CCAMLR cooperates, to inform them of all CCAMLR initiatives with respect to illegal, unreported and unregulated fishing in the CCAMLR Convention Area; and
- (iii) the Secretariat be asked to examine the feasibility of making vessel notification information available on the proposed World Wide Web site, in addition to the present means of distribution by Commission circular. If such a proposal proves feasible, the Secretariat would, following consultation with Members, implement this approach.

8.25 The Commission congratulated Mr G. Bryden (New Zealand) on his election as Vice-Chairman of the Committee from the end of this meeting to the end of the Committee meeting in 1999.