

CCAMLR-XXI

**COMMISSION FOR THE CONSERVATION OF
ANTARCTIC MARINE LIVING RESOURCES**

**REPORT OF THE TWENTY-FIRST MEETING
OF THE COMMISSION**

HOBART, AUSTRALIA
21 OCTOBER – 1 NOVEMBER 2002

CCAMLR
PO Box 213
North Hobart 7002
Tasmania AUSTRALIA

Telephone: 61 3 6231 0366
Facsimile: 61 3 6234 9965
Email: ccamlr@ccamlr.org
Website: www.ccamlr.org

Chair of the Commission
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Abstract

This document is the adopted record of the Twenty-first Meeting of the Commission for the Conservation of Antarctic Marine Living Resources held in Hobart, Australia from 21 October to 1 November 2002. Major topics discussed at this meeting include: review of the Report of the Scientific Committee; illegal, unreported and unregulated fishing in the Convention Area; assessment and avoidance of incidental mortality of Antarctic marine living resources; new and exploratory fisheries; current operation of the System of Inspection and the Scheme of International Scientific Observation; compliance with conservation measures in force; review of existing conservation measures and adoption of new conservation measures; management under conditions of uncertainty; and cooperation with other international organisations including the Antarctic Treaty System and CITES. The Reports of the Standing Committee on Administration and Finance and the Standing Committee on Observation and Inspection are appended.

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REPORT OF THE TWENTY-FIRST MEETING OF THE COMMISSION

(Hobart, Australia, 21 October to 1 November 2002)

OPENING OF THE MEETING

1.1 The Twenty-first Annual Meeting of the Commission for the Conservation of Antarctic Marine Living Resources was held in Hobart, Tasmania, Australia, from 21 October to 1 November 2002, chaired by Dr N. Sasanelli (Italy).

1.2 All 24 Members of the Commission were represented: Argentina, Australia, Belgium, Brazil, Chile, European Community, France, Germany, India, Italy, Japan, Republic of Korea, Namibia, New Zealand, Norway, Poland, Russian Federation, South Africa, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

1.3 Other Contracting Parties, Bulgaria, Canada, Finland, Greece, Netherlands, Peru and Vanuatu, were invited to attend the meeting as observers, but were not represented.

1.4 The Antarctic and Southern Ocean Coalition (ASOC), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Commission on the South Pacific (CPPS), the Committee for Environmental Protection (CEP), the Food and Agriculture Organisation of the United Nations (FAO), the Forum Fisheries Agency (FFA), the Inter-American Tropical Tuna Commission (IATTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Intergovernmental Oceanographic Commission (IOC), the World Conservation Union (IUCN), the International Whaling Commission (IWC), the Scientific Committee on Antarctic Research (SCAR), the Scientific Committee on Oceanic Research (SCOR), the Secretariat of the Pacific Community (SPC) and the United Nations Environment Programme (UNEP) were also invited to attend the meeting as observers. ASOC, CEP, FAO, IOC, IUCN, IWC and SCAR attended.

1.5 It was agreed at last year's meeting to invite to CCAMLR-XXI as observers the following non-Contracting Parties: Angola, Belize, People's Republic of China, Columbia, Indonesia, Madagascar, Malaysia, Mauritius, Mexico, Mozambique, Panama, Philippines, Sao Tome and Principe, Seychelles, Singapore, St Vincent and Grenadines, Thailand and Togo (CCAMLR-XX, paragraphs 17.1 and 17.2). These countries were known to have an interest in fishing for, or trade in, *Dissostichus* spp. The People's Republic of China, Mauritius, Mozambique and Seychelles were represented at the meeting. As the Secretariat had not been able to establish contacts with appropriate persons within the Governments of Madagascar and Togo, it had not been possible to issue invitations to these countries.

1.6 The List of Participants is given in Annex 1. The List of Documents presented to the meeting is given in Annex 2.

1.7 The Chair welcomed all Members and observers to the meeting, particularly Mozambique which was being represented for the first time as a non-Contracting Party. He noted that during the course of the meeting, delegates from the 24 Member countries would work intensely on the protection of Antarctic marine living resources, the preservation and well being of which is vital to the health of the planet in the future.

1.8 The Chair wished to thank the Australian Government and the State of Tasmania for their support of, and contribution to, CCAMLR. In particular this year, the Governor and the Premier of Tasmania had visited the Secretariat offices and hosted functions to welcome the new Executive Secretary and celebrate the 20th anniversary of the signing of the Convention.

1.9 The Chair then had the honour of introducing His Excellency the Honourable Sir Guy Green, AC, KBE, Governor of Tasmania.

1.10 His Excellency extended a welcome to all delegates to Tasmania. In his address he spoke of the entrenchment in Tasmania's history and culture for some 180 years of the Antarctic, sub-Antarctic and Southern Ocean. This involvement had been reinforced with the inauguration of the Tasmanian Mid-winter Festival which had included two lectures on the Southern Ocean, one of which was given by the Executive Secretary, Dr D. Miller.

1.11 His Excellency expressed Tasmanians' feelings of close attachment to CCAMLR and their pleasure in having the Secretariat's home in Hobart. On a visit to the Secretariat earlier in the year he had been greatly impressed by its organisation and professionalism, personal commitment and collegiality. It had been his pleasure to host a reception for the staff to mark the 20th anniversary of the coming into force of the Convention.

1.12 His Excellency said he continued to be impressed by the Commission's efforts to combat illegal, unregulated and unreported fishing for toothfish. He was pleased to see the continued success of the innovative and well thought out Catch Documentation Scheme which was being seen as a model for other international regulatory regimes. He also congratulated all those involved in the CCAMLR website, which is now not only a useful tool for the Scientific Committee, but also a most valuable resource for the wider international community.

1.13 Another aspect of CCAMLR's work which His Excellency saw as an example for others to follow, was the way in which the Commission has formulated and applied the 'precautionary principle', a term which had been routinely misused by environmental and scientific forums all over the world. The careful, disciplined program for determining precautionary limits which CCAMLR has devised stands in marked contrast to the casual application of the principle in programs of environmental management found elsewhere.

1.14 His Excellency concluded his address on a personal note. His interest and involvement with CCAMLR began in 1983 as Lieutenant-Governor and increased following his appointment as Governor. He said it had been his privilege to be associated with CCAMLR and to have the opportunity of meeting the able and agreeable people who have dedicated themselves to its work. His Excellency's term as Governor will come to an end before the next meeting. So, as this was the last time he would address this forum, and being conscious of Article XVIII of the Convention, His Excellency bid farewell by saying:

'merci et adieu
gracias y adiós
spaseeba ee da svedanja
Thank you and goodbye'.

ORGANISATION OF THE MEETING

Adoption of the Agenda

2.1 The Provisional Agenda (CCAMLR-XXI/1) which had been distributed prior to the meeting was adopted without amendment; the agenda is given in Annex 3.

2.2 The Chair referred Agenda Items 3 and 15 to the Standing Committee on Administration and Finance (SCAF), and Agenda Items 5 and 8 to the Standing Committee on Observation and Inspection (SCOI). The reports of SCAF and SCOI are given in Annexes 4 and 5 respectively.

Report of the Chair

2.3 The Chair reported on intersessional activities. He informed the meeting that there had been no change in CCAMLR's membership. He also reported that the Commission had not experienced the budgetary problems of recent years; this being largely attributable to the improving exchange rate of the Australian dollar against the US dollar.

2.4 Two Scientific Committee working groups had met during the intersessional period; details of these meetings are elaborated under Agenda Item 4.

2.5 For the 2001/02 season 29 inspectors had been designated, in accordance with the CCAMLR System of Inspection, by Australia, Chile, New Zealand and the UK. Six reports were received from CCAMLR-designated inspectors, all from the UK.

2.6 Under the CCAMLR Scheme of International Scientific Observation, observers were on board all vessels fishing for toothfish, icefish or crab. A number of observers were also deployed on vessels fishing for krill.

2.7 During the 2001/02 season CCAMLR Members had actively participated in eight fisheries in the Convention Area. Vessels fishing in fisheries managed under conservation measures in force in 2001/02 had reported by 18 October 2002 a total of 118 705 tonnes of krill, 8 908 tonnes of toothfish, 3 620 tonnes of icefish and 113 tonnes of crab; other species were taken as by-catch. In addition, fishing took place inside the South African Exclusive Economic Zone (EEZ) in Subareas 58.6 and 58.7, and inside the French EEZ in Division 58.5.1 and Subarea 58.6.

2.8 The Catch Documentation Scheme for *Dissostichus* spp. (CDS) has been in operation for over two years and, in addition to CCAMLR Members, it now includes the participation of four non-Contracting Parties to CCAMLR: the People's Republic of China, Mauritius, Seychelles and Singapore. Indonesia has certified a number of toothfish landings in the port of Jakarta, but has not yet formally notified CCAMLR of its participation in the CDS. The total number of catch documents (i.e. landing, export and re-export documents) received and processed by the Secretariat (as at 1 October 2002) is 14 363. In addition, a mechanism has been set up to administer a special fund (the 'CDS Fund') to promote development of, and improvement in implementing, the CDS.

2.9 During the year, the Commission and the Scientific Committee had been represented by observers at a number of international meetings (sections 13 and 14; SC-CAMLR-XXI, section 9).

FINANCE AND ADMINISTRATION

3.1 The Commission received the report of SCAF (Annex 4) outlining the results of its discussions, and noted the recommendations for decision by the Commission.

Examination of Audited Financial Statements for 2001

3.2 Noting that a full audit had been carried out on the 2001 Financial Statements and that an unqualified report had been provided by the auditor, the Commission accepted the audited Financial Statements for 2001.

Audit Requirements for the 2002 and 2003 Financial Statements

3.3 As a full audit had been performed on the 2001 Financial Statements, the Commission decided that only a review audit was required for the 2002 Financial Statements (see also paragraph 3.12).

3.4 The Commission appointed the Australian National Audit Office as its auditor for the 2002 and 2003 Financial Statements.

Review of Budget for 2002

3.5 The Commission noted that it was not anticipated that the budgeted expenditure for the year would be exceeded, and that Other Income would be higher than budgeted.

3.6 As a result, the Commission agreed that the budget for 2002 should be revised as presented in Annex 4, Appendix II, including an increase in the amount transferred to the Contingency Fund.

3.7 As advised by SCAF, the Commission endorsed expenditure from Special Funds in 2002: A\$14 000 was required from the CDS Special Fund in respect of the development of an electronic CDS, and A\$15 400 from the Compliance and Enforcement Special Fund for representation by the Secretariat at an FAO consultation on the development of model catch documentation and reporting measures.

Members' Contributions

3.8 The Commission noted the advice of SCAF that contributions for 2002 from two Members were currently still outstanding. One Member had not fully paid its contribution for 2001 by the date that the 2002 contribution was payable and was therefore in default under Article XIX.6 of the Convention.

Accrual Accounting

3.9 The Commission endorsed the change to an accrual accounting basis for the Commission's budget which will bring the Commission's accounting procedures into line with preferred international practice and with advice from the Commission's auditor.

3.10 As a result, the Commission agreed that Financial Regulation 5.2 should be amended as presented in Annex 4, paragraph 23.

Budget Format

3.11 The Commission agreed that the revised form of budget presentation as applied in Annex 4, Appendix III should be adopted. It noted that this format better facilitates allocation of resources between functions as identified in the Secretariat Strategic Plan.

3.12 In light of the agreed changes to accrual accounting and the revised budget format, the Commission anticipated that it would require a full audit on the 2003 Financial Statements.

Secretariat Strategic Plan

3.13 The Commission noted the establishment of a Secretariat Strategic Plan and its positive implications for the continuing ability of the Secretariat to support the work of the Commission and Scientific Committee. It endorsed the recommendations of SCAF that this plan completes all remaining outstanding matters resulting from the 1997 Management Review of the Secretariat and that it should be used for future annual appraisals of the performance of the Executive Secretary.

Authority of Executive Secretary

3.14 The Commission confirmed the Executive Secretary's authority in respect of representing the Commission in correspondence and at meetings of other organisations as presented in Annex 4, paragraphs 11 and 12.

Secretariat Staff

3.15 The Commission noted the advice of SCAF that, following the implementation of the Secretariat Strategic Plan, the Secretariat is developing a standard staff contract which will be given appropriate legal scrutiny to ensure that the rights and responsibilities of both the Commission and its employees are covered. It agreed that budgetary provision of up to A\$7 000 should be allocated to this task.

3.16 SCAF advised the Commission that the Secretariat would be continuing the strategic planning process through to a review of all General Service staff rates of pay during 2003 and that the results of this review, together with any potential budget implications, would be reported to next year's meeting. The Commission confirmed that, subject to budget restrictions, the Executive Secretary had the authority to revise the gradings of individual General Service staff.

3.17 Noting the concerns of SCAF on the possible high cost of an independent review of the Professional Staff salary structure, the Commission requested Members to investigate the possibilities of supplying suitable experts for this purpose and to report back to next year's meeting in order that a review might be performed in 2004. The Commission decided not to consider the possibility of extending the Education Grant to include university attendance until after such a review is complete.

3.18 To encourage the recruitment of the best possible Professional Staff, the Commission agreed that these should be attracted equally from all Member States. In this regard it requested the Secretariat to draft, for consideration at next year's meeting, procedures to facilitate the appropriate dissemination of information about positions vacant.

3.19 The Commission endorsed the recommendation of SCAF that it provide appropriate insurance coverage for internationally recruited staff members and their dependants who are not entitled to participate in the Australian basic medical cover system.

Contingency Fund

3.20 As a Contingency Fund was established in 2002 to enable unforeseen and extraordinary expenditure to be covered intersessionally, the Commission agreed to the definitions of such expenditure and to terms of use of the Fund as proposed by SCAF in Annex 4, paragraphs 20 and 21.

Cost Recovery

3.21 The Commission was advised by SCAF that, as a consequence of the high number of applications for new and exploratory fisheries, many of which are not subsequently prosecuted, a proposal had been tabled by the European Community on the possibility of charging for each such application. It noted that, although there was acceptance of the principle in general, some issues had not been resolved. In view of this, the Commission requested that the Scientific Committee and Secretariat provide advice to its next meeting on

time and monetary costs associated with such applications in order that these may be further considered in the light of the proposal tabled and any other suggestions that Members may wish to submit.

Future Meeting Arrangements

3.22 The Commission, in recognising the limitations in Hobart of suitable meeting venues and noting the positive results of Secretariat investigations into the possible development of a venue within the Commission's Headquarters building, endorsed the recommendation of SCAF that the Secretariat pursue this opportunity further.

3.23 The Commission established a Project Oversight Team with authority to further the project while keeping within the guidelines presented in Annex 4, paragraph 28. In addition to representatives from Members who wish to participate, the team will comprise the Secretariat and, from time to time and as required, Australian and Tasmanian Government representatives. The Commission noted that Australia and Germany had agreed to be represented in this team.

3.24 The Commission agreed that the Terms of Reference, as set out in Annex 4, paragraph 30, should be applied to the team.

3.25 The Commission also noted that the viability of such a development to any potential developer would require a long-term commitment from the Commission, possibly up to 12 years.

3.26 The Commission noted the provisional booking of the current venue for 2003 and agreed that a larger meeting room for the operation of SCOI should be sought.

Budget for 2003

3.27 The Commission noted that the SCAF meeting had concluded before receiving advice from SCOI, but that subsequent advice from SCOI to the Commission had indicated no additional budgetary requirements from the General Fund. It accepted for inclusion in the 2003 budget, the budget of the Scientific Committee and the specific items of expenditure which the Scientific Committee had requested be included in the Commission's own budget.

3.28 Keeping in mind the Commission's aim of zero real budgetary growth and noting Germany's and Russia's aim for zero nominal growth, the Commission endorsed the recommendation that the increase in budgetary expenditure be compensated for by limiting the amount to be transferred to the Contingency Fund.

3.29 The Commission noted that provision for the travel of the Executive Secretary and Science Officer to attend a conference on the governance of deep-sea fisheries, 'Deep Sea 2003', was included in the budget proposed by SCAF and therefore adopted the 2003 budget as set out in Annex 4, Appendix III.

3.30 In accordance with Financial Regulation 5.6, the Commission granted Argentina, Belgium, Japan, Russia, Spain and Uruguay an extension to the deadline for the payment of 2003 contributions. It noted the advice of other Members that continued efforts should be made to resolve these procedural difficulties in future years and that SCAF will continue to consider the possibility of charges for late payment, or other means of encouraging earlier payment.

3.31 The proposal for a centralised vessel monitoring system (VMS) as presented by Australia (CCAMLR-XXI/21) was deferred to CCAMLR-XXII.

Forecast Budget for 2004

3.32 The Commission noted that the forecast budget for 2004, as presented in Annex 4, Appendix III, does not include A\$12 000 which the Scientific Committee has advised may be required for the provision of language assistance.

3.33 It also noted the financial implications that new projects initially funded from the CDS Fund may have on the General Fund in future years.

CDS Fund

3.34 The Commission noted the endorsement by SCAF of advice received from the CDS Fund Review Panel regarding further expenditure from the fund during 2003. The Commission agreed to this expenditure as outlined in Annex 4, paragraph 39.

3.35 The Commission noted that the procedures established for expenditure from the CDS Fund set out in Conservation Measure 10-05 (2002), Annex 10-05/B must be adhered to.

SCIENTIFIC COMMITTEE

4.1 The Chair of the Scientific Committee, Dr R. Holt (USA) presented the report of the Scientific Committee (SC-CAMLR-XXI). The Commission noted the general recommendations, advice, research and data requirements of the Scientific Committee. Substantive matters arising from the deliberations of the Scientific Committee were discussed under other parts of the Commission's agenda: CCAMLR Scheme of International Scientific Observation (section 5); incidental mortality and marine debris (section 6); IUU fishing (section 8); new and exploratory fisheries (section 9); management under uncertainty (section 12); and cooperation with other international organisations (section 14). The Commission thanked Dr Holt for his comprehensive report.

4.2 The Commission also congratulated Dr Holt on his unanimous re-election to the Chair of the Scientific Committee for a second term starting at the conclusion of this year's meeting.

Intersessional Activities

4.3 The following meetings were held during the 2001/02 intersessional period:

- The eighth meeting of the Working Group on Ecosystem Monitoring and Management (WG-EMM) was held from 5 to 16 August 2002 in Big Sky, Montana, USA. It was convened by Dr R. Hewitt (USA) and was attended by 39 participants, representing 11 Members.
- The Interim Steering Committee for the Review of CEMP met in Big Sky on 3 August 2002 immediately prior to the WG-EMM meeting. It was convened by Prof. J. Croxall (UK).
- The Workshop on Small-scale Management Units, such as Predator Units (SSMU Workshop), was held from 7 to 15 August 2002 in conjunction with the WG-EMM meeting. It was convened by Dr W. Trivelpiece (USA).
- The meeting of the Working Group on Fish Stock Assessment (WG-FSA) was held from 7 to 17 October 2002 in Hobart prior to the Scientific Committee meeting. It was convened by Dr I. Everson (UK).
- The ad Hoc Working Group on Incidental Mortality Arising from Fishing (WG-IMAF) conducted its meeting as part of WG-FSA. It was convened by Prof. Croxall.

The Commission joined the Scientific Committee in thanking the conveners of these working groups and workshops for their contributions to the work of CCAMLR.

Ecosystem Monitoring and Management

Feedback Management Scheme for Krill

4.4 The Commission noted the progress which the Scientific Committee and WG-EMM had made towards the development of a feedback management scheme for krill, and in particular:

- (i) the delineation of small-scale management units (SSMUs) for the krill fishery in Area 48 (SC-CAMLR-XXI, paragraph 3.4);
- (ii) the continuing work on the subdivision of large CCAMLR statistical areas into ecologically-based harvesting units, which may be further defined as those areas over which CCAMLR conservation objectives, will need to be achieved (SC-CAMLR-XXI, paragraph 3.15); and
- (iii) the elaboration of a long-term work plan which included the review of CEMP to be conducted during the 2003 meeting of WG-EMM (SC-CAMLR-XXI, paragraph 3.4).

4.5 The Commission endorsed the delineation of SSMUs proposed by the Scientific Committee, namely:

- (i) Subarea 48.1
 - (a) 48.1 Pelagic Area
 - (b) 48.1 Land-based Predator Area
 - (i) Western Antarctic Peninsula
 - (ii) Drake Passage
 - 1. West
 - 2. East
 - (iii) Bransfield Strait
 - 1. West
 - 2. East
 - (iv) Elephant Island
- (ii) Subarea 48.2
 - (a) 48.2 Pelagic Area
 - (b) 48.2 Land-based Predator Area
 - (i) West South Orkney
 - (ii) East South Orkney
 - 1. North
 - 2. South
- (iii) Subarea 48.3
 - (a) 48.3 Pelagic Area
 - (b) 48.3 Land-based Predator Area
 - (i) West South Georgia
 - (ii) East South Georgia.

4.6 The Commission agreed that these units be used as a basis on which to subdivide the precautionary catch limit for krill in Area 48. It was noted that the Scientific Committee will undertake this task as part of its long-term work plan (SC-CAMLR-XXI, paragraph 3.20 and Table 1).

4.7 The Commission also agreed that these units may be useful in developing management procedures for krill fisheries that can adequately account for localised effects on krill predators.

4.8 The Commission noted that:

- (i) this assessment is the first of its kind in CCAMLR;
- (ii) this assessment used a variety of datasets that enabled the detailed analyses presented here, such that deficiencies in one dataset could be compensated by strengths in others;
- (iii) fine-scale fisheries data were very important to the success of this assessment;

- (iv) a number of uncertainties remain regarding the relationships between predators, krill and the fishery and further information on krill, krill movement, predator demand and predator foraging grounds may provide opportunities to refine these boundaries in the future;
- (v) the next step is to develop an understanding of the linkages and dynamics between these areas in order to facilitate the subdivision of the precautionary catch limit for krill in Area 48, taking account of the oceanography and the environmental variability of the region;
- (vi) this assessment has demonstrated the utility of satellite-tagging programs for an understanding of the relationships between predators, krill and the fishery, and, as a result, the SSMU workshop highly recommended further studies of this kind; and
- (vii) the manner in which these proposed SSMUs are used may have implications for monitoring that would need to be considered by the Commission.

4.9 The Commission agreed that:

- (i) the subdivisions described in the maps (SC-CAMLR-XXI, Figures 1 to 3) be considered the best available advice on SSMUs in the region;
- (ii) refinements to the boundaries may be required over time to fully meet the requirements of the Commission and that such proposals be considered as they arise;
- (iii) submission of haul-by-haul krill fishery data is necessary for future assessments of activities in these units; and
- (iv) consideration be given to using the proposed SSMUs as an alternative structure to the Integrated Study Areas for organising future work on the relationships between krill, krill predators and the fishery.

4.10 The Commission noted the extreme difficulty of predicting trends in the krill fishery given the absence of reliable information and reaffirmed the need for detailed data on catch and effort for the krill fishery.

Management of Protected Areas

4.11 The Commission noted CEP's agreement, on an interim basis at least, on the coordinated procedure to be followed by CEP and CCAMLR when considering proposals for Marine Protected Areas (MPAs) (CCAMLR-XXI/BG/15).

4.12 The Commission noted the following procedure agreed by CEP for forwarding draft Management Plans for Antarctic Specially Protected Areas (ASPAs) and Antarctic Specially Managed Areas to CCAMLR (see also paragraph 13.2(ii)), namely:

‘When a draft management plan for a new protected area with any marine component is submitted, the proponent should at the same time submit this to CCAMLR through its Executive Secretary.

The proponent may, in addition, make a judgment and propose whether the marine area component is such that it falls under the definition quoted above, but it is recognised that CCAMLR will make its own judgment on this issue. The CEP Chair should also submit the plan to CCAMLR with any additional information on how the CEP process will be conducted.

The same procedure will be followed where there is a revision of the marine area in existing management plans.’

4.13 Norway drew to the attention of the Commission that, according to the procedures adopted, a potential conflict may arise between the opinion of a proposal’s proponent and that of the CEP Chair.

4.14 The Commission noted that on 24 May 2002, Annex V of the Protocol on the Environmental Protection came into force. As a result, management plans of four protected areas with marine components were forwarded to CCAMLR for review. Three of the sites had already been afforded protection as Sites of Special Scientific Interest (SSSIs) under the Antarctic Treaty. These were SSSI Nos. 1, 35 and 36. The fourth site proposed was a new protected area in Terra Nova Bay, Ross Sea.

4.15 The Commission approved the four management plans for protected sites containing marine areas that sought protection as ASPAs under the Antarctic Treaty. These included SSSI No. 36 (Eastern Dallman Bay, WG-EMM-02/57), SSSI No. 35 (Western Bransfield Strait, WG-EMM-02/58), SSSI No. 1 (Cape Royds, WG-EMM-02/59), and a revised plan for a proposed new protected area under the Antarctic Treaty (Terra Nova Bay, WG-EMM-02/56). In addition, the Commission agreed to transmit recommendations for improvements to the originators of the four plans.

4.16 The Commission commended Italy for bringing forward the Terra Nova Bay proposal. This was the first time that the procedures agreed between the ATCM and CCAMLR on protected areas with marine components had been fully implemented.

4.17 The Commission endorsed the new name and future tasks of the WG-EMM subgroup ‘Advisory Subgroup on Protected Areas’ (SC-CAMLR-XXI, paragraph 3.32(iii)).

4.18 The Commission noted that Australia had recently proclaimed the Heard Island and McDonald Islands (HIMI) Marine Reserve and Conservation Zone (SC-CAMLR-XXI, paragraphs 3.33 to 3.36).

4.19 The Commission recalled that the recent World Summit on Sustainable Development (WSSD) had recommended that management of the oceans should take into account relevant international instruments to develop and facilitate the use of diverse approaches, in particular, for the establishment of marine protected areas consistent with international law and based on scientific information (CCAMLR-XXI/BG/35).

4.20 The Commission agreed that the topic of management of protected areas should form a separate agenda item at its future meetings.

Future Work

4.21 The Commission endorsed the future work in ecosystem monitoring and management (SC-CAMLR-XXI, paragraphs 3.23 to 3.30), including the long-range work plan of WG-EMM (SC-CAMLR-XXI, paragraph 3.29). This plan includes a Workshop on the Review of CEMP which will be held during the 2003 meeting of WG-EMM (SC-CAMLR-XXI, paragraph 3.23).

Harvested Species

4.22 CCAMLR Members actively participated in eight fisheries under conservation measures in force during the 2001/02 season (1 December 2001 to 30 November 2002):

- longline fishery for toothfish (*Dissostichus eleginoides*) in Subarea 48.3;
- trawl fishery for toothfish (*D. eleginoides*) in Division 58.5.2;
- exploratory longline fishery for toothfish (*Dissostichus* spp.) in Subarea 88.1 (north and south of 65°S);
- exploratory longline fishery for toothfish (*Dissostichus* spp.) in Subarea 88.2;
- pot fishery for crabs in Subarea 48.3;
- trawl fishery for icefish (*Champsocephalus gunnari*) in Subarea 48.3;
- trawl fishery for icefish (*C. gunnari*) in Division 58.5.2; and
- trawl fishery for krill (*Euphausia superba*) in Area 48.

4.23 Thirteen Member countries fished in these fisheries: Australia, Chile, Japan, Republic of Korea, New Zealand, Poland, Russia, South Africa, Spain, Ukraine, UK, Uruguay and the USA.

4.24 In addition, five other fisheries were undertaken in EEZs within the Convention Area:

- trawl fishery for *D. eleginoides* in Division 58.5.1 (French EEZ);
- longline fishery for *D. eleginoides* in Division 58.5.1 (French EEZ);
- longline fishery for *D. eleginoides* in Subarea 58.6 (French EEZ);
- longline fishery for *D. eleginoides* in Subarea 58.6 (South African EEZ); and
- longline fishery for *D. eleginoides* in Subarea 58.7 (South African EEZ).

Krill Fishing

4.25 A total of 118 705 tonnes of krill was caught during the 2001/02 season (up to 18 October 2002). The catch was taken by Japan, Republic of Korea, Poland, Ukraine and the USA. All of the catch came from Area 48.

4.26 The 2001/02 total catch to date represents an increase from the 93 572 tonnes caught in the previous season, although this increase is not as great as the forecast indicated by the fishing plans presented to the Scientific Committee last year (SC-CAMLR-XX, paragraph 2.7). The same five nations participated in the fishery in both years.

4.27 The Commission noted that:

- the information provided from the fishing nations on their future plans is generally less accurate than is necessary to indicate future trends in the krill fishery (SC-CAMLR-XXI, paragraph 4.7);
- the interpretation of CPUE data from the krill fishery would not be possible without additional information on factors such as vessel type and product type, and that data submission on these parameters should be sought (SC-CAMLR-XXI, paragraph 4.8);
- the voluntary submission of CPUE and associated data makes the krill fishery unique amongst CCAMLR fisheries which otherwise require mandatory submission of detailed catch and effort data (SC-CAMLR-XXI, paragraph 4.8);
- it was important to identify the market factors critical to the krill fishery and to evaluate how these might be monitored to assess the development potential of the fishery (SC-CAMLR-XXI, paragraph 4.11);
- a shorter reporting interval than the current monthly reporting of catches would be required to avoid a potential 30% over-run in forecasting the closure of the fishery (SC-CAMLR-XXI, paragraph 4.12);
- the subdivision of the precautionary catch limit of krill in Area 48 into SSMUs will require a greater degree of fine-scale reporting than currently required (SC-CAMLR-XXI, paragraph 4.15); and
- the consistency and timeliness of data reporting was deteriorating. The low level of data submission and the timing of those submissions meant that important relevant aspects of the work of the Scientific Committee were not able to proceed (SC-CAMLR-XXI, paragraph 4.16).

4.28 The Commission also noted that the Scientific Committee had compelling reasons for requiring detailed data for krill fisheries (SC-CAMLR-XXI, paragraph 4.22).

4.29 The Commission agreed that the current reporting requirement of monthly catch data by FAO statistical area be maintained (SC-CAMLR-XXI, paragraph 4.24).

4.30 In addition, the Commission agreed that catch and effort data aggregated over 10 x 10 n mile squares and by 10-day periods be reported for the entire fishing season no later than 1 April of the following year (SC-CAMLR-XXI, paragraph 4.25).

4.31 The Commission also noted that the Scientific Committee had recommended that when the precautionary catch limit for krill in Area 48 is subdivided among SSMUs, reporting of haul-by-haul data by 10-day periods would be required (SC-CAMLR-XXI, paragraph 4.27).

4.32 The Scientific Committee had demonstrated the utility of haul-by-haul data for its work when describing krill fishing grounds in support of the definition of SSMUs in Area 48 (SC-CAMLR-XXI, paragraphs 3.18 and 3.19). In addition, the Scientific Committee had indicated that the subdivision of the precautionary catch limit in Area 48 would require a greater degree of fine-scale reporting than currently required (SC-CAMLR-XXI, paragraph 4.15).

4.33 The Commission noted that the data being requested by the Scientific Committee was required for two purposes: forecasting the closure of the fishery and furthering the work of the Scientific Committee. The data reporting requirements for these two purposes may not be the same. Therefore, the Commission requested the Scientific Committee to indicate the type of information that will be required for each of these requirements when the precautionary catch limit in Area 48 is subdivided among SSMUs.

Fish Resources

4.34 The Commission noted that fisheries conducted in the Convention Area during the 2001/02 season to 18 October 2002 had caught a total of 12 817 tonnes of *Dissostichus* spp. (SC-CAMLR-XXI, Table 2): 5 618 tonnes in Subarea 48.3, 2 930 tonnes in Division 58.5.1 in the French EEZ, 1 812 tonnes in Division 58.5.2, 989 tonnes in Subarea 58.6 in the French EEZ, 57 tonnes in Subarea 58.6 in the South African EEZ, 37 tonnes in Subarea 58.7 in the South African EEZ, 1 333 tonnes in Subarea 88.1 (including 1 275 tonnes south of 65°S), and 41 tonnes in Subarea 88.2. In comparison, 13 725 tonnes had been reported in the previous season (SC-CAMLR-XXI, Table 3).

4.35 The Commission also noted that fisheries conducted in the Convention Area during the 2001/02 season had caught a total of 3 506 tonnes of *C. gunnari* up to 18 October 2002 (SC-CAMLR-XXI, Table 2): 2 656 tonnes in Subarea 48.3 and 850 tonnes in Division 58.5.2. In comparison, a total of 2 559 tonnes of *C. gunnari* had been reported in the previous season (SC-CAMLR-XXI, Table 3).

4.36 The Commission noted that assessments made in 2002 followed the procedures established by the Scientific Committee and WG-FSA.

4.37 With regard to the recruitment estimates used in the assessment of *D. eleginoides* in Subarea 48.3, Argentina inquired why the results of the Russian bottom trawl survey in Subarea 48.3 in 2002 had not been used (SC-CAMLR-XXI, Annex 5, paragraph 5.60) to update the recruitment series.

4.38 The Commission noted that the use of acoustic data in assessing stocks of *C. gunnari* had been further developed at a workshop held jointly by Russia and the UK in 2002 (SC-CAMLR-XXI, paragraphs 4.81 and 4.82). Further work was scheduled in 2003, and results of that work would be presented to the Scientific Committee and WG-FSA next year (SC-CAMLR-XXI, paragraph 4.83).

4.39 The Commission noted with concern that recent surveys in Subareas 48.1 and 48.2 had found that some stocks of fish remained depleted. Some of those populations have been depleted since before the ratification of the Convention (i.e. more than two decades as

identified in Article II, paragraph 3c). The Commission encouraged the Scientific Committee to further consider the ecological processes which may maintain fish stocks at historically low levels of abundance in the absence of fishing.

4.40 The Commission endorsed the management advice provided by the Scientific Committee for both target species and by-catch species of finfish (see section 11).

Crab Resources

4.41 In the 2001/02 season a single Japanese-flagged vessel undertook commercial pot fishing for crabs in Subarea 48.3. The fishery targeted two species, *Paralomis spinosissima* and *P. formosa*, in accordance with Conservation Measure 225/XX. The vessel conducted fishery-based research in accordance with Conservation Measure 226/XX and Annex 226/A. The total catches were 56 and 57 tonnes of *P. spinosissima* and *P. formosa* respectively.

4.42 The Commission endorsed the management advice provided by the Scientific Committee for crab (see section 11).

Squid Resources

4.43 The Commission noted that fishing for *Martialia hyadesi* in the Convention Area did not take place in the 2001/02 season and no notification had been made for the 2002/03 season (SC-CAMLR-XXI, paragraph 4.121).

4.44 The Commission endorsed the management advice provided by the Scientific Committee for squid (see section 11).

Future Work

4.45 The Commission endorsed the future work of the Scientific Committee and WG-FSA in the assessment and management of harvested species, including the following key tasks:

- the development of background documents on the biology and demography of target species in the form of species profiles (SC-CAMLR-XXI, paragraph 4.42);
- further intersessional work planned on estimating the age of icefish from otoliths (SC-CAMLR-XXI, paragraph 4.43); and
- the work of WG-FSA's Subgroup on Assessment Methods including the development of a background document to describe the development and use of assessment methods employed by WG-FSA (SC-CAMLR-XXI, paragraph 4.44).

4.46 The Commission recognised the need to consider alternative existing or new assessment methods. To this end, WG-FSA's Subgroup on Assessment Methods would evaluate alternative methods and identify those which met the management decision rules established by CCAMLR, including consideration of uncertainties.

4.47 The Commission also agreed that the Secretariat continue to estimate future catches to predict closure dates of fisheries in the Convention Area, but that in applying the method it should incorporate information available to it on future vessel movements into its estimation of future effort on a trial basis. This will increase the accuracy of the prediction of closure dates, which in turn should reduce the level of under- or over-shoot of the catch limit (SC-CAMLR-XXI, paragraph 4.98).

Scientific Research Exemption

4.48 Last year, the Scientific Committee sought advice from the Commission on the minimum level of expected catch which required notification under Conservation Measure 64/XIX (SC-CAMLR-XX, paragraph 8.2). Some Members felt that, in general, surveys which only used small scientific sampling equipment (e.g. RMT) need not be required to notify under this measure. In turn, the Commission referred the matter of a minimum catch level back to the Scientific Committee (CCAMLR-XX, paragraph 4.31).

4.49 The Commission noted that the intention of Conservation Measure 64/XIX was to:

- allow catches taken for research purposes to be considered as part of any catch limits in force for each species taken; and
- provide the opportunity for other Members to review and comment on substantial research plans (i.e. catches greater than 50 tonnes of finfish or 10 tonnes of *Dissostichus* spp.).

4.50 In 2000 the Commission adopted a revision to this measure (64/XIX) which:

- limited notifications to those surveys where finfish were expected to be taken; and
- introduced specific notification requirements with respect to *Dissostichus* spp.

4.51 The Commission noted that this revision had inadvertently resulted in the exclusion of species such as krill, squid and crab.

4.52 The Commission agreed to alter the language of the measure to better provide for a flexible list of taxa-specific limits to research catches under this measure. In addition, the Commission requested the Scientific Committee to revise this list and provide further details on species and limits (see section 11).

Secretariat Supported Activities

4.53 The Commission noted the data management activities of the Secretariat and the key role which the Data Centre played in the work of the Scientific Committee and its working groups (SC-CAMLR-XXI, paragraphs 12.1 to 12.7).

4.54 The Commission also noted that one of the Data Centre's main functions was the monitoring of fisheries conducted under conservation measures in force. The requirement for Members to notify the Secretariat of the movements of their vessels into, and out of, subareas and divisions had greatly assisted this monitoring function.

4.55 The Commission reminded all Members to comply with this requirement (Conservation Measure 10-04 (2002), paragraph 4). The Commission noted that the trail forecast method agreed in paragraph 4.43 would not be possible if data on movements of vessels into, and out of, subareas and divisions were incomplete or missing.

4.56 The Commission endorsed the priority items for the work of the Data Centre identified by the Scientific Committee (SC-CAMLR-XXI, Annex 4, paragraphs 6.46 to 6.48 and Annex 5, Table 12.1 and Appendix D).

Publications

4.57 In addition to the annual reports of CCAMLR, the Commission noted that the following documents were also published in 2002:

- (i) *CCAMLR Scientific Abstracts* covering abstracts of papers presented in 2001;
- (ii) *CCAMLR Science*, Volume 9 (distributed at the meeting);
- (iii) *Statistical Bulletin*, Volume 14;
- (iv) Revisions to *Inspectors Manual*; and
- (v) Revisions to *Scientific Observers Manual*.

4.58 The Commission endorsed the Scientific Committee proposal to provide assistance with the preparation, in English, of manuscripts submitted to *CCAMLR Science* by authors whose native language was not English (SC-CAMLR-XXI, paragraph 12.16).

4.59 The Commission agreed that the following steps should be taken to overcome problems with papers for which English is not the author's primary language, and which may need additional language editing assistance (SC-CAMLR-XXI, paragraph 12.17):

- (i) request authors first to write papers in their own language and then subject them to thorough scientific editing within their own scientific community;
- (ii) papers should then be translated into the best quality English within the means of the authors;
- (iii) both copies of the paper, in the original language and the translation, should be submitted to the Secretariat;
- (iv) extra funding should be allocated to the Secretariat to deal with language editing which often includes retranslation into English of some sections of the original language; and
- (v) reviewers of papers should also be requested to assist in further editing and English improvement.

4.60 The Commission agreed to provide the Secretariat with additional funds, of the order of A\$12 000 per annum starting in 2004, to provide for additional translation and scientific editing of those manuscripts which required language assistance. This support would extend to all languages of Members.

4.61 The Commission recognised that such support may require additional funding, and it was agreed to keep the level of funding under review.

Scientific Committee Activities

4.62 The Commission endorsed the long-term work plans of the Scientific Committee and its working groups. The Commission noted the following activities of the Scientific Committee which were planned in 2002/03:

- meeting of the WG-FSA Subgroup on Assessment Methods (12 to 15 August 2003, London, UK);
- a fishery acoustic workshop (18 to 22 August 2003, Cambridge, UK);
- meeting of WG-EMM (18 to 29 August 2003, Cambridge, UK);
- CEMP Review workshop (in conjunction with meeting of WG-EMM); and
- meeting of WG-FSA (13 to 23 October 2003, Hobart, Australia).

4.63 The Commission also noted that the Scientific Committee had requested Dr Everson retain the convenership of WG-FSA for another year so that the reorganisation of the work of WG-FSA could be completed under his guidance. The Scientific Committee had also agreed that Dr S. Hanchet (New Zealand) would take up the role of convener of WG-FSA in 2004.

Invitation of Observers to the Next Meeting

4.64 The Commission noted that the Scientific Committee had agreed that all observers invited to SC-CAMLR-XXI would be invited to participate in SC-CAMLR-XXII.

4.65 It was also noted that the Scientific Committee had been unable to reach consensus on the participation of ASOC in the work of its working groups. ASOC's application for participation in the 2003 meetings of the working groups had been rejected.

Data Access Rules

4.66 The Commission noted that the Scientific Committee had reviewed the Rules for Access and Use of CCAMLR Data following comments from WG-EMM and WG-FSA (SC-CAMLR-XXI, paragraph 15.1 and Annex 6). In doing so, a Scientific Committee subgroup had consulted with SCOI.

4.67 The Scientific Committee had developed guidelines for data access (SC-CAMLR-XXI, Annex 6). The guidelines applied to all types of data held by CCAMLR, and to all types of data requests.

4.68 The Commission endorsed the recommendations of the Scientific Committee as outlined in SC-CAMLR-XXI, Annex 6, and agreed that these guidelines should be used by the Secretariat in place of the existing rules until a new set of rules is agreed.

4.69 The Commission requested the Secretariat to develop, as soon as practicable, in consultation with Members, a draft set of rules based on these guidelines. The resulting draft should be circulated to Members for comment prior to submitting a new draft for review by the Commission and Scientific Committee, including its working groups, as soon as possible.

4.70 The Commission also requested the Secretariat to review and report on its procedures for data handling and security, and to further consider the requirements needed to maintain data security when data are circulated outside the Secretariat.

OBSERVATION AND INSPECTION

Operation of the System of Inspection

5.1 The Commission noted that in 2001/02:

- (i) eight inspections were undertaken in Subarea 48.3; all inspections were conducted by CCAMLR inspectors designated by the UK; all vessels inspected were reported as complying with conservation measures in force (Annex 5, paragraph 3.2);
- (ii) Chile and Argentina submitted reports in respect of prosecutions and sanctions imposed on their flag vessels as a consequence of national and international inspections conducted in the past (Annex 5, paragraphs 3.4 and 3.5); and
- (iii) no proposals received from Members on the improvement of the System of Inspection (Annex 5, paragraph 3.6).

Compliance with Conservation Measures

5.2 With respect to compliance with conservation measures in force for 2001/02, the Commission noted that:

- (i) no problems with fisheries management and data submission measures were reported by the Secretariat (Annex 5, paragraph 3.8);
- (ii) a number of late licence notifications were received after the established deadline (Annex 5, paragraph 3.9);

- (iii) Chile conducted port inspections on four of its own-flagged vessels; New Zealand and Uruguay reported that all own-flagged vessels were inspected (Annex 5, paragraph 3.10);
- (iv) Chile, UK and Uruguay reported port inspections of vessels of Contracting Parties flagged to Chile, Japan, Republic of Korea, Poland, Russia, South Africa, Spain, USA and Uruguay; no violations of Conservation Measure 147/XIX were reported (Annex 5, paragraph 3.11);
- (v) 42 vessels harvested in the Convention Area during the 2002 fishing season but for 17 vessels details of licences were not submitted (Annex 5, paragraph 3.12);
- (vi) seven reports of reflagging or intended reflagging had been received (Annex 5, paragraph 3.13);
- (vii) SCOI had considered advice received from the Scientific Committee on matters of compliance with Conservation Measure 29/XIX (Annex 5, paragraph 3.15); and
- (viii) SCOI had considered three options put forward by the Scientific Committee for the extension of the fishing season (Annex 5, paragraph 3.20).

5.3 In respect of scientific observer data reports relating to compliance with conservation measures, the Commission noted the comments and advice of SCOI (Annex 5, paragraphs 3.14 to 3.24), which had been based on material presented in the reports of the Scientific Committee and its working groups.

5.4 The Commission reiterated its view that the task of scientific observers is to report on factual information and not to make judgements or interpretations relating to compliance.

5.5 It thanked the Scientific Committee for its work, analysing data and information from scientific observers in relation to conservation measures in force over the last few years. This had enabled the Commission to obtain a valuable factual record on the performance of fisheries in the Convention Area, including on a vessel-specific basis.

5.6 The Commission requested that in future the work of the Scientific Committee and its subsidiary bodies should be confined to analysis of observer data and information, and to summarising these in appropriate detail for consideration by SCOI and the Commission. The task of SCOI is to advise the Commission on implications relevant to compliance with appropriate conservation measures. To this end, the Commission requested SCOI to consider how best to review the data and information in reports from scientific observers, e.g. whether by developing an appropriate subgroup and/or appropriate collaborative arrangements with experts and expertise associated with the Scientific Committee and its subsidiary bodies.

5.7 The Commission noted and endorsed the advice of the Scientific Committee (SC-CAMLR-XXI, paragraphs 11.7 to 11.9) and SCOI (Annex 5, paragraph 3.17) in relation to the principle of potential extension of the longline fishing season in Subarea 48.3, in particular that any relaxation of the current closed season should proceed in a step-by-step fashion and the results be carefully monitored and reported.

5.8 In relation to the specific proposals of the Scientific Committee for potential extension to the longline fishing season in Subarea 48.3 (SC-CAMLR-XXI, paragraph 11.9), the Commission endorsed the advice of SCOI (Annex 5, paragraph 3.21) that such an extension would only be implemented once there was full compliance with Conservation Measure 29/XIX by the fishing fleet overall and that, in this event, it was preferable to extend the season at its end rather than at the start.

5.9 The Commission noted the advice of the Scientific Committee (SC-CAMLR-XXI, paragraph 11.9(iii)) and SCOI (Annex 5, paragraph 3.22) that vessels in full compliance with Conservation Measure 29/XIX in Subarea 48.3 in 2001/02 should be allowed to fish during the last two weeks in April to enable a preliminary assessment of seabird by-catch during this period, subject to the strict conditions set out in SC-CAMLR-XXI, paragraph 11.9(iii).

5.10 It was noted that the report of SCOI (Annex 5, paragraph 3.22) indicated that only one vessel was judged to have complied fully with Conservation Measure 29/XIX in the longline fishery in Subarea 48.3 in 2002.

5.11 In relation to this compliance with Conservation Measure 29/XIX in 2001/02, the Commission endorsed the conclusion of SCOI (Annex 5, paragraph 3.22) that, according to the factual data from scientific observers, as reported in SC-CAMLR-XXI, Annex 5, Tables 6.1, 6.6 and 6.7 and summarised in SC-CAMLR-XXI, Annex 5, Table 6.5, overall compliance was satisfactory. It agreed that trials to assess the feasibility of a step-by-step extension of the fishing season could commence during the last two weeks of April 2003 using one vessel.

5.12 The Commission also recollected last year's discussion concerning the attainment of full compliance and the unresolved issue of the potential for any discretion in this regard (CCAMLR-XX, paragraphs 6.20 to 6.23).

5.13 The Commission re-emphasised the need to maintain clear and strict distinction between the role of CCAMLR-designated inspectors and that of CCAMLR-designated scientific observers. The role of the latter must not be compromised in any way as a result of requirements to report data which may subsequently be used to assess compliance.

Implementation of the Scheme of International Scientific Observation

5.14 The Commission noted that:

- (i) a total of 24 longline and 10 trawl finfish cruises were conducted within the Convention Area during the 2001/02 season with national and international scientific observers on board all vessels (Annex 5, paragraph 4.2);
- (ii) reports received from scientific observers with factual detail on sightings of fishing vessels were discussed by SCOI together with other information on IUU fishing activities in the Convention Area (Annex 5, paragraph 4.3); and
- (iii) the Scientific Committee recommended no changes to administrative and operational aspects of the scheme (Annex 5, paragraph 4.5).

Review of SCOI Working Arrangements

5.15 The Commission noted that:

- (i) the European Community consulted intersessionally with Members in order to prepare and finalise a proposal on the revision of SCOI working arrangements;
- (ii) a number of comments were received and incorporated in the draft proposal;
- (iii) several editorial changes were proposed and incorporated in the draft at the meeting of SCOI; and
- (iv) the revised draft was submitted to the Commission for adoption.

5.16 The Commission adopted the revised terms of reference and organisation of work of the proposed Standing Committee on Implementation and Compliance (SCIC).

ASSESSMENT AND AVOIDANCE OF INCIDENTAL MORTALITY OF ANTARCTIC MARINE LIVING RESOURCES

Marine Debris

6.1 The Commission noted the report of the Secretariat summarising the data related to marine debris submitted by Members using the standard forms (SC-CAMLR-XXI/BG/13).

6.2 The Commission reiterated the recommendation of the Scientific Committee that the Secretariat should annually produce a report of status and trends relating to all of the main aspects of marine debris related observations (SC-CAMLR-XXI, paragraph 6.8).

6.3 The Commission noted the results of surveys of marine debris on beaches, of entanglement of marine mammals in debris and of marine debris associated with seabird colonies (SC-CAMLR-XXI, paragraphs 6.10 to 6.21). It noted that the results of these surveys provided few indications that the levels of beached marine debris, or of its effects on marine mammals and birds, were improving.

6.4 The Commission also noted that packaging bands continued to be reported in the debris surveys in Area 48, and that these may also have been derived from IUU vessels or from fisheries in adjacent areas (SC-CAMLR-XXI, paragraph 6.16).

6.5 The Commission reiterated the request of the Scientific Committee that Members continue to submit data on standard forms in a timely fashion, which would allow time for the Secretariat to produce a summary report that would greatly simplify consideration of the topic by the Scientific Committee (SC-CAMLR-XXI, paragraph 6.23).

6.6 Members were also encouraged to provide historical data to the Secretariat, collected using the standard format, for inclusion in the CCAMLR marine debris database. The Secretariat was requested to enter the data received and to consult with relevant Members to ensure appropriate data validation (SC-CAMLR-XXI, paragraph 6.9).

Incidental Mortality of Marine Animals during Fishing Operations

6.7 The Commission reviewed the report of the Scientific Committee in respect of assessment and avoidance of incidental mortality of Antarctic marine living resources (SC-CAMLR-XXI, paragraphs 5.1 to 5.54). It endorsed the report and its conclusions, subject to the comments below.

6.8 The Commission noted:

- (i) that the levels and rates of seabird by-catch in longline fisheries in the Convention Area in 2002 had been the lowest ever recorded (SC-CAMLR-XXI, paragraphs 5.2 and 5.3);
- (ii) that the level of compliance with Conservation Measure 29/XIX in 2002 had substantially improved, particularly in respect of the line-weighting element of the measure (SC-CAMLR-XXI, paragraphs 5.7 to 5.9); for the first time a majority of vessels fishing in the Convention Area had attained at least 95% compliance with all elements of the measure;
- (iii) the progress achieved with research into and development of mitigation measures relevant to Conservation Measure 29/XIX, in particular to autoline vessels (SC-CAMLR-XXI, paragraph 5.10); and
- (iv) with concern, estimates of potential seabird by-catch associated with IUU longline fisheries in the Convention Area in 2002 which continue to be at levels unsustainable for the populations concerned (SC-CAMLR-XXI, paragraphs 5.17 and 5.21 and Figure 5).

6.9 The Commission noted that the level of incidental mortality of seabirds in trawl fisheries for icefish in Subarea 48.3 in 2002 was comparable to that of last year and at a level three times that in regulated longline fisheries in Subarea 48.3 this year.

6.10 The Commission expressed concern at the absence of by-catch data from longline vessels fishing in French EEZs in Subarea 58.6 and Division 58.5.1, given the apparently continuing high by-catch rates of white-chinned petrels in these areas. It welcomed the initiative of France to send a seabird scientist to next year's meeting of ad hoc WG-IMAF and to conduct intersessional work to help address the issue of seabird by-catch in the French EEZs (SC-CAMLR-XXI, paragraphs 5.4 to 5.6).

6.11 The Commission endorsed the advice of the Scientific Committee on the following matters:

- (i) reaffirmation of support for – and encouragement of Members' contributions towards – a key experiment concerning mitigation measures for the Spanish system of longline fishing (SC-CAMLR-XXI, paragraph 5.13);
- (ii) renewed attempts to acquire data, as specified in SC-CAMLR-XXI, paragraph 5.24, from Members involved in longline fishery operations in areas adjacent to the Convention Area and requests to Members to develop provisions for the mandatory use of mitigation measures in such fisheries, following the example of Japan (SC-CAMLR-XXI, paragraph 5.25);

- (iii) the need for continued submission by Members of data on seabird population sizes, foraging ranges and provenance of by-catch (SC-CAMLR-XXI, paragraph 5.27);
- (iv) support for forthcoming international initiatives, especially the Second International Fishers' Forum (IFF2) and the Agreement on the Conservation of Albatrosses and Petrels (ACAP) (SC-CAMLR-XXI, paragraph 5.29); and
- (v) renewed attempts to obtain progress reports on the development and implementation of FAO National Plans of Action (NPOAs) from Members, especially those listed in SC-CAMLR-XXI, paragraph 5.36, with responsibilities for areas adjacent to the Convention Area or conducting fisheries in these areas (SC-CAMLR-XXI, paragraphs 5.35 to 5.37).

6.12 Spain informed the Commission of its adoption on 23 May 2002 of a regulation setting up measures to reduce the incidental mortality of birds associated with pelagic longline fisheries. This regulation relates to the use of longline gear by all Spanish pelagic longliners fishing for tuna, swordfish and related species, in waters south of 30°S.

6.13 The Commission welcomed this information from Spain and encouraged other Members to adopt similar measures for their vessels and fishing operations.

6.14 The Commission endorsed the proposed revision to Conservation Measure 24-02 (2002), as set out in SC-CAMLR-XXI, Annex 5, paragraph 6.81.

6.15 The Commission noted the advice concerning revision of Conservation Measure 29/XIX (SC-CAMLR-XXI, paragraph 5.16 and Annex 5, paragraphs 6.82 and 6.83); it agreed, however, that revision to include provision for the removal of hooks from offal before discharge should be undertaken this year.

6.16 The Commission noted that intersessional contact with regional fishery management organisations (RFMOs) with competences in areas adjacent to the Convention Area regarding the issue of incidental mortality of seabirds had been limited and unsatisfactory. It requested that Members, who are also members of other RFMOs, ensure that the issue of seabird by-catch is included on the agendas of appropriate meetings of all relevant RFMOs (SC-CAMLR-XXI, paragraphs 5.30 to 5.34).

6.17 Spain stated that the Scientific Committee of ICCAT focused its attention on the impact of fisheries on non-target species, such as sharks, but not on 'non-productive species' (birds), as was mandated by the ICCAT Commission. Spain hopes that during the ICCAT annual meeting its parties will instruct its Scientific Committee to prepare advice on the impact of fisheries on birds. The Commission noted that several resolutions had apparently been prepared to facilitate this (SC-CAMLR-XXI/BG/4; SC-CAMLR-XXI, paragraph 5.34).

6.18 In relation to notifications for new and exploratory fisheries in 2002, the Commission noted that, in respect of seabird by-catch the only issues apparently unresolved following the meeting of the Scientific Committee, concerned defining the status and nature of birds caught and the levels of observation necessary to detect low levels of bird by-catch (SC-CAMLR-XXI, paragraph 5.39).

6.19 In relation to the latter point, the Commission agreed that each vessel participating in new and exploratory fisheries should have one scientific observer appointed in accordance with the CCAMLR Scheme of International Scientific Observation and, where possible, one additional observer on board throughout all fishing activities.

6.20 The Commission endorsed the recommendation of the Scientific Committee that further data be collected in order to define appropriate seabird mitigation measures for the icefish trawl fishery in Subarea 48.3 (SC-CAMLR-XXI, paragraph 5.45(i)) and that the definition of birds caught be reviewed (SC-CAMLR-XXI, paragraph 5.45(iii)).

6.21 The Commission requested the Scientific Committee to consider the implications of restricting the fishing season for icefish in Subarea 48.3 and to provide recommendations to the Commission next year (SC-CAMLR-XXI, paragraph 5.45(ii)).

6.22 In relation to issues associated with the use of bottom trawl gear (SC-CAMLR-XXI, paragraphs 5.46 to 5.49), the Commission endorsed the Scientific Committee's advice that it should review relevant conservation measures, taking account of issues relating to by-catch of seabirds and non-target species, and the potential damage to benthos (SC-CAMLR-XXI, paragraph 5.50), and present its findings to the Commission next year.

CATCH DOCUMENTATION SCHEME FOR *DISSOSTICHUS* SPP. (CDS)

7.1 The Commission noted that the CDS had been fully established and was providing CCAMLR with information required in order to track the trade of toothfish caught in the Convention Area and adjacent waters, and to ensure that catches taken within the Convention Area were consistent with CCAMLR conservation measures (Annex 5, paragraph 2.2).

7.2 The Commission noted with concern that Canada, a Contracting Party to the Convention, is still not in a position to implement the CDS despite a number of diplomatic demarches made by CCAMLR Members in the past three years (Annex 5, paragraph 2.5).

7.3 The Commission found that the reasons outlined in the most recent letter from Canada did not provide a substantive explanation for its inability to implement the CDS during the past three years. The Commission recalled Resolution 3 adopted by Consultative Parties to the Antarctic Treaty at ATCM-XXV, noting that this was the third consecutive year that the ATCM had adopted a resolution relating to CCAMLR and the CDS. The Commission welcomed such support from the ATCM for CCAMLR. The Commission noted that Resolution 3 was in part directed towards Contracting Parties that were not Members of the Commission urging them to implement the CDS. At a time when non-Contracting Parties were actively committed to the CDS it was unfortunate to see Contracting Parties, such as Canada, still not implementing the scheme.

7.4 The Commission noted Canada's non-participation in the CDS; and further noting Canada's apparent intention to expand krill fishing through joint ventures, requested that Members should engage Canada in bilateral and multilateral discussions on its role as a Contracting Party to the CAMLR Convention.

7.5 The Commission agreed that joint diplomatic action was required by all CCAMLR Members with embassies in Ottawa in order to persuade Canada to implement the CDS as

soon as possible. The CAMLR Convention Depositary, Australia, could coordinate such action. Such concerted action would not preclude further diplomatic efforts by Members. The Secretariat was requested to write to Canada and convey the Commission's concern that Canada had still been unable to implement the CDS, and also inform Canada on discussions held at CCAMLR-XXI on the CDS and related matters.

7.6 The USA advised that it had in place the required customs procedures to control import of toothfish, in particular, from Canada. However, additional measures were still required in order to fully control illegal or unreported shipments of toothfish from Canada by trucks.

7.7 The Commission noted with appreciation an offer extended by the FAO Observer to arrange a meeting between Canada and CCAMLR Members participating at the forthcoming COFI meeting. Members attending COFI were urged to take this opportunity.

7.8 The Commission noted with concern the continued high level of catches reported under the CDS from the Indian Ocean sector outside the Convention Area (Annex 5, paragraph 2.7), and that a number of landings reported by Mozambique were not documented under the CDS (Annex 5, paragraph 2.10).

7.9 The Commission thanked Mozambique for its cooperation with CCAMLR during 2002. It hoped that Mozambique would accept an invitation to join CCAMLR and to participate in the CDS.

7.10 The Commission noted that, during 2001/02, the CDS Intersessional Group had continued its work, culminating in a two-day informal meeting of the group immediately prior to CCAMLR-XXI (Annex 5, paragraph 2.20). The report of the group contained a number of recommendations on improvements to the CDS. These were considered by SCOI and recommended to the Commission for adoption.

7.11 The Commission adopted the following recommendations put forward by SCOI relating to the CDS (Annex 5, paragraph 2.23):

- (i) The current summary format for CDS data developed by the Secretariat should be amended as proposed by the CDS group, including the addition of the table indicating catch location (i.e. EEZ versus high seas) and the percentage of the harvest by product type along with the standard conversions.
- (ii) A standard set of summary CDS data should be developed by SCOI and this should be annually published by the Secretariat as part of the *Statistical Bulletin* or placed on the CCAMLR website. The development of such a dataset should involve consultations with other international organisations in order to obtain their views on what type of data reporting they might require for their work.
- (iii) Members be requested to work jointly with the World Customs Organization (WCO) in order to introduce universal harmonised tariff codes for *Dissostichus* spp. products.
- (iv) Cooperation with FAO and RFMOs should be continued with a view to developing a harmonised catch document system.

- (v) Whilst Members often participate at meetings of international organisations and can represent CCAMLR, Secretariat staff should attend the most important meetings that relate to the CDS.
- (vi) Countries should be requested to provide information on conversion factors and food additives in order to apply these to CDS data reports and that the current CCAMLR conversion factors be employed until more detailed information on such factors is obtained.
- (vii) The Secretariat and national CDS officers should continue to investigate differences between weights of toothfish landed and exported on a case-by-case basis.
- (viii) Multiple transshipments at sea, defined as two or more transshipments, should be prohibited until a standard procedure can be developed to prevent CDS fraud and accurately account for catch movements.
- (ix) Catch document validation and verification procedures and measures should be standardised for all Parties to the CDS for all stages of the trade cycle.

7.12 The Commission agreed that the CDS group continue its work intersessionally in 2002/03 and that it should hold a three-day meeting immediately preceding CCAMLR-XXII. The revised list of work identified by the CDS group is attached (Annex 5, Appendix IV). The exact dates of the meeting should take into account the work of WG-FSA and scheduling of the proposed SCOI/WG-FSA task group to assess total removals of toothfish (see paragraphs 8.12 and 8.13). The Secretariat was asked to consult intersessionally with Members in order to set dates for the proposed meetings.

7.13 The Executive Secretary advised the Commission that a number of delegations had queried the Secretariat on the possible source of CDS data, which were available only in SCOI documents considered at CCAMLR-XXI, apparently released to the public. The Executive Secretary informed the Commission that the Secretariat had implemented and fully complied with the 'Rules of Access to CDS Data' as adopted by the Commission.

7.14 The USA observed that the citing of data without prior permission constituted a breach of access to CDS data. Members and observers were requested to double their control over distribution and access to CCAMLR working documents. The attention of observers was drawn to the CCAMLR disclaimer printed on cover pages of all CCAMLR working documents which prohibits using and citing of these papers for purposes other than the work of CCAMLR.

7.15 The Commission agreed with SCOI that the proposed electronic web-based CDS would be beneficial to the operation of the CDS by assisting the tracking of toothfish trade in real-time, resolving missing or incorrect information and greatly reducing the opportunity for fraudulent activity (Annex 5, paragraph 2.29).

7.16 The Commission approved a proposal for a pilot project to address the electronic web-based CDS in 2002/03. The pilot project will run in parallel with the current paper system. It will be evaluated and subsequently decided on prior to its implementation in full by the Commission (Annex 5, paragraph 2.30).

7.17 A list of issues that the above pilot project should address were noted. These included, *inter alia*, data security, data access, levels of user and State access to data, and electronic evidence. Consideration should also be given as to which Members should participate in the pilot project (Annex 5, paragraph 2.31).

7.18 A number of Members volunteered to take part in the pilot project. The Convener of the CDS Intersessional Group advised that immediately after CCAMLR-XXI the principal investigators would discuss organisation of the project and its scope will ideally cover each phase of the toothfish trade, i.e. harvest, landings, export and import operations. It would also include a selection of Flag, Port and Export/Import States from CCAMLR Members and participating non-Contracting Parties. The number of participants would be limited due to the logistical and financial constraints of the project and the limited time allocated for its completion. The recommendations of the principle investigators would be circulated to Members in due course.

ILLEGAL, UNREGULATED AND UNREPORTED (IUU) FISHING IN THE CONVENTION AREA

8.1 The Chair of SCOI, Dr H. Nion (Uruguay) presented the Committee's report on IUU fishing (Annex 5, paragraphs 5.1 to 5.116).

Information provided by Members under Articles X and XXII of the Convention

8.2 The Commission first considered advice from the Scientific Committee on the level of IUU catches in the Convention Area and on the impact of such catches on marine living resources. The Commission noted that in the Scientific Committee's report:

- (i) the catches attributed by CDS reports of catches from outside the Convention Area in Areas 51 and 57 were unlikely to have come from those areas and most likely to have come from within the Indian Ocean sector of the Convention Area (SC-CAMLR-XXI, paragraphs 4.37 and 11.3);
- (ii) IUU catches within the Indian Ocean sector of the Convention Area were most likely to be underestimated (SC-CAMLR-XXI, paragraph 4.39 to 4.41 and 11.3);
- (iii) the current levels of IUU fishing reported from Areas 51 and 57 would have seriously depleted whatever stocks might have been present in those areas, if they were present at all;
- (iv) current levels of IUU fishing have depleted stocks in Division 58.4.4 and in Subareas 58.6 and 58.7, and the catch rates in Division 58.5.1 have substantially declined (SC-CAMLR-XXI, paragraphs 4.35 and 11.3); and

- (v) current levels of IUU fishing would substantially reduce populations of seabirds which have been taken as by-catch in longline fishing operations (SC-CAMLR-XXI, paragraphs 5.17 to 5.22 and 11.3).

8.3 The Commission noted with great concern that the information presented by the Scientific Committee indicated continued high levels of IUU fishing in the Convention Area.

8.4 The majority of Members of the Commission agreed that catches reported from Areas 51 and 57 were not credible and that the veracity of information reported in catch documents did not match available knowledge of toothfish distribution and potential biomass for waters outside the Convention Area in these two adjacent areas.

8.5 The Commission noted the Republic of Korea's concerns that the majority's view could discourage legitimate fishing operations on the high seas outside the Convention Area and noted Korea's advice that its vessels fishing for toothfish in Area 57 fully complied with all applicable CCAMLR measures, as well as mandatory implementation of Resolution 16/XIX.

8.6 Uruguay concurred with the concerns expressed by the Republic of Korea and further advised that it voluntarily implemented Resolutions 16/XIX and 17/XX. Automated VMS had operated until the position reports were submitted to the Uruguayan fisheries authorities. In addition, all Uruguayan-flagged vessels were subject to port inspection before and after fishing (CCAMLR-XXI/BG/12). National observers were on board Uruguayan vessels fishing in those areas (CCAMLR-XXI/BG/12).

8.7 During discussions, Russia disagreed with the seabed area estimate of 30 007 km² calculated for Area 51 in the fishable depth range of 600 to 1 800 m and within the likely geographic distribution of *D. eleginoides* (SC-CAMLR-XXI, Annex 5, Table 5.32). Based on available information of *D. eleginoides* distribution, which is different from assumptions made by the Scientific Committee (SC-CAMLR-XXI, Annex 5, Figure 5.7), Russia's area estimate for that depth range was more than 100 000 km².

8.8 Russia added that it would submit to the 2003 meeting of WG-FSA materials demonstrating that the area of toothfish distribution within the depth range from 500 to 2 000 m is much broader than that assessed by the Scientific Committee.

8.9 The Commission noted the uncertainties associated with assumptions underlying assessment of IUU fishing levels and that available IUU estimates were likely to be minimal estimates.

8.10 The Commission agreed that the proposed joint meeting of SCOI and WG-FSA experts would probably be the best forum to address these and also other issues of estimating IUU catches.

8.11 An informal discussion group (Convener – Mr E.S. Garrett, USA) met to address the formation of a Joint Assessment Group comprising members of both SCOI and the Scientific Committee. The discussion group considered the following two issues:

- (i) improvement of the estimation of total removals of *Dissostichus* spp. from different locations, including estimates of IUU catches; and

- (ii) a proposition for SCOI to develop a methodology for the compliance assessment of factual data collected by scientific observers on the implementation of Conservation Measure 25-02 (2002) (see paragraph 11.21).

8.12 In terms of assessing the total removals of toothfish, including an analysis of IUU fishing, it was noted that there were several components of the issue, the combination of which could lead to a 'double counting' of catches. The possible double counting of catches is a result of the different sources of data used by the Scientific Committee. The information is received in the traditional method as well as from the CDS data summaries provided by the Secretariat. A further difficulty with the information is the view that there is some misreporting of catch levels and statistical areas on the *Dissostichus* catch document (DCD) which further compounds the problem of double counting. In this regard, it was concluded that a Joint Assessment Group be formed and in the coming year:

- (i) rely on data provided by the Secretariat on IUU activities collected from all sources;
- (ii) establish an annual data submission cut-off date of 1 October each year with any data collected by the Secretariat after that date being incorporated into the following year's analysis;
- (iii) forward the group's analysis to WG-FSA no later than the third day of its annual meeting; and
- (iv) review and assess potential procedures for estimating IUU catches and total removals, including the types of data and analytical methods used in the procedures, such as that described in WG-FSA-02/4 'A Statistical Method for Analysing the Extent of IUU Fishing in CCAMLR Waters: Application to Subarea 48.3' (Drs D. Agnew and G. Kirkwood (UK)).

8.13 It was proposed that the Joint Assessment Group establish and develop a work plan, at least in part, through an informal electronic discussion group to be set up on the CCAMLR website. The Commission recognised that a meeting of the group may be needed in Hobart at a time appropriate for providing advice to WG-FSA and to SCIC. To assist in developing the work plan, Members were invited to provide examples of proposed methods and approaches on each of the two issues by 15 April 2003. The Joint Assessment Group could review these proposals and test those that might be appropriate for the assessments required. These tests could be undertaken on current and/or historical data in order that the outcomes of those tests, including examples of output and presentation of results, could be reviewed by SCIC and WG-FSA.

8.14 The Commission endorsed the proposal that the Joint Assessment Group should be convened by Mr Garrett. He was requested:

- (i) to create, by correspondence with Members of SCIC and the Scientific Committee, an appropriate membership for this group;
- (ii) to develop explicit terms of reference for the group and a work plan for the intersessional period; and

- (iii) to prepare appropriate reports and data inputs, including those indicated in paragraphs 8.12 and 8.13, to next year's meetings of WG-FSA and SCIC.

The Commission agreed that an informal electronic discussion forum for members of the Joint Assessment Group should be established on the CCAMLR website.

8.15 The Commission agreed that a Plan of Action in support of the FAO's International Plan of Action on IUU fishing (IPOA-IUU) be developed. It requested the Secretariat to draft the plan taking into account CCAMLR measures in force and also to identify those elements of the FAO plan which had not yet been implemented by CCAMLR. The draft Plan of Action would be circulated intersessionally to Members for comment and later submitted for consideration at CCAMLR-XXII.

8.16 The Commission noted information considered by SCOI from Members' reports relating to activities in the Convention Area which affect the implementation of the objectives of the Convention as well as on compliance with conservation measures in force. Such information included reports on IUU fishing in the Convention Area.

8.17 The Commission noted that the information before it exposed the true extent and nature of IUU fishing activities and that the nationals and vessels of both Contracting and non-Contracting Parties were involved. Additional problems revealed concerned re-flagging and non-compliance with the requirements of VMS.

8.18 The Commission requested the Executive Secretary to write to the Netherlands with a request not to undermine the Convention by accepting applications for reflagging IUU vessels. The Executive Secretary was also requested to contact Belize to advise details of the investigations initiated by South Africa on the vessel *Noemi* and request Belize to order the vessel to remain in Durban until a full investigation of the vessel's activities is completed.

8.19 Russia advised that the licences for the *Lena* and *Volga* had been cancelled, although the *Lena* had been sold abroad before being apprehended by Australian authorities early in 2002. Russia indicated that it was taking a legal risk with its action against the owners given that there is still a court case under way regarding the apprehension of the *Volga*. Further, Russia stated that it did not support IUU fishing and questioned the accuracy of catch figures attributed to Russia by environmental groups recently. Russia felt that the Scientific Committee should look at establishing minimum allowable size limits given that toothfish reached sexual maturity at about 85 cm in length.

8.20 Australia thanked Russia for the information contained in CCAMLR-XXI/BG/22 and noted that the Russian VMS automatically monitored Russian vessels every hour. Australia asked Russia if it could provide Australia with the VMS data for the Russian-flagged vessels *Lena* and *Volga* for the period prior to their arrest by Australia. These data would show whether the Russian VMS positions were consistent with the sightings by France and Australia and this would assist Australia in its prosecution of the *Volga*.

8.21 South Africa stated the sequence of events regarding the vessel *Viola* was as follows (Annex 5, paragraphs 5.23 and 5.28): 'The *Viola* was flagged to Uruguay. It entered the dry dock in Cape Town in July 2002 after unloading its catch of toothfish into bond without the

required catch document. On 21 August 2002, *Viola* de-registered from the Uruguayan vessel register and is currently flagless. For South Africa, the main issue of concern remains one of Flag State responsibility and control, not one of reflagging.'

8.22 The observer from the People's Republic of China advised that it had contacted the CCAMLR Secretariat with respect to a shipment accepted by China for processing and re-export from one of the vessels reported by Australia as engaged in IUU fishing (Annex 5, paragraphs 5.2 and 5.4). China had received confirmation that the catch document had been issued and certified by the Flag State of the vessel as required by the CDS.

8.23 New Zealand indicated that it was deeply disturbed by the seeming lack of control by some Members of the Commission over their flag vessels. New Zealand noted that SCOI had agreed (Annex 5, paragraph 5.32) that the nationals and vessels of both Contracting and non-Contracting Parties are involved in IUU fishing. As SCOI had expressed such serious concern about the activities of the vessels of a small minority of Members, New Zealand was strongly of the view that it would be inappropriate for the Commission to give any consideration to notifications for CCAMLR exploratory fisheries by the Members involved. New Zealand observed that some of these nominations involved the same vessels named by SCOI as being possibly involved in IUU fishing. New Zealand stated that allowing these vessels to participate in CCAMLR fisheries would make the Commission the object of public derision.

8.24 France supported the proposal to assess total removals of toothfish, recalling that it views IUU fishing as a major issue. France repeatedly called the Commission to account last year and welcomed the fact that this issue is the main focus of the Commission's discussions this year. IUU fishing activities have again increased in the Kerguelen and Crozet areas (Area 58) in 2001/02, with close to 7 000 tonnes of toothfish fished illegally. Numerous IUU vessels flying various flags (Belize, Bolivia, Panama, Russia, Seychelles, Uruguay etc.) had been reported. It had been possible to identify five longliners: *Bonanza*, *Eva*, *Lena*, *Florence*, and a vessel showing the registration number ONWS and under Russian command. Others had been observed in the vicinity of Area 58, or sighted unloading toothfish during periods in which fishing is prohibited: *Vega*, *Boston*, *Castor*, *Rubin*, *Praslin*, *Lince*, *Arvisa*, *Viarsa 1*, *Bouzon* and *Viking*.

8.25 France also noted that in addition to the areas traditionally harvested for toothfish, even rarely harvested areas were now being targeted by IUU fishers. Moreover, IUU fishing was particularly significant during closed seasons. The assessment of total toothfish removals was therefore essential.

8.26 France also wondered, like New Zealand, whether licences for exploratory fishing should be granted to vessels implicated in IUU activities. France considered that if this were to take place, it would be detrimental to the credibility of the Commission.

8.27 France was aware that it was necessary to implement adversarial proceedings and to have conclusive evidence before implicating any Party or vessel. Nevertheless, the ultimate proof of guilt must be based on a set of factors, a series of indications which can throw light on the situation. France considered that a number of countries had brought to the discussion conclusive evidence which explicitly implicated certain parties or vessels as engaging in IUU

fishing. Finally, it would be advisable not to hesitate in initiating a preliminary inquiry or investigative proceedings, whether administrative or judicial, whenever a vessel is under suspicion.

8.28 The European Community indicated that it shared the concerns expressed by New Zealand and by France and stated that vessels with a record of involvement in IUU fishing activities should not be authorised to participate in new or exploratory fisheries.

8.29 Australia supported the remarks of New Zealand, France and the European Community. Australia believed that not only should Members involved in IUU fishing be denied access to new and exploratory fisheries, they should also be denied access to the CDS.

Implementation of Other Measures to Eliminate IUU Fishing

Cooperation with non-Contracting Parties

8.30 The Commission noted the extensive work conducted by the Secretariat on cooperation with non-Contracting Parties.

8.31 The Commission welcomed the development of cooperation with a number of non-Contracting Parties and thanked them for supporting CCAMLR in its fight against IUU fishing.

8.32 Spain stated that during the past 2.5 years it had sent letters to IUU vessel Flag States at the highest level of authority and via Spanish embassies. Spain called on these countries to undertake actions based on the need to comply with their obligations under international law. This is the kind of diplomatic action that CCAMLR Members could produce to complement the Secretariat's work. Spain offered to circulate their standard letter as the information contained in it may be of interest.

8.33 The Commission requested the Executive Secretary to write to Indonesia with detailed information of Indonesia's responsibilities under the CDS as a Port and Export State. The Commission should also invite Indonesia to become a Party to CCAMLR and fully implement the CDS.

CCAMLR Vessel Database

8.34 The Commission noted the continued work of the Secretariat in developing the CCAMLR Vessel Database. It was also noted that in reference to a request to compile a list of 'flags of convenience' (CCAMLR-XX, paragraph 5.19), the Secretariat sought guidance on the definition of such flags.

8.35 Chile noted that it was important to continue to establish a list of 'flags of convenience' as previously requested by the Commission. Efforts should be made to list individual vessels implicated in IUU activities and, for this task, a precise definition of the term 'flag of convenience' was not indispensable. The UN Convention on the Law of the Sea (UNCLOS) defined 'flag of convenience' as one lacking a substantial link between the Flag

State and a vessel flying its flag, but that a more practical definition (such as the one proposed by ASOC) would provide a procedure for determining which vessels should be included in such a list.

8.36 Russia agreed with the benefits of establishing such a list, but urged that caution be taken in respect of vessels with the same or similar names.

8.37 The Commission further noted that international maritime law did not precisely define 'flags of convenience'. Therefore, the Commission agreed that the Secretariat should continue to collect vessel details and information on vessel activities, including their history of IUU activities. Some attempt should be made to separate anecdotal from verifiable information.

8.38 The Commission endorsed the suggestion of Namibia that additional information on vessel owners, companies and their subsidiaries should also be collected.

8.39 Members were requested to assist the Secretariat in this task by providing, in particular, Lloyd's number and other vessel registration details, and also photographs of vessels licensed to fish both inside and outside the Convention Area.

8.40 Australia noted that the CCAMLR Vessel Database has become a valuable monitoring, control and surveillance (MCS) tool for CCAMLR Members. Australia named some additional vessels for inclusion in the database. These were: *Austin* (also known as *Austin-1*), *Boston*, *Champion*, *Darwin* (also known as *Darwin-1*), *Eva* (also known as *Neva* and *Eva-1*), *Florence* (also known as *Florens-1*), *Georgia*, *Hunter*, *Isabel*, *Jackson*, *Strela*, *Volna*, *Yantar* and *Zarya*. Australia requested that if Members had information on any of these vessels, this should be submitted to the Secretariat for inclusion in the vessel database.

8.41 As a follow-up of the landing of toothfish by the Belize-flagged vessel *Noemi* reported by Mozambique (Annex 5, paragraph 5.22), the European Community carried out an investigation and found that the vessel *Noemi* is a part of a fleet comprising three other fishing vessels, one tanker and a refrigerated cargo reefer owned and operated by a company named INFITCO Ltd: *Acros No.2* (Guinea), *Helecho* (Ghana), *Salvia-L* (Guinea) – fishing vessels; *Mencey* (Panama) – tanker and *Suam Reefer* (Ghana) (CCAMLR-XXI/BG/40).

8.42 The European Community requested that Members be requested to identify, verify and report any activities of this fleet and subsequently to advise the Flag States concerned in accordance with the provisions of Conservation Measure 10-07 (2002) (see paragraph 11.14).

Implementation of CDS-related Conservation Measures and Resolutions

8.43 The Commission noted that SCOI had considered a Secretariat report on the implementation by Members of CDS-related conservation measures and resolutions, including port inspections of vessels of non-Contracting Parties (Conservation Measures 118/XX and 147/XIX), actions taken with respect to the flagging of non-Contracting Party vessels (Resolution 13/XIX), use of ports not implementing the CDS

(Resolution 15/XIX), the application of VMS in the CDS (Resolution 16/XIX) and the application of VMS and other measures to verify CDS catch data from high seas areas outside the Convention Area (Resolution 17/XX).

8.44 The Commission noted that, as requested at CCAMLR-XX, Uruguay and Russia reported on the verification of catches from the high seas outside the Convention Area (CCAMLR-XXI/BG/12 and BG/22 respectively).

8.45 Uruguay advised that the legal action over the sightings of the vessels *Kambott* and *Nova Tuna No. 1* (allegedly the *Arvisa I* and *Dorita* flagged to Uruguay) which were sighted in the CCAMLR Convention Area early in 2002 by the Australian research vessel *Aurora Australis* are still in progress. The competent legal services have been limited in the actions undertaken due to insufficient evidence regarding the provisions of domestic law. In particular, the statements of the *Aurora Australis* master and second mate do not provide any element that helps to prove the identity of the vessels. Uruguay's national legislation on the basis of principles, such as the presumption of innocence, establishes requirements that determine the need for the elaboration of sufficient proof to allow further actions to be taken.

8.46 Uruguay ratified that at present it has an operational new data processing system for vessel monitoring in accordance with information provided in CCAMLR-XXI/BG/12.

8.47 In response to Uruguay, Australia indicated that it had provided detailed evidence and information regarding the *Kambott* and *Nova Tuna No. 1* (*Arvisa I* and *Dorita*). Australia rejected the statement by Uruguay that it could not take action against these vessels because, in its view, the evidence provided by Australia was inadequate. Australia advised that it had provided significant information to Uruguay including a report of the incident, statutory statements from the captain and master of the *Aurora Australis* and photographic and auditory evidence. Australia further advised that it had also made significant efforts to inform the Commission of the issues by making a presentation to SCOI on the matter.

8.48 Australia referred to Uruguay's clarification in relation to its generation of VMS (CCAMLR-XXI/BG/12) and advised that, in Australia's view, and contrary to Uruguay's statement on this matter, Australia had direct confirmation that Uruguay has not fully implemented the 'Smart Track' system.

8.49 Australia and Uruguay have begun a constructive dialogue on the implementation by Uruguay of the 'Smart Track' VMS. Australia has offered to assist Uruguay in this regard.

8.50 Uruguay is grateful for the cooperation of Australia in relation to the qualification of the situation regarding Uruguay's VMS. The information exchanged allowed for the identification of assistance with commercial problems between the 'Smart Track' vendor in Uruguay and its owner.

8.51 The Commission requested all Members fishing for toothfish on the high seas outside the Convention Area to again submit reports next year on VMS and other catch verification procedures. In particular, the reports should include verification procedures, specifications of the VMS equipment installed on board vessels and details of software used to monitor the position and movement of vessels.

Additional Measures

8.52 The Commission considered a number of additional measures proposed by Australia and the European Community which are aimed at eradicating IUU fishing from the Convention Area (Annex 5, paragraphs 5.66, 5.68, 5.74 and 5.75).

8.53 The European Community presented proposed draft conservation measures and resolutions on IUU fishing. In addition, the European Community proposed a number of modifications to CCAMLR conservation measures in force. Finally, the European Community proposed to amend Conservation Measure 170/XX to incorporate stronger controls on landings, imports, exports and re-exports of toothfish, particularly those concerning catches made outside the Convention Area, along the lines of Resolution 17/XX.

8.54 A task group established at SCOI had initially considered these proposals and passed them on to the Commission for further consideration.

8.55 Australia presented a proposal for the establishment of a centralised or dual-reporting¹ VMS reporting system (CCAMLR-XXI/21). The proposal was initially discussed by SCOI (Annex 5, paragraphs 5.75 to 5.96). Under this proposal, the Flag State would require vessels fishing for toothfish to transmit identification and position information directly to the CCAMLR Secretariat as well as to the Flag State.

8.56 The vast majority of Members supported the proposal that CCAMLR receive VMS data. Some Members supported the implementation of a dual-system VMS. Others were of the view that, if appropriate, relevant information deriving from the VMS should be submitted to CCAMLR via the fisheries monitoring centre of the vessel's Flag State (see also paragraph 3.31).

8.57 Japan was of the opinion that a cost-benefit analysis should be undertaken before the implementation of such a system. Japan also warned of the dangers of the possible disclosure of vessel position information which would be of great value to IUU vessels. Japan believed that, prior to implementation, the scheme would require strict control by the Secretariat and clear rules as to the handling of confidential position data. Japan also believed that compensation may need to be made to legal operators and that Flag States should have the option of suspending VMS reports in the event that position data were disclosed.

8.58 The Commission discussed and further elaborated several proposals for new measures and the revision of current measures aimed at the elimination of IUU fishing in the Convention Area.

8.59 The Commission adopted a set of revised and new conservation measures and resolutions related to the implementation of the CDS (paragraphs 11.13 to 11.20 and 11.28 to 11.35), the use of VMS, compliance by Contracting and non-Contracting party vessels with CCAMLR measures, port inspections of vessels carrying toothfish, and harvesting of toothfish outside the Convention Area in Areas 51 and 57 (see paragraphs 11.4 and 11.75).

¹ A system which reports to both the Flag State and the Secretariat.

Changes to the US Import/Export Control Program

8.60 The USA made the following statement on recent proposed changes to its domestic Import/Export Control Program for Toothfish:

‘As we all are, the USA continues to be concerned about the stresses to the toothfish stock in some areas due to the apparent fraudulent actions of some fishers and traders.

While some very good “first steps” have been implemented through CCAMLR by Members and other States which voluntarily subscribe to the CDS, further substantial improvements can be made. The current system still allows too much IUU fishing and subsequent fraudulent marketing of such catches under the cover of fraudulent DCDs.

Thus, based on trade data, the USA experience with questionable DCDs, the increasing seizure of vessels illegally fishing in the Convention Area, and the strong advice of the Scientific Committee this year and last, the USA is proposing some fundamental changes to our toothfish Import/Export Control Program.

First, as a condition of possessing a USA dealer permit, dealers would be required to designate and maintain a registered agent in the United States authorised to accept legal service of process on behalf of that entity. Requiring a registered agent will facilitate enforcement by ensuring jurisdiction over a foreign importer should an enforcement action become necessary.

Second, we have discussed with our industry the use of a pre-approval system applicable to all shipments of frozen toothfish and those shipments of fresh toothfish over 2 000 kg. The pre-approval system would be operated on a fee-for-service basis and would allow the National Marine Fisheries Service (NMFS) to review catch documents in advance of import. At least 15 days prior to an expected import, a dealer permit holder seeking to import *Dissostichus* will be required to submit the DCD that will accompany an anticipated shipment and an application requesting pre-approval of the shipment.

Under the new system the NMFS will review the documents, notify the dealer as to whether the import would be allowed or denied, further notify the US Customs Service to allow or deny import of the shipment, and bill the client for the review of the catch documentation and pre-approval application. Pre-approval will enhance economic certainty for US businesses and facilitate our enforcement efforts.

Finally, the USA would prohibit the import of any toothfish identified on a DCD as having been harvested from FAO Areas 51 or 57. This ban could take effect as early as late December 2002 and would continue until such time as fisheries-independent stock assessments confirm the presence of toothfish at significant population levels in those areas. The implausibility of any significant level of high seas catches of toothfish is illustrated by findings of WG-FSA and the Scientific Committee with respect to high seas catches attributed to FAO Areas 51 and 57.

VMS might also become a viable alternative to a ban on the import of toothfish from high seas Areas 51 and 57 if CCAMLR amended its VMS and CDS measures to improve the reliability and integrity of VMS use inside the Convention Area and in

adjoining areas. This would require Member consensus that CCAMLR: (i) direct its Secretariat to monitor the type, installation and operation of VMS and require all Member vessels in the Convention Area to use VMS and report data directly to the Secretariat; and (ii) expand the use of VMS verification by requiring its use in high seas areas adjacent to the Convention Area and by allowing non-Contracting cooperating Parties participating in the CDS to submit VMS data directly to the CCAMLR Secretariat.

In summary, we do not want our reputation tarnished as an importing State, nor do we want the resource to be further stressed by the fraudulent actions of others. Therefore, we are proposing significant changes to our Import/Export Control Program, that will result not only in the facilitation of the import of toothfish into the USA, but also sharply reduce the opportunity for our country to be presented with fraudulent documents.’

8.61 Members of the Commission noted that they would draw the attention of their national customs authorities and the fishing industry to the abovementioned proposed changes to the US Import/Export Control Program.

Amendment of Article 73(2) UNCLOS

8.62 Australia submitted a proposal (CCAMLR-XXI/23) to amend the application of Article 73(2) of UNCLOS, so that it does not apply to vessels or support craft apprehended for IUU fishing within the Convention Area, thereby preventing such vessels from resuming fishing activities after forfeiture of a posted bond.

8.63 The Commission noted that any amendment to UNCLOS would be a lengthy and complex procedure and urged caution in this regard.

8.64 The UK made the following statement:

‘We sympathise with the sentiments expressed by Australia in its paper. The UK has also had experience of an arrested vessel doing no more than paying its bond, then escaping paying the fine and returning to sea and to IUU fishing. Given the enormous amount of work and the cost of enforcement action, it is disappointing when this occurs.

However, we are rather doubtful that this proposal is the way to cure the problem. It is true that Article 311(3) of UNCLOS permits States to agree to suspend the operation of a provision of the Convention, provided that derogation from those provisions would be compatible with the effective execution of the object and purpose of the Convention. UNCLOS strikes a very careful balance between the rights of Coastal States and the rights of fishing States, and Article 73(2) is part of that balance. We are therefore concerned that derogation might not be compatible with achieving the object and purpose of the Convention. We also think it may send the wrong message as to our faith in the International Tribunal for the Law of the Sea (ITLOS), an institution set up by UNCLOS. If States think ITLOS is taking the wrong approach, the correct place to raise that issue is within the tribunal.

Apart from the legal position, we need consider very carefully whether waiver of rights under Article 73(2) would achieve the aim of reducing IUU fishing. If a vessel is not to be released on payment of a bond, it means that it will remain in port until such time as an appropriate tribunal has determined whether there has been a breach of the Coastal State's laws and regulations and imposed a penalty. If a tribunal eventually determines that a vessel is not guilty of IUU fishing, that vessel will be entitled to compensation – and if it has remained in port for some time, that compensation will be substantial. We wonder if the risk of having to pay such compensation might deter Port States from arresting vessels in the first place.

So, while we sympathise with the Australian concerns, we would very much urge caution before going down this very sweeping route.'

8.65 Chile endorsed the UK's thoughtful reflection on the merits and risks entailed by Australia's proposal to modify through a regional measure the requirements of Article 73(2) of UNCLOS. Chile pointed out that applying Article 73(2) of UNCLOS is an extreme recourse and would only be viable if the implied derogation of rights did not alter a balance which is in the core of the legal and political understandings underlying UNCLOS. Chile suggested, however, that other possibilities of collective action might be considered in line with the CCAMLR System of Inspection. These would direct the Flag State to prevent its vessels from continuing to fish, if sanctioned for contravening the Convention. Otherwise, if the ITLOS decisions continued to constitute a cause for concern, the matter could be raised in other forums such as the UN Oceans Consultation, UNCLOS Parties Meeting or as intervening States at ITLOS proceedings.

8.66 Norway also expressed sympathy with Australia's concerns and agreed that Article 73(2) of UNCLOS should have been stricter but is part of a broader balance. Norway observed that, whilst the amendment would only apply to inside the Convention Area, it does not support a piecemeal approach. In any case, Norway asserted that amendment to UNCLOS is extremely complicated and the implications of amending it would require further study. Therefore, Norway could not support the proposal as presented.

8.67 Sweden commented that:

'UNCLOS is a package deal. An essential part of that package is the balance of interests between the rights of Coastal States and the rights of Flag States. One of the most important examples of how UNCLOS tackles this balance is found in Article 73(2) (enforcement of laws and regulations of the Coastal State) when read in conjunction with Article 292 (relating to the prompt release of vessels). Any modification of the relation between these two articles would risk altering the balance between the rights of the Coastal State and the rights of the Flag State. While the Coastal State's interest is taken care of in Article 73, the rights of the Flag State is guarded by Article 292 and the regulation on prompt release of vessels.

The importance of this balance was furthermore underlined by the fact that this was the only situation in which States party to UNCLOS were subject to an automatic and compulsory jurisdiction of ITLOS.

While it is true that States may, *inter partes*, modify or suspend the provisions of UNCLOS, Article 311(3) contains an important qualification. It provides that such

modification may only be made if it does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of UNCLOS and does not affect the application of the basic principles embodied in UNCLOS.

It seems therefore reasonable to argue that any modification of the balance of interest as provided for in Article 73, and read in conjunction with Article 292, would be incompatible with the effective execution of the object and purpose of UNCLOS. We must not attempt to alter the balance of interests in UNCLOS by trying to get around it in a way that would be contrary to the basic principles and purposes of the Convention.

Any such modification must be notified to other State parties through the depositary according to Article 311(4). Hence, it is likely to be subject to protest and objections by other State parties to UNCLOS.

ITLOS has just begun its work, but it has dealt with several cases concerning prompt release of vessels. If there is a legal development within the praxis of the Tribunal in respect of what is to be considered as a “reasonable bond”, and which praxis is considered to be detrimental to efforts to combat illegal fishing, this is something that has to be dealt with in the context of ITLOS’ own jurisprudence. It is the view of Sweden that it is important to have confidence in the UNCLOS system and in the work of the Tribunal.

It should also be noted that a modification of UNCLOS as proposed by Australia would only address illegal fishing, since it is that type of fishing that takes place in the EEZ of a State. Unregulated and unreported fishing on the high seas cannot be addressed by modifying Article 73(2).’

8.68 South Africa shared the reservations of the UK and Norway and pointed out that South African legislation already takes UNCLOS Article 311 into account. South Africa suggested that Australia consider amending its own national legislation accordingly.

8.69 The European Community acknowledged the merits of the proposal but concurred with the sentiments expressed by Chile. The European Community would have difficulty in supporting the proposal and urged extreme caution in this respect.

8.70 Argentina understood the concerns of Australia but shared Norway’s view that more time was required in order to study the issue. Argentina noted that, over the years, it had drawn the Commission’s attention to the need to seek awareness of the balance of interests provided by UNCLOS provisions and not to divert from them. Argentina, therefore, urged the utmost caution. Argentina highly appreciated Sweden’s comments.

8.71 France stated that it fully understood Australia’s motivation but that the proposal may be disproportionate in relation to the problem. To revise UNCLOS would be a very significant task and consideration should instead be given to the suggestions of Chile for Flag State intervention. France noted that procedures involved in submitting an amendment to UNCLOS might involve the entire Commission having to appear before the tribunal in Hamburg, Germany.

8.72 Other Members endorsed the views of the UK and Sweden.

8.73 Australia thanked Members for their views and advised that it would reconsider its proposal with a view to revisiting the issue in future.

Amendment to Article I of the Convention

8.74 Australia presented a proposal to amend Article I, in accordance with Article XXX, of the Convention, to extend CCAMLR's competency for management of the harvesting of *Dissostichus* spp. outside the Convention Area by extending the boundaries of the Convention Area to include William's Ridge, Marion Rise and Del Cano/Africana Rise (Areas 51 and 57) (CCAMLR-XXI/24).

8.75 Russia stated that it was unable to see how CCAMLR can move in this way. The boundary of geographical distribution of *D. eleginoides* in the Indian Ocean was still an open question and needed further consideration (paragraph 8.2).

8.76 Norway reminded the Commission of the negotiation of the Southern Indian Ocean Fisheries Commission (SIOFC) and noted that this RFMO, once established, will have competence for FAO Areas 51 and 57. *Dissostichus* spp. would thus become a straddling stock and CCAMLR should consider cooperation with this organisation.

8.77 The European Community expressed its concerns with the Australian proposal as it would involve amending the Convention. The European Community also advised that negotiations on SIOFC were only at the stage of drafting the Convention. The next meeting on SIOFC will be in March 2003 and it was possible that a final agreement would be reached then. However, in terms of timing, the establishment of this organisation was still uncertain.

8.78 Spain reminded the Commission that UNCLOS contains provisions on cooperation between Coastal States and international organisations on matters associated with fishing on the high seas.

8.79 Sweden commented that:

'A modification of CCAMLR's geographical area of application is legally possible but would be a lengthy process. A diplomatic conference has to be called in accordance with Article XXX. All States which are Members of the Commission will have to approve it before the modification can enter into force. Then there is the next step during which all other Contracting Parties have to ratify, accept or approve the amendment. If a Contracting Party does not ratify, accept or approve the amendment, there is an automatic process by which such a State is deemed to have withdrawn from the entire Convention. Hence, by embarking on such an amendment procedure there is a great risk that we will "lose" States that are Contracting Parties to the Convention. This is the primary reason why Sweden is not convinced that the Australian proposal is the best way to tackle the problem.

However, the ideas presented by the Australian delegate regarding cooperation according to UNCLOS 117–119, are interesting and we would like to hear more about them. Sweden asked if Australia could provide any written documents reflecting the

ideas. The Swedish delegate stated that Articles 117–119 of UNCLOS clearly place an obligation on States to adopt with respect to their nationals measures for the conservation of living resources of the high seas and likewise place a duty on States to cooperate in this regard. ’

8.80 Chile agreed with the position of Spain and Sweden and noted that Article 8 of the UN Fish Stocks Agreement (UNFSA) provided a conceptual framework for States which exploit stocks on the high seas.

8.81 Argentina noted that not all States fishing for toothfish outside the Convention Area are Parties to the UNFSA or relevant RFMOs. With regard to the role of RFMOs, Argentina pointed out that cooperation in fishing the same stocks in the high seas can also be conducted by other instruments.

8.82 Japan, whilst sharing the deep concern expressed by Australia on the problems of IUU fishing, believed that this could be resolved through the adoption of other measures. Japan is of the view that the amendment of an Article of the Convention would be a lengthy one and it may also impact on other RFMOs.

8.83 Australia acknowledged the difficulties inherent in amending the Convention and advised that it would circulate an amended draft conservation measure as outlined in CCAMLR-XXI/24, Attachment B.

8.84 The Commission welcomed this intention but expressed concerns that due to insufficient time at the current meeting, consideration of the amended proposal should be postponed until CCAMLR-XXII.

NEW AND EXPLORATORY FISHERIES

New and Exploratory Fisheries in 2001/02

9.1 The Commission noted that 13 notifications of new or exploratory fisheries had been made in 2001/02 (CCAMLR-XX, Table 1), but that fishing occurred in respect of only two of these (CCAMLR-XXI/BG/5):

- exploratory longline fishery for *Dissostichus* spp. in Subarea 88.1 (north of 65°S: 58 tonnes; south of 65°S: 1 275 tonnes); and
- exploratory longline fishery for *Dissostichus* spp. in Subarea 88.2 (south of 65°S: 41 tonnes).

Only New Zealand-flagged vessels had participated in these fisheries.

New and Exploratory Fisheries in 2002/03

9.2 Eight notifications of exploratory fisheries were made for 2002/03 (Table 1), and there were no notifications of new fisheries. All notifications had been received by the Secretariat

by the due date (21 July 2002), except for the Russian notification, for which only a statement of intent to submit had been received. The formal Russian notification was received on 6 September 2002 and was revised on 7 October 2002 (CCAMLR-XXI/16 Rev.1 and BG/16).

9.3 Management measures for exploratory fisheries notified for 2002/03 are detailed in section 11.

9.4 The Commission noted that Australia had notified the commencement of a longline fishery for *D. eleginoides* in Division 58.5.2. That notification was not formally for a new or exploratory fishery, but rather for the introduction of a new fishing gear to an established fishery. The Commission welcomed the approach taken by Australia in providing advance notification of the proposed fishery and of the management provisions planned for that fishery.

9.5 As in previous years, the Commission also noted that there had been a large number of notifications for Subareas 48.6, 88.1 and 88.2 and Division 58.4.4. In fisheries with low precautionary catch limits, this implied that if all vessels operated simultaneously, the available catch per vessel could be lower than that required for economic viability, especially in high latitudes where fishing imposes considerable operational difficulties. Further, in Subarea 88.2, the catch limit could potentially be taken in a short time or be over-shot if all notified vessels participate. In Division 58.4.4, if all five notified vessels participate and achieve typical daily catch rates, the Commission agreed that it may be administratively impossible for the Secretariat to close the fishery before the catch limit has been taken.

9.6 The Commission noted that there were still inconsistencies in the way in which notifications specified intended catch levels. As was the case last year, some notifications attempted to specify realistic levels of intended catches, while others simply specified an intended catch that was equal to the current precautionary catch limit.

9.7 The Commission requested that the Scientific Committee further develop the notification requirements, including the capacity to discern between applications which deserved consideration and those which were repeat notifications with little intent to fish.

9.8 The Commission agreed to further consider options for alleviating the work of the Scientific Committee, including the application of cost recovery.

Precautionary Catch Limits

9.9 The Commission noted that the Scientific Committee was unable to provide new advice on precautionary catch limits in new or exploratory fisheries in 2002/03, except for those in Subareas 88.1 and 88.2.

9.10 The Scientific Committee had estimated the precautionary catch limits for *Dissostichus* spp. in Subarea 88.1 and 88.2 using new data resulting from the exploratory fisheries in these subareas. The assessment method, which was developed in 2000 (SC-CAMLR-XIX, Annex 5, paragraphs 4.20 to 4.33), used information on CPUE from the exploratory fishery, biological parameters for *D. mawsoni* and yield estimates for *D. eleginoides* in Subarea 48.3.

9.11 The estimated yield for Subarea 88.1 in 2002/03 had more than doubled since last year to 13 882 tonnes (SC-CAMLR-XXI, paragraph 4.110), and the Commission noted that this increase was due to the large increase in CPUE in that subarea in 2001/02, as well as the increased recruitment estimates for Subarea 48.3.

9.12 The Commission noted that increased recruitment estimates for Subarea 48.3 did not imply a direct biological link between Subareas 48.3 and 88.1. Rather, the estimate of yield in Subarea 48.3 was a key parameter in the assessment for Subarea 88.1, and an increase in yield in Subarea 48.3 (SC-CAMLR-XXI, paragraph 4.55) would therefore affect the estimated yield in Subarea 88.1.

9.13 Similarly, the estimated yield of *Dissostichus* spp. in Subarea 88.2 in 2002/03 had increased to 602 tonnes, and the Commission noted that this yield applied only to SSRU A (SC-CAMLR-XXI, paragraph 4.111).

9.14 The Commission noted that the revised estimates of yield for Subareas 88.1 and 88.2 should be treated with considerable caution. Further, it was noted that the Scientific Committee had advised that the approach employed to estimate yield in Subareas 88.1 and 88.2 may no longer be applicable and that this issue would be reviewed at the 2003 meeting of WG-FSA (SC-CAMLR-XXI, Annex 5, paragraphs 5.27 to 5.29).

9.15 The Commission considered options for discounting estimated yields in Subareas 88.1 and 88.2 in the face of uncertainty in the parameters used in the assessments. Options ranged from applying discount factors of 0.3 or 0.5, as was used in recent years, to retain the precautionary catch limits presently in force.

9.16 The Commission recalled the need to ensure that exploratory fisheries did not expand faster than the acquisition of information necessary to ensure that these fisheries can and will be conducted in accordance with the principles set forth in Article II (Conservation Measure 21-02 (2002) (see paragraph 11.23)).

9.17 The Commission agreed that the catch limit in Subareas 88.1 and 88.2 in 2001/02 would not be increased by more than 50% (see section 11).

9.18 The Commission urged Contracting Parties to undertake further research in Subareas 88.1 and 88.2, notably research on recruitment, the most effective means of deploying effort and the continuation of mark-recapture experiments.

Incidental Mortality

9.19 The Commission noted that consideration of new and exploratory fisheries from the perspective of seabird incidental mortality was undertaken by ad hoc WG-IMAF (SC-CAMLR-XXI, paragraphs 5.38 to 5.40). Incidental mortality is further considered in section 6.

PROPOSED CITES LISTING FOR TOOTHFISH

10.1 Australia advised the Commission that it had nominated toothfish for listing under Appendix II of the Convention for the International Trade in Endangered Species (CITES). Australia stated that this nomination was not intended to undermine the role of CCAMLR and that Australia did not wish to see the implementation of dual measures in respect of toothfish. Australia stressed that CCAMLR was the primary body responsible for measures related to toothfish and that the CDS was the key element in managing international trade in the species.

10.2 The majority of the Commission opposed the CITES listing proposal for a variety of reasons.

10.3 Japan noted that Australia had sought the cooperation of another international body to assist CCAMLR. Japan expressed the belief that, in accordance with established practices of CCAMLR, the issue should first have been discussed in the Commission before any action was taken. Japan pointed out that the agenda item 'Cooperation with Other International Organisations' is included on the Commission agenda every year. Thus, Japan questioned why Australia took such an action unilaterally without prior consultation with other CCAMLR Members. Japan expressed regret that the Executive Secretary of the Secretariat should have been in the position of having to provide a response to the CITES Secretariat and FAO without prior guidance from the Commission.

10.4 Japan acknowledged the notion of Australia that the proposal to list toothfish under CITES Appendix II could facilitate the control of trade in toothfish amongst non-participating Parties to the CDS. However, Japan was of the opinion that any benefits would be minimal in comparison to the risks involved, the greatest of these being that a CITES listing may undermine the competence of CCAMLR whilst expanding the competence of CITES on commercially exploited marine species such as toothfish.

10.5 Japan refuted the argument that a CITES listing would provide greater coverage of the CDS by the 160 CITES member countries. Japan noted that, although CCAMLR only comprises 31 participating Parties, these countries comprise 60% of the global land mass and, with the inclusion of China, 85% of the global population. Japan also noted that the major importers of toothfish are Japan, European Community and the USA, all of which are CCAMLR Members. The People's Republic of China, Mauritius and Seychelles are also CDS participating Parties and have expressed their willingness to cooperate with CCAMLR whilst Mozambique has sent a representative to CCAMLR-XXI. Japan therefore considered that CCAMLR is not only a competent organisation to manage toothfish but also fully competent to tackle related problems.

10.6 Japan also pointed out that the CITES listing proposal may affect the reputation of CCAMLR and had generated considerable publicity which may be misconstrued. In particular, Japan noted that the proposal was submitted by Australia, the Depositary State and host country of CCAMLR. Japan expressed concern that this action might be construed as evidence that CCAMLR Members believe that CCAMLR is not competent to manage toothfish.

10.7 Based on these concerns, Japan respectfully requested that Australia reconsider the proposal with a view to withdrawing it.

10.8 Norway requested two points of clarification from Australia. Firstly, Norway was of the understanding that Australia had undertaken some consultations with other CCAMLR Members prior to submitting the CITES listing proposal. Norway enquired as to the results of those consultations and whether there had been general support for such a listing.

10.9 Norway also requested clarification of Australia's interpretation of Article XXIII of the Convention which gives provision for the Commission to enter into working relationships with other international bodies. Norway pointed out that, in its opinion, Article XXIII did not provide an opportunity for individual countries to act on behalf of the Commission.

10.10 Norway stated that it is fully cognisant of the seriousness of IUU fishing and appreciative of the many new and appropriate measures which, in particular, Australia has proposed in order to address the issue. However, CCAMLR has in place fairly good and sophisticated systems to address the problem of IUU fishing and Norway is optimistic that these could be strengthened at CCAMLR-XXI.

10.11 Norway expressed disappointment with Australia's decision to propose toothfish for listing under CITES Appendix II and stated that it is against the proposal as it is unable to see that the criteria for such a listing have been met. CITES was established to remedy situations where international trade was endangering the survival of certain species. Norway pointed out that management decisions for marine species were normally made on the basis of stocks, rather than species. Generally speaking, one or more stocks of a species may be in a difficult condition whilst, at the same time, other stocks of the same species may be in a very good condition. In this regard, Norway noted that the Scientific Committee had proposed an increase of the total allowable catch limit for *D. eleginoides* in Subarea 48.3 for the next season.

10.12 Norway conceded that CCAMLR needed to do more in future to protect the different stocks of toothfish, but was of the opinion that Member countries would be able to take appropriate actions within CCAMLR to regulate and, in some instances, even temporarily close some fisheries if required and so to apply current CITES mechanisms to commercial fisheries is the wrong answer. Instead, Norway is in favour of appealing to other Member countries in CITES to voluntarily adopt the CDS and encourage all countries fishing or trading toothfish to become Members of CCAMLR.

10.13 Norway concluded that the proposal of Australia has not been discussed by CCAMLR and does not enjoy the support of the Commission and urged Australia to taking into account the inevitable consequences of this fact. CCAMLR is the body responsible for scientific advice and management measures for the conservation and sustainable use of toothfish. If Australia does not withdraw its proposal, the credibility and authority of CCAMLR might be seriously undermined.

10.14 In response to the first question from Norway, Australia advised that it had undertaken intersessional consultation with Members prior to submitting the CITES listing proposal, and acknowledged that responses received had generally been non-committal, although some negative responses had been indicated, as well as some positive responses.

10.15 In response to Norway's second question, Australia stated that it was mindful of the need to consult with CCAMLR Members before entering into arrangements with other Parties. Australia pointed out that it had not instructed the Commission to enter into an arrangement with another Party, but had merely asked it to consider the possibility.

10.16 The European Community indicated that its 15 Member States will be represented at the upcoming 12th Conference of the Parties (COP-12) to CITES in Santiago, Chile. In respect of the proposal tabled by Australia to include toothfish in CITES Appendix II, a detailed discussion has taken place within the European Community on the merits of this proposal and the possible effects on the operation of CCAMLR's CDS.

10.17 The European Community therefore considered that the arguments set out in the Australian proposal are not conclusive with regard to the inclusion of toothfish in CITES Appendix II.

10.18 The European Community maintained reservations in relation to ensuring that the CDS and the CITES certifications and controls could be made to work simultaneously in a manner that is complementary and efficient. Whilst the European Community favours cooperation and synergy between CITES and CCAMLR, it believes that it is still unclear that the Australian proposal would achieve this objective in the best possible way. Therefore, the European Community reiterated considerable reservations regarding the appropriateness of the CITES listing proposal submitted by Australia.

10.19 Russia emphasised that it had serious doubts as to the appropriateness of the Australian proposal. Russia was of the view that available scientific data on the status of toothfish stocks were inadequate to reach an unequivocal conclusion of the necessity for such a listing. Russia also noted that the Scientific Committee had recommended increasing the total allowable catch of *D. eleginoides* in one of the subareas for the forthcoming season. At the same time, *D. mawsoni* had not yet been adequately studied and remained virtually unexploited.

10.20 Russia expressed the belief that the involvement of CITES in matters of CCAMLR competency could seriously undermine the very basis of the CCAMLR Convention and lead to the replacement of well-established and effective measures with other measures which do not take into account specific aspects of the conservation of Antarctic marine living resources. Russia noted that CCAMLR had by no means exhausted all the options in improving methods of managing toothfish. Therefore, acceptance of the Australian proposal would be counterproductive.

10.21 Chile recalled that it had advocated early consultations on this matter within the framework of the Commission and not in a unilateral manner inconsistent with Article XXIII of the Convention. Its reflection of the proposal to list toothfish in CITES Appendix II was based on a thorough analysis made by the competent national scientific and administrative authority (SERNAPESCA) for marine species under the CITES Convention. It was indisputable that the proposal did not meet any of the CITES criteria or conform to any of the CITES references.

10.22 In addition, Chile was of the opinion that suitable complementarity between CCAMLR and CITES could not be achieved before:

- (i) 'introduction from the sea' criteria explicitly acknowledged the UNCLOS regime;
- (ii) the recommendation from the FAO Second Technical Consultation involving changes to the CITES criteria, strengthening scientific evaluation processes and evaluating proposals on an informed case-by-case basis were accepted by CITES; and
- (iii) CITES recognised that any determination concerning the listing of marine species should be preceded by a recommendation of the scientific body of the organisation entrusted with the conservation and management of the concerned marine living resources.

10.23 In the meantime, Chile had submitted a draft resolution to the forthcoming CITES conference (COP-12) requesting that its Parties voluntarily adopt the CDS. Whilst Chile could not accept all the CITES submission language informally submitted by Australia to the Commission, those statements listed in the background information of the informal Australian submission could adequately reflect a common position which Commission Members might endorse as a powerful message addressed to COP-12.

10.24 Spain firmly supported the role of RFMOs in the decision making and management of fisheries bodies to ensure responsible fishing activity throughout the whole fishing industry in accordance with the FAO Code of Conduct for Responsible Fisheries. This model of RFMOs is coordinated at the international level by FAO. Spain supports the CDS and the implementation by CCAMLR of a system of permanent control of the fishery and continues to involve the different national administrations of the States concerned. It is a simple system and participation is offered to all countries, which is why cooperation with CITES, as with any other organisation, should not undermine CCAMLR, but rather encourage CITES members to adopt the CCAMLR model.

10.25 The USA observed that there should be no doubt that CCAMLR was the competent body for the management of toothfish but, given the seriousness of IUU fishing, CCAMLR must continue to take action. The USA expressed its concern with statements that toothfish stocks are improving in status. The USA stressed that while the CDS is an appropriate mechanism to manage the international trade in toothfish, it would assist the CDS if CITES members were to acknowledge this and voluntarily adopt the CDS. However, the USA pointed out that there was a large amount of IUU fishing on this species and the Commission would be wise to work with other organisations on combating the problem. Therefore, the USA welcomed the opportunity to work at CITES COP-12 in order to improve acceptance of the CDS and suggested inviting a representative of CITES to attend CCAMLR-XXII.

10.26 New Zealand stressed that it is a strong advocate of action against IUU fishing. In its view, as part of the effort to combat this, CCAMLR should welcome cooperation with other organisations including CITES. New Zealand stated its support for Australia's CITES listing proposal, which it saw as complementing CCAMLR's role, and expressed surprise that it did not meet with the full agreement of the Commission.

10.27 The People's Republic of China expressed its willingness to cooperate with the Secretariat and CCAMLR in deterring IUU fishing and trade of toothfish to ensure that such trade is conducted in a legitimate manner. China noted that in the first nine months of 2002 it

had processed and re-exported nearly 15% of the total global catch. China stressed that it had undertaken all steps necessary to act in accordance with Conservation Measure 170/XX and noted that its participation in, and contribution to, the CDS could be considered as one of the most important successes of the CDS. China, therefore, did not believe it necessary to include toothfish in a CITES Appendix II listing and would be reluctant to see the credibility and competence of CCAMLR undermined.

10.28 Sweden noted that the European Community had already stated the views of Community members on this issue. Sweden stated that CCAMLR measures had overall priority in respect of the Commission Members and that the Commission was now working hard to enhance them. Sweden was of the view that a CITES listing could be discussed and considered if CCAMLR measures did not prove to be sufficiently effective. Sweden reiterated the concerns of several delegations noting that the criteria for listing toothfish have not yet been met and there were still several points of clarification outstanding.

10.29 Argentina noted that, while sharing Australia's opinion regarding the advisability of establishing cooperation and complementarity among international organisations, any process relating to the listing of marine species under CITES should be fully compatible with UNCLOS. In this regard, Argentina recalled that when CITES was adopted in 1973, its Article XIV duly took into account future developments and States' positions regarding the law of the sea. In fact, at that moment negotiations were already beginning at the Third Conference of the UN on the Law of the Sea.

10.30 ASOC noted Members' concerns that a listing of toothfish in CITES would undermine CCAMLR but advised that CITES had stated that CCAMLR would remain the fisheries management body responsible for toothfish, with CITES facilitating broader trade regulation and control. ASOC also noted the comments of some Members indicating that fisheries management was better done by a regional fisheries management authority. ASOC agreed that CCAMLR is the appropriate body for the management of toothfish and stated that the CITES Appendix II listing would not change CCAMLR's authority to set catch levels, regulate fishing methods and operate the CDS.

10.31 On the question of how CITES could address IUU fishing more effectively than CCAMLR, ASOC noted that the Scientific Committee and SCOI had indicated that IUU fishers are operating in CCAMLR waters and reporting their catches as taken outside the Convention Area. ASOC was of the opinion that a successful CITES listing would close such loopholes by extending CCAMLR's CDS to all toothfish caught and entering international trade. ASOC pointed out that CITES is a global convention with over 159 Parties, and strong compliance and enforcement mechanisms, whereas CCAMLR has 24 full Member States with limited enforcement capabilities.

10.32 ASOC acknowledged concerns that a CITES listing would increase the administrative burden on States. However, ASOC pointed out that the nomination proposes that CITES adopts the CDS for the purposes of CITES permit and certificate provisions, thus avoiding duplication. ASOC also expressed the opinion that a CITES listing would benefit legitimate toothfish operators because it would impose the same regulations on all toothfish traders.

10.33 ASOC noted Members' comments that toothfish should not be listed with CITES until 'introduction from the sea' issues have been resolved, but pointed out that catch documents could be considered equivalent to CITES certificates of 'introduction from the sea'. ASOC

expressed the view that CCAMLR has already invited voluntary cooperation with the CDS with limited success, thus, the proposal that CITES members voluntarily adopt the CDS would be of limited benefit in comparison to a formal CITES Appendix II listing which would make compliance with CCAMLR and/or CITES mandatory.

10.34 ASOC noted Members' comments that toothfish should not be listed with CITES as they are not endangered. However, ASOC advised that an Appendix II listing is intended to include species which are not now threatened with extinction but may become so unless trade is subject to strict regulation.

10.35 ASOC advised the Commission that the CITES Secretariat had reviewed Australia's proposal and had determined that Patagonian toothfish meets the CITES criteria for an Appendix II listing and that Antarctic toothfish also meets the criteria for an Appendix II listing under the 'look-alike' clause. The CITES Secretariat's Final Recommendation on this proposal supports the view that CITES and CCAMLR can be complementary, and that scope exists to use existing CCAMLR documentation as the basis for documentary requirements under CITES.

10.36 ASOC thanked the Government of Australia for its proposal to list toothfish under CITES Appendix II as well as the Government of New Zealand for its support. ASOC expressed extreme disappointment that Members are unable to take the opportunity of the extending CCAMLR measures to all CITES Parties and urged Australia not to withdraw the proposal.

10.37 Namibia advised that over the past days, the Commission and its Standing Committee on Observation and Inspection were tirelessly exploring a number of measures to minimise, within the framework of CCAMLR, the impact of IUU fishing on Patagonian toothfish. Opinions and views were put forward on how both Contracting and non-Contracting Parties could ensure compliance with CCAMLR conservation measures.

10.38 Namibia further stated that harvesting and marketing of toothfish from the CCAMLR Convention Area is currently administered and controlled through CCAMLR CDS which is functioning. Any existing loopholes have been identified for amendments to further strengthen the system. In this regard, CCAMLR still remains the competent fisheries management organisation with regard to toothfish.

10.39 Further, Namibia referred the Commission to its position on this matter as mentioned during the Second Technical Consultation on the Suitability of the CITES Criteria for Listing Commercially Exploited Aquatic Species.

10.40 Namibia advised that there are initiatives under way by FAO to amend the existing CITES criteria when applied to commercially exploited species. In this regard, any initiative to accord CITES a greater role in marine resources management should be done with extreme caution.

10.41 Due to complications such a listing could have on any other commercially exploited species, and due to the initiatives on the table to adjust the existing criteria, Namibia is not in the position to consider the listing of toothfish in CITES Appendix II until such time as the listing criteria are satisfactorily amended.

10.42 South Africa endorsed the concerns of Namibia and stated that South Africa cannot support a CITES listing based on the current criteria. South Africa noted that it has sovereign territories in the Convention Area and would be reluctant to set a precedent for other fisheries, as this could have dire socio-economic consequences for South Africa as a developing nation. South Africa also pointed out that CCAMLR's existing measures are being further enhanced and that Members should rather focus efforts on improving application of the CDS.

10.43 South Africa noted that it had recently hosted the World Summit on Sustainable Development (WSSD) and referred to paragraph 2 of CCAMLR-XXI/BG/35 which reported that 'Sustainable development has three components, namely economic development, social development and environmental protection...Poverty eradication, changing unsustainable patterns of production and consumption, and protecting and managing the natural resource base of economic and social development are overarching objectives essential for sustainable development'. Mindful of the balance between developing nations and sustainable development, South Africa requested that Australia withdraw the proposal.

10.44 The Republic of Korea expressed appreciation for the efforts of Australia on the conservation and better management of CCAMLR fishery resources, including a proposal for the expansion of the CDS to non-Contracting Parties through CITES. Korea observed that this seems an innovative and constructive idea in some aspects. However, Korea noted that other aspects of the proposal to list toothfish under CITES must be considered in detail and that these should be considered by the whole Commission, not just by one Member. Korea reminded the Commission that CCAMLR has adopted a number of strong measures to combat IUU fishing, for example, the implementation of the CDS, the possible implementation of an electronic web-based CDS and Resolution 16/XIX. CCAMLR measures continue to develop and demonstrate the abilities of CCAMLR and should be given the opportunity to try and address the issue of IUU fishing.

10.45 Ukraine fully understood Australia's concerns regarding IUU fishing, but urged a more rational approach in addressing these concerns. Ukraine believed that the Australian proposal comprised two separate issues: (i) inclusion of toothfish in CITES Appendix II and (ii) cooperation between CCAMLR and CITES. Ukraine emphasised that it is unequivocally opposed to the inclusion of toothfish in CITES Appendix II. The Commission should instead focus its consideration on the second issue.

10.46 The Commission agreed to establish an informal group to discuss the issue in more detail. Norway pointed out that, as only one other Member had expressed support for the Australian proposal, the Terms of Reference for the group should only be to discuss an appropriate response to CITES on the issue. This recommendation was supported by another three Members.

10.47 Dr S. Stone, the Australian Parliamentary Secretary for the Environment and Heritage, addressed the Commission.

'As Parliamentary Secretary responsible for Antarctic matters, I welcome all Delegates to Australia and thank the Commission for the opportunity to address this, the Twenty-first, meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

Since its first meeting in 1982, the Commission has established itself as the primary international body responsible for the conservation and rational use of marine resources in the oceans surrounding Antarctica. To this end, the Commission has taken significant steps to protect Antarctica's unique and fragile marine ecosystems, including measures to combat illegal, unreported and unregulated fishing (IUU) such as the introduction of a vessel monitoring system (VMS) and the implementation of a catch documentation scheme (CDS).

However, while these and other measures adopted by CCAMLR have improved the management of Antarctic fisheries and closed many loopholes open to IUU fishers, recent statistics and events combine together to provide us with a compelling story for the need for further action.

Scientific Committee findings show that the amount of fish recorded as being taken outside the CCAMLR area is not credible. Moreover, sightings and apprehensions of vessels fishing illegally within CCAMLR waters, including in Australia's EEZ around the Heard and McDonald Islands, during the past 12 months suggest that illegal, unregulated and unreported fishing is on the increase, despite significant efforts by CCAMLR.

The Australian Government is deeply concerned by these trends, which pose a serious threat to fish stocks as well as seabird populations. In this light Australia is strongly committed to CCAMLR and its efforts to combat IUU fishing. As such, Australia has recently increased its level of resources aimed at tackling this issue in Australia's EEZ around Heard Island and McDonald Islands. An area which is wholly within the CAMLR Convention Area.

The Australian Government is also frustrated at the apparent disregard of some countries for CCAMLR management and conservation measures. This disregard is undermining the credibility of CCAMLR. Australia therefore encourages all Members to reassess their obligations under the Convention and to take action against those who support and/or facilitate illegal fishing activities.

Australia's frustration at the illegal fishing that is occurring is not only found in our increased domestic efforts. It is also expressed in the package of initiatives that it has developed for consideration at this Commission meeting, and at the CITES meeting which begins in Chile next week.

Let me reiterate Australia's position – Australia is deeply committed to CCAMLR. Indeed, Australia takes all its treaty obligations very seriously. And Australia believes that in order to tackle some problems, it may have to use a range of instruments in a complementary and integrated fashion.

I will clarify to the Commission that Australia's CITES proposal remains on the CITES agenda. However, I will undertake to advise the other Ministers responsible for CITES considerations – Minister Kemp responsible for the Environment and Heritage, Minister Truss responsible for Agriculture, Forests and Fisheries and Minister Macdonald responsible for Fisheries and Conservation – on the views of Commission Members in regard to the CITES listing proposal, as well as the outcomes of this meeting.

As I have already mentioned, Australia has proposed a package of measures, which also includes a number of specific initiatives to combat IUU fishing at this meeting and I commend them to you. The initiatives include the establishment of a centralised reporting system for vessels fishing within the CCAMLR area, extending CCAMLR's competency to manage the harvesting of toothfish outside the CCAMLR area, and stricter verification and validation measures for the catch documentation scheme.

The proposal for a centralised reporting system reflects Australia's concern over the way in which the current vessel monitoring system is operating and aims to increase the transparency of the system. We are aware of an offer from the fishing industry representatives of a number of Member States to contribute up to \$70 000 towards the implementation of such a system. I understand this may include industry representatives from Australia, France, South Africa and New Zealand. I am happy to announce here that the Australian Government will match industry's contributions on a dollar-for-dollar basis should the Commission agree to implement a centralised reporting system.

The Scientific Committee of CCAMLR has informed us that, even though toothfish may be caught adjacent to the Convention Area, the level of misreporting is so great that it threatens CCAMLR itself. Australia has proposed that CCAMLR resolve this problem by taking steps to ensure the sustainable management of toothfish stocks on the high seas outside the CCAMLR area.

Australia recognises that the precautionary approach underpins the Commission's management decisions, and supports initiatives to ensure the long-term sustainability of the marine ecosystem and Southern Ocean fisheries. In this respect we welcome the continued use of the precautionary approach in estimating sustainable catch levels for toothfish and icefish.

Australia also welcomes the implementation of general measures to mitigate by-catch of seabirds, such as measures to combat the discharge of offal, night-setting and the use of streamer lines, as well as pursuing further development of strategies for mitigating by-catch of finfish, skates and rays.

In recognising the conservation objective of CCAMLR, Australia has recently announced the declaration of the Heard Island and McDonald Islands Marine Reserve and Conservation Zone. This reserve is wholly within Australia's Fishing Zone and does not affect CCAMLR new and exploratory fishery proposals or established fisheries. It protects nursery areas for a range of fish stocks, including toothfish, diverse and distinctive benthic habitats supporting a range of slow growing and vulnerable benthos, and prime foraging areas for a number of land-based marine predators, including threatened albatross and seals.

Finally, I would like to take this opportunity to congratulate all Parties on their resolve to tackle illegal, unreported and unregulated (IUU) fishing, and look forward to the outcomes of the Commission on initiatives to tackle this significant problem.'

10.48 Dr Stone thanked the Commission for the opportunity to address CCAMLR-XXI and commended the Commission for its resolve in addressing the issue of IUU fishing.

10.49 Dr Stone noted that recent statistics and events had provided CCAMLR with compelling reasons for the need for further action. Dr Stone advised that the Australian Government is deeply concerned at the levels of IUU fishing within Australia's EEZ inside Division 58.5.2 of the Convention Area and believed that a range of initiatives were required in order to address the problem. Dr Stone commended a suite of initiatives which Australia has submitted for consideration by the Commission, including centralised VMS reporting. In this regard, Dr Stone advised that an offer for A\$70 000 had been received from fishing industry representatives and that the Australian Government would match this contribution on a dollar-for-dollar basis should the Commission agree to implement centralised VMS reporting.

10.50 Dr Stone advised the Commission that the Australian CITES listing proposal remained on the CITES agenda. However, she undertook to advise other Australian Government ministers of the views of the Commission regarding the proposal, as well as the outcome of CCAMLR-XXI.

10.51 The Commission thanked Dr Stone for her address and thanked Australia for the many initiatives it has taken aimed at strengthening the work of CCAMLR.

10.52 Most Members who had spoken before against the CITES listing proposal, reiterated the main points from their earlier statements. These Members concurred with Norway in observing that the Australian CITES listing proposal was an unfortunate development and expressed disappointment that it had not been withdrawn. Members' main concerns were that the proposal was not based on scientific data from CCAMLR, did not meet the criteria for CITES listing, nor was it discussed amongst CCAMLR Members before submission to CITES. It was also pointed out that CCAMLR is the international body responsible for scientific advice and management measures for the conservation and sustainable use of toothfish and that only one other delegation (New Zealand) supported the proposal. There was general agreement that CCAMLR should explore possible cooperation between CCAMLR and CITES on the implementation of the CDS.

10.53 Several other Members not speaking previously also stated their position on the Australian proposal.

10.54 The UK endorsed the previous comments of Norway regarding Article XXIII of the Convention and noted that the response of the Commission supported the view that actions taken under Article XXIII must be instituted by consensus, not the unilateral action of one State. The UK also endorsed the previous comments of Ukraine, which clarified the difference between cooperation with CITES and the act of listing toothfish under Appendix II. The UK saw the virtue of cooperation between CITES and CCAMLR in respect of trade mechanisms so long as these could be shown to work both in a legal and a practical sense. Until this occurred, the UK believed that consideration of extending CITES provisions to toothfish would be premature.

10.55 The UK remained unconvinced of the rationale to list toothfish under CITES Appendix II and noted that the proposal had the potential to undermine both CCAMLR and the CDS. The UK observed that to persist with the proposal after the vast majority of the Commission had indicated their opposition would create tension, rather than cooperation

between the two treaties. The UK expressed great sympathy for Australia's frustration in addressing the issue of IUU fishing but requested that Australia withdraw the CITES listing proposal.

10.56 Chile thanked Dr Stone for her willingness to advise the Australian Government of the Commission's views and stressed the importance of clearly separating the listing of toothfish, a proposal which did not meet the Commission's consensus while cooperation between CCAMLR and CITES which gathered broad support and in whose context the different modalities envisaged by Australia and Chile should basically be addressed at the CITES Conference in Santiago.

10.57 France noted that France and Australia shared common concerns with respect to IUU fishing and a very efficient partnership had already been established between the two countries to combat IUU fishing activities; this partnership was now in the process of being institutionalised. However, whilst France acknowledged the good intentions of Australia, it warned that these might be counterproductive to Australia and to all CCAMLR Members as it had the potential to undermine the credibility of the Commission. France hoped that Australia had noted the opposition of the vast majority of Members and informed that, whilst it was in favour of cooperation with CITES, it was firmly opposed to an Appendix II listing for toothfish and urged Australia to withdraw the proposal.

10.58 Italy advised with regret that it could not support the CITES listing proposal and endorsed the views of France. Italy urged that the CDS should instead be strengthened and enhanced. Italy also warned of the possible danger for the credibility of CCAMLR of being weakened if toothfish was listed under CITES Appendix II.

10.59 The USA again noted that the meeting of the CITES Conference of Parties is an opportunity to: (i) promote CITES cooperation with CCAMLR; (ii) urge the member Parties of CITES to implement the CDS; and (iii) consider how CITES and CCAMLR might work together to reduce trade in toothfish illegally harvested.

10.60 Brazil thanked Australia for so many positive initiatives in favour of environmental conservation in general and in relation to Antarctica. However, Brazil endorsed the concerns of other Members and, therefore, could not support the proposal. Furthermore, Brazil was in favour of future cooperation with CITES.

10.61 Germany and Belgium stated that they had come to CCAMLR-XXI open-minded as to the Australian CITES listing proposal. However, Germany and Belgium, taking into consideration that the vast majority of the Commission opposed the proposal, believed that continued pursuit of the current proposal would not be in the interests of either Australia or CCAMLR.

10.62 New Zealand reiterated its support of the CITES listing proposal and commented that the views of those Members who had a different perspective on the matter from some of those who had spoken should be respected.

10.63 The vast majority of Members appealed to the Australian Government to take steps to quickly withdraw the proposal to list toothfish under CITES Appendix II in order that the credibility and authority of CCAMLR not be further undermined.

10.64 In subsequent discussions (for example under Agenda Item 15) the following additional comments were made.

10.65 Norway drew to the attention of the Commission the fact that there were two items relating to CCAMLR on the agenda of the forthcoming meeting of CITES. One, relating to cooperation with CCAMLR on toothfish trade, had been proposed by Chile. The other, for the listing of toothfish under Appendix II, had been proposed by Australia. Norway was disappointed that neither proposal had been discussed by the Commission before being proposed to CITES. Discussions during the current meeting had indicated the Commission's support for the thrust of the Chilean proposal, but Australia's proposal has met substantial opposition. Despite this being communicated to Australia, also at a political level, it has refused to withdraw its proposal for listing and was thereby harming the reputation and authority of CCAMLR.

10.66 Norway pointed out that Article XXIII of the Convention sets out how the Commission should cooperate with other organisations, and this provides no scope for unilateral representation by individual Members. Furthermore, Australia is not able provide the data that CITES would require for such a listing; this can only be supplied by CCAMLR itself.

10.67 Norway believed that CCAMLR can only communicate authoritatively with other organisations when it has first put its own house in order. Australia's action is preventing this by undermining the cohesion within CCAMLR, so Norway again called on Australia to withdraw its proposal.

10.68 The UK, in concurring with the views expressed by Norway, was also concerned that Australia was prepared to take a matter of direct relevance and responsibility of CCAMLR to another international body (CITES) even when that body had different objectives and decision-making procedures to those of CCAMLR. This could lead to CITES taking decisions which were directly at odds with the views of the vast majority of CCAMLR Parties. This, in the view of the UK, was not in line with the consensus mechanism, which was fundamental to CCAMLR and the Antarctic Treaty System more generally. The UK hoped that Australia was sufficiently communitaire to the consensus principles of the Convention to reconsider its position on the listing of toothfish.

10.69 Japan wished to be associated with the sentiments expressed by Norway and others on the subject of the proposal for CITES listing. If Australia intended to pursue this, Japan asked that Australia should make it clear to CITES that the proposal does not represent the will of CCAMLR.

10.70 In reply to Norway's comments, Australia reinforced the advice of Dr Stone that the views of the Commission would be communicated to the responsible Australian ministers. These views had been clearly and strongly expressed.

10.71 Australia repeated its earlier advice to the Commission that its proposal was based not only on good intentions, but also on the fact that CCAMLR was the relevant and competent authority, had the scientific competency and implemented the necessary global catch documentation scheme for toothfish. Australia advised that the proposal had not been

withdrawn and hoped that it could draw comfort from the comments of the European Community that the Commission is currently meeting to take decisive action to combat IUU fishing.

Summary on CITES

10.72 The Commission considered the proposal by Australia to list toothfish in CITES Appendix II. New Zealand supported this proposal as submitted. Most Members expressed extremely strong opposition to the proposal and regarded it as an unfortunate development. Nineteen Members urged Australia to withdraw its proposal to CITES.

10.73 The Commission concluded the following:

- CCAMLR is the body with primary competency for managing the conservation and rational use of toothfish in the Convention Area.
- The Scientific Committee of CCAMLR is the pre-eminent scientific body with respect to the biology of toothfish, its role in the Antarctic marine ecosystem, and the assessment of sustainable harvest levels.
- CCAMLR will continue to take enhanced measures to address IUU fishing.
- The CCAMLR Catch Documentation Scheme for *Dissostichus* spp. (CDS) is recognised as the appropriate trade documentation for trade in toothfish.
- CCAMLR will encourage greater adoption and use of the CDS by non-CCAMLR Members and, in this regard, would urge CITES Parties to require a CCAMLR CDS document on all toothfish imports.

10.74 The Commission considered it was essential to cooperate, if appropriate, with present and future RFMOs in assisting with the conservation and rational use of toothfish. It noted CCAMLR's Article XXIII in this respect, and concluded that further cooperation with CITES would be welcome.

10.75 The Commission also welcomed the interest of CITES in the CDS and will invite the CITES Secretariat to send a representative to CCAMLR-XXII. An invitation to this effect will be forwarded to the CITES Secretariat by the CCAMLR Secretariat.

CONSERVATION MEASURES

11.1 Conservation measures adopted at CCAMLR-XXI are listed in the *Schedule of Conservation Measures in Force 2002/03*.

11.2 With the aim of further simplifying the presentation of the conservation measures, the Commission at its 2001 meeting had requested the Secretariat to review the numbering system used for conservation measures along with the sequence in which measures and resolutions are subsequently published (CCAMLR-XX, paragraph 9.4).

11.3 The Secretariat's review (CCAMLR-XXI/15) proposed a numbering system which would allow measures to be traced over the course of their history, provide information on the topics addressed by the measures, and retain a notation familiar to CCAMLR.

11.4 The review also identified enhancement in the presentation of measures in the *Schedule of Conservation Measures in Force* by adding:

- a reference box to each conservation measure, to indicate where appropriate, the target species, area, season and fishing gear to which the measures apply;
- a table to indicate which measures applied to particular fisheries; and
- a table summarising the history of conservation measures.

11.5 The Commission endorsed this proposal with the following changes:

- the roman numeral designating the meeting at which each measure was adopted would be replaced by the year of that meeting; and
- the categories of measures was further elaborated (Table 2).

11.6 The Commission also agreed that all measures in force in 2002/03 would be renumbered using the new system, and that the existing numbering system for resolutions would be retained.

Review of Existing Conservation Measures and Resolutions

Lapsed Measures and Resolutions

11.7 The Commission noted that the following conservation measures² will lapse on 30 November 2002: 218/XX, 219/XX, 220/XX, 221/XX, 222/XX, 223/XX, 224/XX, 225/XX, 226/XX, 227/XX, 228/XX, 229/XX, 230/XX, 231/XX, 232/XX, 233/XX, 234/XX, 235/XX, 236/XX, 237/XX and 238/XX.

11.8 The Commission agreed that Resolution 13/XIX (Flagging and Licensing of Non-Contracting Party Vessels) be rescinded (see Conservation Measure 10-07 (2002)).

Measures and Resolutions Remaining in Force

11.9 The Commission agreed that the following conservation measures² will remain in force in 2002/03: 10-01 (1998), 10-02 (2001), 22-01 (1986), 22-02 (1984), 22-03 (1990), 23-01 (2000), 23-02 (1993), 23-03 (1991), 23-04 (2000), 23-05 (2000), 25-01 (1996), 25-03 (1999), 31-01 (1986), 32-01 (2001), 32-02 (1998), 32-03 (1998), 32-04 (1986), 32-05 (1986), 32-06 (1985), 32-07 (1999), 32-08 (1997), 32-12 (1998), 33-01 (1995), 41-03 (1999), 91-01 (2000), 91-02 (2000) and 91-03 (2000). The numbers of these measures under the previous number system were as follows: 146/XVII, 119/XX, 4/V, 2/III, 19/IX, 51/XIX, 61/XII, 40/X,

² Reservations to these measures are given in the *Schedule of Conservation Measures in Force in 2001/02*.

122/XIX, 121/XIX, 63/XV, 173/XVIII, 7/V, 217/XX, 72/XVII, 73/XVII, 5/V, 6/V, 3/IV, 171/XVIII, 129/XVI, 160/XVII, 95/XIV, 180/XVIII, 18/XIX, 82/XIX and 62/XIX respectively.

11.10 The Commission agreed that the following resolutions will remain in force in 2002/03: Resolutions 7/IX, 10/XII, 14/XIX, 15/XIX, 16/XIX, 17/XX.

11.11 The Commission agreed to update, where needed, the references to conservation measures in the text of the resolutions. Such changes would not result in a change in the meeting number at which the resolutions were adopted.

Revised Measures

11.12 The Commission revised the following conservation measures²: 29/XIX, 31/X, 32/XIX, 45/XX, 64/XIX, 65/XII, 106/XIX, 118/XX, 147/XIX, 148/XX, 170/XX and 216/XX. Details are provided in the following sections.

CDS and Compliance Measures

11.13 The Commission endorsed SCOI's advice to revise a number of conservation measures to ensure overall consistency of compliance mechanisms, reinforce port controls of vessels carrying *Dissostichus* spp. on board and link the use of VMS to the licensing requirements in Conservation Measure 10-02 (2001) (Annex 5, paragraphs 5.66 to 5.98, Appendices 5 and 6).

11.14 The following measures were revised and adopted:

- 118/XX (Scheme to Promote Compliance by Non-Contracting Party Vessels with CCAMLR Conservation Measures), adopted as Conservation Measure 10-07 (2002);
- 147/XIX (Provision to Ensure Compliance with CCAMLR Conservation Measures by Vessels, including Cooperation between Contracting Parties), adopted as Conservation Measure 10-03 (2002);
- 148/XX (Automated Satellite-linked Vessel Monitoring System), adopted as Conservation Measure 10-04 (2002); and
- 170/XX (Catch Documentation Scheme for *Dissostichus* spp.), adopted as Conservation Measure 10-05 (2002).

11.15 The revised Conservation Measure 10-07 (2002) establishes a list of non-Contracting Party vessels (IUU Vessel List) whose fishing activities in the Convention Area have diminished the effectiveness of CCAMLR conservation measures in force. The establishment of the IUU Vessel List would include the following steps:

- preparation by the Secretariat of a draft IUU Vessel List based on available information;
- consultation with all Contracting Parties and cooperating non-Contracting Parties regarding vessels which appear on the draft list;
- placement of the IUU Vessel List on a secure section of the CCAMLR website; and
- consideration of the IUU Vessel List by SCOI, and preparation of a final IUU Vessel List which would be appended to Conservation Measure 10-07 (2002).

11.16 The Commission tasked the Secretariat with developing the format of the IUU Vessel List by March 2003 (see also paragraph 11.30).

11.17 The following statements were made in relation to Conservation Measure 10-05 (2002).

11.18 Argentina stated that with respect to the application of Conservation Measure 10-05 (2002), it expressly reserved its sovereignty right over the Malvinas/Falkland Islands, South Georgia and the South Sandwich Islands. In this regard, the Argentine Government reserved its right to further expand this declaration at a later stage.

11.19 In response, the UK stated that it had no doubts about its sovereignty over the Falkland/Malvinas Islands, South Georgia and the South Sandwich Islands and their respective surrounding maritime areas.

11.20 Argentina rejected the statement made by the UK and reiterated its statement in paragraph 11.18.

Fishery-related Measures

11.21 The Commission endorsed the Scientific Committee's recommendation that a requirement to remove fish hooks from discarded material should be added to Conservation Measure 29/XIX (SC-CAMLR-XXI, paragraph 5.12). Accordingly, this measure was revised and adopted as Conservation Measure 25-02 (2002).

11.22 The Commission commended the Chilean bounty scheme initiative on its vessels for retrieving hooks (SC-CAMLR-XXI, Annex 5, paragraph 6.70) and encouraged the emulation of this as widely as possible.

11.23 The Commission agreed to revise Conservation Measures 31/X and 65/XII so as to restrict access to new and exploratory fisheries to vessels which can demonstrate compliance with all relevant conservation measures. In addition, vessels with confirmed involvement in IUU fishing would not be permitted to participate in these fisheries. The revised measures, which include reference to vessels listed in Conservation Measures 10-06 (2002) and 10-07 (2002), were adopted as measures 21-01 (2002) and 21-02 (2002).

11.24 The Commission noted that the Scientific Committee had compelling reasons for requiring detailed data for krill fisheries (SC-CAMLR-XXI, paragraph 4.22). Consequently,

the data requirements for the fisheries for *E. superba* in Area 48 and Divisions 58.4.1 and 58.4.2 were revised. These data requirements are specified in Conservation Measure 23-06 (2002) (see paragraph 11.47). Conservation Measures 32/XIX, 45/XX and 106/XIX were revised and adopted as 51-01 (2002), 51-03 (2002) and 51-02 (2002) respectively.

11.25 The Commission re-examined the application of conservation measures to scientific research (Conservation Measure 64/XIX). It was agreed that notifications of research surveys were required for surveys targeting finfish, as well as those targeting other taxa such as krill. However, it was recognised that the levels of expected catch necessitating notification may vary between taxa. Accordingly, Conservation Measure 64/XIX was revised and adopted as Conservation Measure 24-01 (2002).

11.26 In agreeing to the above revision, the Commission requested that the Scientific Committee review at its next meeting the list of taxa and their expected levels of catch in Annex 24-01/B. It should also consider the expected levels below which notification would not be required.

11.27 The Commission endorsed the recommendation of the Scientific Committee to alter the bottle test (Protocol B) of the experimental line-weighting trials described in Conservation Measure 216/XX (SC-CAMLR-XXI, paragraph 5.15). In addition, the Commission noted that these trials may be conducted in the exploratory longline fishery for *Dissostichus* spp. in Division 58.4.2, as well as in those in Subareas 48.6 south 60°S, 88.1 and 88.2. Accordingly, the measure was revised and adopted as Conservation Measure 24-02 (2002).

New Conservation Measures

Compliance

11.28 The Commission agreed that it should identify those Contracting Parties whose vessels have engaged in fishing activities in the Convention Area in a manner which has diminished the effectiveness of CCAMLR conservation measures in force. A key step in this process was the establishment of a list of such vessels (IUU Vessel List). Accordingly, the Commission adopted Conservation Measure 10-06 (2002) which outlined the procedure and criteria for listing such vessels.

11.29 The procedure established in Conservation Measure 10-06 (2002) includes the following steps:

- preparation by the Secretariat of a draft IUU Vessel List based on available information;
- consultation with Members whose vessels appear on the draft list;
- compilation of Members' advice and supporting information into a provisional IUU Vessel List, and circulation to all Members;

- consideration of the provisional IUU Vessel List by SCOI, and preparation of a final IUU Vessel List which would be appended to Conservation Measure 10-06 (2002); and
- placement of the final Vessel List on a secure section of the CCAMLR website.

11.30 The Commission tasked the Secretariat with developing the format of the IUU Vessel List by March 2003. This format should include:

- vessel details and Flag State;
- information concerning the allegation of IUU activities, and the source of such allegations;
- Flag State advice and supporting information; and
- recommendations from SCOI.

11.31 Japan expressed its view that there may be a need for re-examination of Conservation Measures 10-06 (2002) and 10-07 (2002) for further refinement.

11.32 The following statements were made in relation to Conservation Measure 10-06 (2002).

11.33 Argentina reserved its position concerning Subareas 48.3 and 48.4 and to that effect it reiterated, *mutatis mutandis*, paragraphs 9.59 and 9.60 of CCAMLR-XVI. This statement also applies to any conservation measure relating to the aforesaid paragraph.

11.34 The UK reiterated its position as expressed in the final subparagraph of paragraph 14.10, and in that regard, considered that the provisions of the 1980 Chair's statement are applicable.

11.35 Argentina rejected the UK's statement, reiterated its position and recalled that in Subareas 48.3 and 48.4, Members are only legally bound by CCAMLR and its conservation measures. The Argentine Delegation reserved its right to further expand on its statements at a later stage after the conclusion of CCAMLR-XXI.

Prohibition of Directed Fishing

11.36 The Commission recalled the Scientific Committee's concern regarding the low levels of stocks of *Dissostichus* spp. in Division 58.4.4 and Subarea 58.6 and the high levels of IUU fishing (SC-CAMLR-XXI, paragraphs 4.106 and 4.108). The Commission agreed that directed fishing for *Dissostichus* spp. should be prohibited in these regions, and that such prohibition shall apply until at least such a time that further scientific information is gathered and reviewed by the Scientific Committee and WG-FSA. Accordingly, Conservation Measures 32-10 (2002) and 32-11 (2002) were adopted to prohibit directed fishing for *Dissostichus* spp. in Division 58.4.4 and Subarea 58.6 respectively.

11.37 The Commission noted that the Scientific Committee had asked it to consider the designation of a marine protected area in Division 58.4.4 (SC-CAMLR-XXI, paragraph 4.106).

11.38 In accordance with Article IX of the Convention, the Commission adopted Conservation Measure 32-09 (2002) prohibiting directed fishing on *Dissostichus* spp. except in accordance with specific conservation measures in the 2002/03 season. This prohibition applied to Subareas 48.5, 88.2 north of 65°S and 88.3, and Divisions 58.4.1, 58.5.1 outside the French EEZ and 58.5.2 east of 79°20'E outside the Australian EEZ.

Assessed Fisheries

Champscephalus gunnari

11.39 Argentina expressed some reservations with respect to the method used in the assessment provided because it does not contain elements to analyse the status of the stock. The stocks in Subareas 48.1 and 48.2 have not recovered 20 years after the commercial fishery, a situation that has not been analysed in Subarea 48.3. Argentina noted that the number of birds taken in the fishery in Subarea 48.3 is too high (SC-CAMLR-XXI, paragraph 5.2). If these incidental levels of bird mortality are maintained, during the coming season one bird will be killed for approximately every 15 tonnes of fish, a cause of greater concern being that some of them belong to threatened species. In terms of its food value this fishery is insignificant in relation to its environmental impact. Thus, Argentina proposed to close the *C. gunnari* fishery in Subarea 48.3.

11.40 The Commission endorsed the Scientific Committee's advice on the trawl fishery for *C. gunnari* in Subarea 48.3 in the 2002/03 season (SC-CAMLR-XXI, paragraphs 4.84 to 4.86). This advice included setting the catch limit for *C. gunnari* at 2 181 tonnes, allowing limited fishing during the spawning period (1 March to 31 May), setting a limit to the total number of seabirds that may be accidentally caught during fishing, and conducting fishery-based research during the spawning season. Accordingly, a conservation measure for the trawl fishery for *C. gunnari* in Subarea 48.3 in the 2002/03 season was adopted as Conservation Measure 42-01 (2002).

11.41 The Commission endorsed the Scientific Committee's advice on the trawl fishery for *C. gunnari* on the Heard Island Plateau part of Division 58.5.2 in the 2002/03 season (SC-CAMLR-XXI, paragraphs 4.92 and 4.93). This advice included setting the catch limit for *C. gunnari* at 2 980 tonnes. Conservation Measure 42-02 (2002) was adopted.

11.42 The Commission noted that the incidental catch of seabirds in this fishery was extremely low and, consequently, a catch limit of seabirds as set in Conservation Measure 42-01 (2002) for Subarea 48.3 was not required.

Dissostichus eleginoides

11.43 Argentina noted that it was not clear why only one of two sets of recruitment data for 2002 were used in this year's assessment of *D. eleginoides* in Subarea 48.3 (paragraph 4.37).

This means that the recommended catch limit for this fishery in 2002/03 (a 40% increase on the limit in the 2001/02 season) was based on a limited number of hauls which may not be representative of the entire datasets available to WG-FSA. In view of this and other concerns that were expressed by both WG-FSA (SC-CAMLR-XXI, Annex 5, paragraphs 5.69, 5.70 and 5.81) and the Scientific Committee (SC-CAMLR-XXI, paragraphs 4.49 to 4.54), Argentina proposed that the catch limit for 2002/03 remain at the same level as that applied in the previous season, pending further work by WG-FSA (SC-CAMLR-XXI, Annex 5, paragraphs 5.69 and 5.82).

11.44 The Commission endorsed the Scientific Committee's advice on the longline fishery for *D. eleginoides* in Subarea 48.3 in the 2002/03 season (SC-CAMLR-XXI, paragraphs 4.55 to 4.57). This advice included setting the catch limit for *D. eleginoides* at 7 810 tonnes and counting any catch of *D. eleginoides* taken in other fisheries in Subarea 48.3 against the catch limit for *D. eleginoides*. In addition, the Commission agreed to re-apply the interim limits set for the by-catch of skates and rays and *Macrourus* spp. (CCAMLR-XX, paragraph 9.41). Accordingly, Conservation Measure 41-02 (2002) was adopted.

11.45 The Commission endorsed the Scientific Committee's advice on the trawl and longline fishery for *D. eleginoides* in Division 58.5.2 in the 2002/03 season (SC-CAMLR-XXI, paragraphs 4.67 to 4.69). This was the first season that a longliner would operate in this fishery. The advice included the catch limit of 2 879 tonnes which was applicable west of 79°20'E. In addition, the fishing season for the trawl fishery was defined as the period from 1 December 2002 to 30 November 2003, or until the catch limit is reached, whichever is sooner, while the season for longlining was defined as the period from 1 May to 31 August 2003, or until the catch limit is reached, whichever is sooner. Accordingly, Conservation Measure 41-08 (2002) was adopted.

Electrona carlsbergi

11.46 The Commission noted the advice of the Scientific Committee regarding the fishery for *Electrona carlsbergi* in Subarea 48.3. The currency of this management advice was in question, and the Scientific Committee had agreed to undertake a revision of this assessment in 2003, pending other research priorities. For the 2002/03 season, the Commission adopted Conservation Measure 43-01 (2002).

Euphausia superba

11.47 The Commission reviewed the data reporting requirements for the krill fisheries and agreed that:

- catches should continue to be reported to the Secretariat on a monthly basis; and
- fine-scale catch and effort data, aggregated by 10 x 10 n mile rectangle and 10-day period, would be submitted to the Secretariat no later than 1 April of the following year.

11.48 The Commission adopted Conservation Measure 23-06 (2002) (Data Reporting System in Krill Fisheries).

By-catch

11.49 The Commission endorsed the advice of the Scientific Committee concerning catch limits for *Macrourus* spp. (465 tonnes) and skates and rays (120 tonnes) in Division 58.5.2, and the need for a move-on rule (SC-CAMLR-XXI, paragraphs 5.74 and 5.75). Accordingly, by-catch limits for fisheries in Division 58.5.2 in 2002/03 were adopted as Conservation Measure 33-02 (2002).

New and Exploratory Fisheries

General Measures

11.50 The Commission noted that there were some problems in administrating the rules governing the operation of vessels in fine-scale rectangles in new and exploratory fisheries, namely:

- fishing in any fine-scale rectangle is restricted to one vessel at any one time; and
- the catch limit of target species in each fine-scale rectangle is 100 tonnes.

11.51 The Scientific Committee had examined these issues, and proposed amendments to the general measure for exploratory fisheries for *Dissostichus* spp. (SC-CAMLR-XXI, paragraph 4.107). The Commission endorsed these recommendations, and adopted Conservation Measure 41-01 (2002).

11.52 The Commission endorsed the Scientific Committee revision to the by-catch limits for skates and rays, i.e. 5% of the catch limit for *Dissostichus* spp. in each SSRU, or 50 tonnes, whichever was the greater (SC-CAMLR-XXI, paragraph 5.76). However, the Commission noted that the catch limit for *Dissostichus* spp. in each SSRU was not defined in some of the exploratory fisheries.

11.53 The Commission also noted that the by-catch catch limits agreed in the 2001/02 season (Conservation Measure 228/XX) were often equal to the catch limits set for *Dissostichus* spp. Noting that the by-catch limit for *Macrourus* spp. in Division 58.5.2 was 16% of the catch limit for *D. eleginoides*, the Commission agreed that the by-catch limit for *Macrourus* spp. in the exploratory fisheries should be set at 16% of each catch limit for *Dissostichus* spp., or 50 tonnes, whichever was the greater.

11.54 The Commission also agreed to arbitrarily set a total by-catch limit of 20 tonnes per SSRU for all species other than skates and rays and *Macrourus* spp.

11.55 Revised by-catch limits for exploratory fisheries were adopted as Conservation Measure 33-03 (2002); the limits are set forth in Annex 33-03/A. The Commission requested that the Scientific Committee provide further advice on by-catch limits for consideration at CCAMLR-XXII.

Dissostichus spp.

11.56 Argentina expressed its concern about the safety of vessels operating in high Antarctic latitudes. It noted that many vessels fishing in that region were designed, manned and equipped for operation in temperate waters; few vessels had ice-strengthened hulls. Recent experience had shown that a delay of at least 20 days might be expected before any rescue attempts might be launched and that such an operation has high associated costs, probably not covered by the vessel owner. Thus Argentina recalled that Members participating in Antarctic fisheries should ensure that their vessels fulfil all the relevant provisions developed within the Antarctic Treaty System.

11.57 The Commission noted that the Scientific Committee had been unable to provide any new advice on precautionary catch limits for exploratory fisheries for *Dissostichus* spp. in Subarea 48.6 and Divisions 58.4.2, 58.4.3a and 58.4.3b. Consequently, the Commission agreed to set the catch limits for *Dissostichus* spp. at the same levels as those set in 2001/02:

Subarea 48.6	north of 60°S: 455 tonnes south of 60°S: 455 tonnes
Division 58.4.2	500 tonnes equally divided amongst five SSRUs
Division 58.4.3a	250 tonnes
Division 58.4.3b	300 tonnes.

11.58 The Commission agreed that vessels participating in the exploratory fisheries for *Dissostichus* spp. in Subareas 48.6, 88.1 and 88.2 south of 60°S, and Division 58.4.2, may be exempted from paragraph 3 of Conservation Measure 25-02 (2002) (night setting), if prior to licensing, each vessel can demonstrate its capacity to comply with the experimental line-weighting trials (Conservation Measure 24-02 (2002)).

11.59 The Commission also agreed that each vessel participating in the exploratory fisheries for *Dissostichus* spp. in Subareas 48.6, 88.1 or 88.2 south of 60°S, or Division 58.4.2, shall carry at least two scientific observers.

11.60 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 48.6 in 2002/03 would be limited to Japanese, New Zealand and South African flagged vessels using longlines only, and that no more than one vessel per country shall fish at any one time. The Commission noted that South Africa had only notified to fish in the region north of 60°S. Conservation Measure 41-04 (2002) was adopted.

11.61 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.2 in 2002/03 would be limited to a single Australian-flagged vessel using longlines only. Accordingly, the Commission adopted Conservation Measure 41-05 (2002).

11.62 The Commission agreed that the exploratory fisheries for *Dissostichus* spp. in Division 58.4.3a and 58.4.3b in 2002/03 would be limited to Japanese and Australian flagged vessels using longlines only, and that no more than one vessel per country shall fish at any one time in each of these fisheries. The Commission adopted Conservation Measures 41-06 (2002) (Division 58.4.3a) and 41-07 (2002) (Division 58.4.3b).

11.63 The Commission endorsed the revised yield estimates for *Dissostichus* spp. in Subareas 88.1 and 88.2 (SC-CAMLR-XXI, paragraphs 4.110 and 4.111). In view of the

uncertainties associated with these assessments, the Commission had agreed that the catch limits in these subareas should not be increased by more than 50% (paragraph 9.17). Consequently, the catch limits were set as follows:

Subarea 88.1	north of 65°S	256 tonnes
	south of 65°S	3 504 tonnes
Subarea 88.2	south of 65°S	375 tonnes.

11.64 The USA and Argentina expressed concern that the increase in assessments of *Dissostichus* spp. in Subareas 88.1 and 88.2 was due in part to an increase in recruitment estimated for *D. eleginoides* in Subarea 48.3 and to an increase in CPUE, which may be explained by reasons other than an increase in biomass (SC-CAMLR-XXI, Annex 5, paragraphs 5.24 to 5.30). Furthermore, the Scientific Committee recognised that the approach employed by WG-FSA to estimate precautionary yields in Subareas 88.1 and 88.2 may have reached a point where the limitations had outweighed the advantages (SC-CAMLR-XXI, paragraph 4.113).

11.65 New Zealand commented that the application of either discount factors proposed by the Scientific Committee (SC-CAMLR-XXI, paragraph 4.112) would result in a large increase in the catch limit and that a 50% increase in catch limit was more reasonable. In the meantime, New Zealand noted that the fishery-based research mandated by the conservation measures has improved the knowledge of stocks of *D. mawsoni* in Subareas 88.1 and 88.2.

11.66 The USA and Argentina concurred but also noted that the quality of information on which new assessments of *Dissostichus* spp. in these subareas will be based, should improve substantially before another increase in the catch limit is considered.

11.67 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 88.1 in 2002/03 would be limited to no more than two Japanese, six New Zealand, two Russian, two South African and one Spanish flagged vessels using longlines only. Russia indicated that it decided to withdraw its notification in respect of two of its vessels *Strela* and *Zarya*, and that the remaining two vessels *Volna* and *Yantar* would be the two Russian vessels to enter the fisheries. The Commission adopted Conservation Measure 41-09 (2002).

11.68 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 88.2 in 2002/03 would be limited to no more than two Japanese, five New Zealand and two Russian flagged vessels using longlines only. Russia indicated that it decided to withdraw its notification in respect of two of its vessels *Strela* and *Zarya*, and that the remaining two vessels *Volna* and *Yantar* would be the two Russian vessels to enter the fisheries. The Commission adopted Conservation Measure 41-10 (2002).

Martialia hyadesi

11.69 The Commission agreed that the existing management regime for the exploratory jig fishery for *M. hyadesi* in Subarea 48.3 be maintained for the 2002/03 fishing season (SC-CAMLR-XXI, paragraph 4.121). Accordingly, Conservation Measure 61-01 (2002) was adopted.

Paralomis spp.

11.70 The Commission endorsed the advice of the Scientific Committee regarding the crab fishery in Subarea 48.3. Accordingly, the Commission removed the restriction on the processing of crabs on board vessels on the understanding that scientific observers would be afforded unrestricted access to the catch for statistical random sampling prior to, as well as after, sorting by the crew. Accordingly, Conservation Measure 52-01 (2002) was adopted.

11.71 The Commission also adopted Conservation Measure 52-02 (2002) (Experimental Harvest Regime).

New Resolutions

11.72 The Commission expressed concern that some Flag States, particularly certain non-Contracting Parties, did not comply with their obligations regarding jurisdiction and control according to international law in respect of fishing vessels entitled to fly their flag that carry out their activities in the Convention Area. The Commission agreed that such vessels were not under effective control of the Flag States. Accordingly, the Commission endorsed the recommendation of SCOI (Annex 5, Appendix VI) and adopted Resolution 19/XXI.

11.73 The Commission recognised that the harvesting of *Dissostichus* spp. in the Convention Area needs to be undertaken in a manner consistent with the objectives of the Convention. It acknowledged that this principle also needed to be taken into account when harvesting *Dissostichus* spp. stocks in the Indian Ocean which extend beyond the boundary of the Convention Area.

11.74 In Resolution 10/XII, the Commission agreed that it is necessary to ensure that harvesting in areas adjacent to the Convention Area is consistent with measures applicable to adjacent areas within the Convention Area, such as for Subareas 58.5, 58.6 and 58.7. The practice in exploratory *Dissostichus* spp. fisheries is to limit the catch in order to provide for an orderly development of the fishery until more scientific information is available for assessment of those stocks. The Commission has agreed that Subareas 58.6 and 58.7 be closed outside EEZs.

11.75 The Commission agreed that information on available fishing grounds, including information from the fishery in Areas 51 and 57, should be reviewed at the next meeting of the Scientific Committee and its working groups.

11.76 The Commission agreed that Members should take steps with respect to the harvesting of *D. eleginoides* in areas adjacent to the Convention Area through:

- in accordance with Resolution 10/XII, seeking to facilitate the management of the harvesting of *Dissostichus* spp. in order that the conservation of Antarctic marine living resources inside the CCAMLR Convention Area is not undermined;
- recognising the need for Contracting Parties to CCAMLR to manage the harvesting of toothfish in areas beyond the Convention Area, if appropriate, until such time that other RFMOs are established in those areas, and which could potentially share responsibility for the management of these stocks with CCAMLR; and

- taking measures necessary to conserve living resources on the high seas according to the obligations of States party to UNCLOS as specified in Articles 117 to 119 of that Convention.

11.77 In so doing, the Commission adopted Resolution 18/XXI and agreed to consider these matters further at its next meeting.

General Statements

11.78 Australia advised the Commission that any fishing or fisheries research activities in that part of Divisions 58.4.3 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. Australia regarded unauthorised fishing in its waters as a serious matter that undermines efforts to ensure fishing occurs only on an ecologically sustainable basis. 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. These controls include a limit on the number of fishing concessions issued. Presently, fishing concessions are fully subscribed and no further concessions are available in 2002/03. Australia has legislation to provide 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.

11.79 South Africa made the following statement:

'In 1996 South Africa drew the Commission's attention to the potentially high levels of IUU fishing for toothfish in the Indian Ocean in general and in South Africa's EEZ around the Prince Edward Islands in particular. Some six years later, all South Africa's fears in this regard have clearly manifested themselves with South Africa, as a developing nation, having been the victim of IUU fishing. We wish to emphasise that during the time since our concerns were first expressed six years ago, South Africa has lost, not 10s of million dollars but in excess of US\$150 million dollars due to the illegal removal of fish from its EEZ.

Despite its limited human, technological and economic resources, South Africa has whole heartedly joined with other Members of this Commission in our efforts to combat IUU fishing. South Africa was one of the first Members to introduce Port State controls (in 1997) for toothfish landings, to institute VMS verification of fishing location for any vessel using our ports, and to embrace the CDS. We also proposed the closure to toothfish fishing in Subarea 58.7 at CCAMLR-XVII and have supported the most recent suggestion to close Subarea 58.6 and Division 58.4.4, despite our concern that closure of these areas may once again lead to IUU vessel targeting the Prince Edward Island EEZ.

It is clear that the road has not been an easy one for us. Nevertheless, we have joined with many other Members in the collection of information on IUU fishing, in

spreading CCAMLR's concerns to countries in the region in which we live (particularly in the context of our membership of the Southern African Development Community) and in assisting with the enforcement actions taken by other CCAMLR Parties such as the assistance we provided to Australia in the apprehension of the *South Tomi*. Our efforts of cooperation within CCAMLR have also been demonstrated in recent events pertaining to the vessel *Noemi*'s illegal fishing in the French EEZ.

It is therefore with amazement that we have listened to the Commission's debate on IUU fishing over the past two weeks. Quite frankly, we are dumbfounded by what seems to be a political unwillingness of some CCAMLR Parties to exercise effective control over toothfish vessels flying their flags. We sincerely believe that if a small country with limited resources such as South Africa, can do what we are proud of having achieved then other countries should at least be able to demonstrate a similar political will. Therefore, we are deeply disturbed to note that a highly developed country like Canada cannot seem to see its way free to implement the CDS. Likewise, we find it ridiculous that one Member appears ready to score some "political points" by attempting to divert attention away from its inability to control vessels under its flag in order to make their "a reflagging issue".

South Africa does not like having to make long political statements, but the events of the past few days have moved us to document our "sacrifice" in the records of this Commission. I would like to conclude with a question: How long will it be before certain other Members of this Commission are willing to demonstrate their willingness to make sacrifices like those we have made?

11.80 The French Delegation endorsed the statements made by Australia and South Africa. It would, in turn, like to reaffirm the commitment of the Government of the French Republic to the elimination of the scourge of illegal fishing and, to this end, reiterated its availability for cooperative action in the region.

MANAGEMENT UNDER UNCERTAINTY

12.1 The Commission noted the steps which the Scientific Committee had taken to further develop the unified framework for providing management advice on all fisheries in the Convention Area. As part of the regulatory framework, a number of fishery plans had been prepared by the Secretariat during the intersessional period (SC-CAMLR-XXI/BG/32) and considered by the Scientific Committee (SC-CAMLR-XXI, paragraph 7.1).

12.2 The Commission noted that the Scientific Committee had agreed that the fishery plans should include summary statements of decision rules and requirements for ecosystem assessment (SC-CAMLR-XXI, paragraphs 7.7 and 7.8).

12.3 Documentation for the regulatory framework will include species profiles of the important commercial species. These plans will cover important aspects of the biology and fisheries of the species which are relevant to fish stock assessment purposes. In 2002, draft profiles had been prepared for *D. eleginoides*, *D. mawsoni* and *C. gunnari*, and these plans would be updated as needed in the intersessional period.

12.4 The Commission noted that further fishery-independent surveys were needed to provide information on (SC-CAMLR-XXI, paragraphs 7.3, 7.4 and 7.8):

- the state of the stocks which have either been fished previously and/or where IUU activities on longlining of *D. eleginoides* are currently likely to take place;
- stocks in yet unsurveyed areas, such as Subareas 88.1 and 88.2, where longlining for *Dissostichus* spp. is currently being conducted and catches are likely to increase in the near future; and
- the dynamics of the target species in assessed fisheries.

12.5 In addition, the Commission noted that by-catch species which have not been assessed in areas for a long time, such as South Georgia, need to be included in data collection plans and assessments in the future (SC-CAMLR-XXI, paragraph 7.4).

12.6 The Commission noted Australia's proposal to separate William's Ridge as a separate management area from the Heard Island Plateau area in Division 58.5.2 (SC-CAMLR-XXI/7). The proposal was based on the separation of this ridge from the plateau by waters deeper than 2000 m, which are deeper than the depth range used by the Scientific Committee and WG-FSA to delimit the biological management areas of toothfish stocks.

12.7 The Commission agreed that William's Ridge should be considered a separate management unit from the Heard Island Plateau area, with a longitudinal separation at 79°20'E. Delineation of the northern and eastern boundaries of William's Ridge would require further consideration of the geographic extent of *D. eleginoides* in this region. The Commission requested that the Scientific Committee further consider this issue and provide advice to the Commission at its next meeting.

COOPERATION WITH OTHER ELEMENTS OF THE ANTARCTIC TREATY SYSTEM

Twenty-fifth Antarctic Treaty Consultative Party Meeting

13.1 The Executive Secretary reported on his participation at ATCM-XXV (CCAMLR-XXI/BG/15). In accordance with Article 9 of the Antarctic Treaty, a report on CCAMLR's activities in 2001/02 was tabled.

13.2 The main points of direct relevance to CCAMLR-XXI discussed at ATCM-XXV, were the adoption of:

- (i) Resolution 3 in support of CCAMLR and its measures to combat IUU fishing for *Dissostichus* spp. in the Convention Area;
- (ii) a procedure outlining the steps to be undertaken when proposing a draft management plan for ASPAs with a marine component; and

- (iii) a two-step approach in setting up the Antarctic Treaty Secretariat, i.e. adoption of a measure setting out the legal framework and a decision enabling the Secretariat to function pending entry into force of the measure.

13.3 The Commission commended the Executive Secretary on his report and involvement with the ATCM, and for the way he promoted the interests of CCAMLR at ATCM-XXV. The Commission also gave its full support for the Executive Secretary to continue to provide assistance and guidance to Argentina and the ATCM in helping them to set up the Secretariat in Buenos Aires.

13.4 Four current issues were of particular relevance to the ATCM/CCAMLR dialogue – Specially Protected Species, Marine Protected Areas, seabird by-catch and IUU fishing.

13.5 The UK commented that CCAMLR was a major constituent of the Antarctic Treaty System and as such it was important that linkages between CCAMLR and the ATCM were strengthened. Three such formal links currently existed:

- CCAMLR as a formal observer to the ATCM;
- the Chair of the Scientific Committee as an observer to CEP; and
- the CEP observer to the Scientific Committee.

13.6 Last year Sweden raised the issue of the importance of avoiding any inconsistencies between different parts of the Antarctic Treaty System. A number of other Members endorsed this (Australia, Chile, Italy, Norway, South Africa, UK and the USA). The discussion is reflected in CCAMLR-XX, paragraphs 11.3 to 11.8.

13.7 As is reflected in the Executive Secretary's report on ATCM-XXV (CCAMLR-XXI/BG/15), a number of issues and decisions taken were of direct relevance to CCAMLR. Sweden thanked the Executive Secretary for his constructive participation in Warsaw.

13.8 Sweden welcomed the development of clearer and closer cooperation between CCAMLR and the ATCM. Such cooperation is essential given the fact that more and more countries adhere to CCAMLR while not being formal parties to the Antarctic Treaty. At the same time it must be stressed that, although those new parties to CCAMLR are not formal parties to the Antarctic Treaty, they are bound by the most crucial provisions of the Antarctic Treaty, through their adherence to CCAMLR.

13.9 They are bound not to engage in any activities in the Antarctic Treaty area contrary to the principles and purposes of the Antarctic Treaty, and the obligation to use Antarctica for peaceful purposes only. The important Article IV on sovereignty and the non-prejudice clause on high seas freedoms in Article VI bind them.

13.10 While Sweden warmly welcomed the development taken at the last ATCM, Sweden believed that the cooperation between CCAMLR and other different parts of the Antarctic Treaty System must continue to be strengthened.

13.11 The Commission stressed that CCAMLR is an important part of the Antarctic Treaty System and must retain strong links with the ATCM.

13.12 The Commission noted that an item ‘Question of Antarctica’ was on the agenda of the forthcoming UN General Assembly and that the ATCM was preparing a statement to the UN on the matter. The Commission decided that text outlining the most recent developments in CCAMLR, including the outcome of CCAMLR-XXI, would need to be prepared by the end of the meeting and forwarded to diplomatic missions in New York for inclusion in the statement which is being coordinated by Poland, as the recent host of ATCM-XXV.

13.13 The USA informed Members that the ninth edition of the Antarctic Treaty Handbook, containing information on the Treaty, its reports, resolutions and decisions, was being sent to all Members via their Embassies. Members were encouraged to contact the US State Department if they do not receive a copy.

13.14 The Chair of the Scientific Committee participated in the Fifth Meeting of the Committee on Environmental Protection (CEP-V) (CCAMLR-XXI/BG/8). The most important issues of relevance to CCAMLR considered at CEP-V, were:

- (i) two SCAR reports regarding marine acoustic technology and the Antarctic environment;
- (ii) Argentina and SCAR had provided papers on the issue of specially protected species in Antarctica. SCAR offered to undertake, in conjunction with the IUCN, an assessment of the status of well-documented species using the IUCN criteria;
- (iii) CEP recognised the complexity of possible biological prospecting in Antarctica and agreed that there were strong reasons for the Antarctic community to be pre-emptive and discuss this further at the next CEP meeting (CCAMLR-XXI/BG/41);
- (iv) four management plans for Specially Protected Areas were reviewed and forwarded to CCAMLR for approval prior to being accepted by the ATCM. This included a new ASPA in Terra Nova Bay, Ross Sea, proposed by Italy; and
- (v) Dr A. Press (Australia) was elected as the CEP Chair.

13.15 At ATCM-XXV the CEP Chair noted the need for cooperation with SCAR, CCAMLR and the Convention on the Conservation of Antarctic Seals (CCAS), and possibly with other organisations, on the designation of Antarctic Specially Protected Species. Italy, as the current Chair of CCAMLR, was requested to submit the following text to CCAMLR-XXI in respect of possible consideration of special protection for marine species:

‘To take early steps to seek the agreement of CCAMLR, CCAS and, where appropriate, other organisations, to establish cooperative working relationships (with those organisations) to seek a common approach as to how special protection for species in the marine environment could be achieved and how proposals under the Protocol for designating Specially Protected Species in the Antarctic marine environment could be addressed.’

13.16 The Commission noted this text and also that a dialogue between CCAMLR and the ATCM was needed on how the category of Specially Protected Species under the Protocol might be applied to marine species that are under the purview of CCAMLR. The Commission looked forward to participating in further work on this matter.

Cooperation with SCAR

13.17 Dr E. Fanta (Brazil), the SCAR/CCAMLR Observer, presented a summary of the intersessional activities of SCAR (CCAMLR-XXI/BG/33; SC-CAMLR-XXI, paragraphs 9.25 to 9.28):

- (i) SCAR held its 27th meeting in Shanghai, China, from 13 to 26 July 2002. During this meeting a new structure for SCAR was approved and implemented.
- (ii) Under the new structure, the SCAR Working Group on Biology became the SCAR Standing Scientific Group on Life Sciences (SSGLS). During its meeting there was agreement on the following subsidiary groups: Action Groups (Global International Waters Assessment (GIWA); Best Practices for Conservation), Expert Groups (Birds; Seals; Human Biology and Medicine), Scientific Program Planning Groups (Evolution and Biodiversity in Antarctica: the response of life to change; Biological Monitoring) and Scientific Program Groups (Ecology of the Antarctic Sea Ice Zone (EASIZ); Antarctic Pack Ice Seals (APIS); Evolutionary Biology of Antarctic Organisms (EVOLANTA); Regional Sensitivity to Climate Change in Antarctic Terrestrial and Limnetic Ecosystems (RiSCC)).
- (iii) The SCAR Group of Specialists on Environmental Affairs and Conservation (GOSEAC) held a meeting in College Station, USA, in April 2002. It will cease to exist under the new SCAR structure, but it was stressed that there is a need to have a new SCAR group that could interact with CEP, the ATCM and SCAR subsidiary bodies, providing independent scientific and environmental advice.
- (iv) The SCAR Biology Symposia will continue to be held every four years. It was felt that this forum is important to congregate SCAR and CCAMLR scientists, and to allow the establishment of joint scientific ventures and planning of integrated research activities. The next meeting will be in Brazil in 2005.
- (v) The SCAR Group of Specialists on Seals met prior to the SCAR meeting. It reviewed projects and data, available to CCAMLR, that related to the status of the stocks of fur seal species and elephant seals, whereas data on pack-ice seals, derived from the APIS Program, are still under evaluation.
- (vi) The SCAR Sub-committee on Birds met in Jena, Germany, in June 2002. It discussed a number of items of relevance to CCAMLR, *inter alia*, the breeding distribution of Antarctic and sub-Antarctic seabirds, dietary studies of seabirds, potential adverse effects of penguin banding, and the conservation status of Antarctic birds and the potential inclusion of vulnerable species as protected species under the Antarctic Treaty.

- (vii) The Sub-committee on Evolutionary Biology of Antarctic Organisms will hold a workshop on Evolutionary Adaptation of Antarctic Organisms in Pontignano, Italy, from 1 to 7 December 2002. Collaboration in the interests of CCAMLR in the genetic discrimination of bird and fish populations and species should be improved.
- (viii) Concerns were expressed about the adverse effects that measures against the use of acoustic equipment which may cause impacts on Antarctic organisms, would cause to the research of Antarctic marine animals in general, and also to security in navigation. Results of the two workshops revealed that these impacts are negligible if the equipment is managed correctly.
- (ix) SCAR was asked to provide a contribution to the UNEP Program on GIWA and a workshop will be held in Curitiba, Brazil, in April 2003, to establish the parameters to be considered for Region 66 (Antarctica and Southern Ocean). Among the GIWA parameters, fishery and sustainable use of living resources are specifically mentioned. The future participation of CCAMLR may be appropriate.
- (x) Recognising the need for a new SCAR marine program, it was decided to start to develop a program entitled 'Evolution and biodiversity in Antarctica: the response of life to change' which would combine the interests of EVOLANTA, of the Group of Specialists on Global Change (now ended under the new structure of SCAR), and the EASIZ Program (ending in two years' time). Such a program would facilitate collaborative research with CCAMLR scientific groups.
- (xi) Bioprospecting of Antarctic organisms might develop into an important pressure on Antarctic marine living resources in the near future, and CCAMLR should be prepared to deal with this new challenge.

13.18 The Commission noted that the Scientific Committee also considered the topic of cooperation with SCAR, details of which were given in paragraphs 9.25 to 9.28 of SC-CAMLR-XXI.

13.19 The Commission agreed that there was a need for more active cooperation and information exchange with SCAR in order to take into account results of its work in a number of programs of direct relevance to CCAMLR.

COOPERATION WITH OTHER INTERNATIONAL ORGANISATIONS

Reports of Observers from International Organisations

ASOC

14.1 ASOC introduced CCAMLR-XXI/BG/27 and BG/28.

14.2 ASOC noted that CCAMLR has yet to implement effective measures to halt IUU fishing, that the Scientific Committee has advised the Commission that unless effective action

is taken against IUU fishing, it can expect toothfish fisheries to collapse by about 2010–2012 and that the current meeting has heard evidence of non-compliance by a number of CCAMLR Commission Members. This suggests that the true overall state of the fishery is even grimmer than the one drawn from consideration of IUU fishing alone.

14.3 ASOC argued that it is now up to this Commission, during this week, to agree responses commensurate with the seriousness of the situation. Delegates emphasised last week that CCAMLR's credibility is at stake. ASOC agreed, but added that the credibility of the wider Antarctic Treaty System was also at issue.

14.4 ASOC believed that the Commission needed to:

- agree to a centralised VMS that feeds data directly to the Secretariat – to address the proven problem of fraudulent VMS data that was shown so graphically in SCOI;
- draw up a blacklist of vessels (wherever flagged) known and suspected of involvement in IUU activity – against which Members can then direct severe measures; and
- draw up a blacklist of Flag States implicated in IUU activity – sadly this will include a number of Commission Members – against which Members can then direct severe measure.

14.5 In both cases, ASOC suggested, there was a need for severe and effective measures if the Commission was serious about ending IUU fishing and its attendant problems.

14.6 ASOC hoped that CCAMLR will endorse and support a CITES Appendix II listing of Patagonian toothfish as a key means of underpinning and expanding CCAMLR's CDS.

14.7 ASOC reiterated that Article II of CCAMLR establishes the objective of the Convention as the conservation of Antarctic marine living resources, and requires that any harvesting and associated activities were conducted in accordance with specified principles of conservation. These included:

- prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment;
- maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations; and
- prevention of changes – or minimisation of the risk of changes – in the marine ecosystem not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting – with the aim of making possible the sustained conservation of Antarctic marine living resources.

14.8 ASOC concluded by questioning whether anybody in the Commission could sincerely assert that it was currently meeting the obligations of Article II.

14.9 Argentina expressed its appreciation to ASOC for CCAMLR-XXI/BG/27, and stated that it shared many of the views contained therein. With regard to paragraph 11 of this document, relating to ASOC's concerns about the certification of the sustainability of the South Georgia Patagonian toothfish fishery in Subarea 48.3, Argentina made the following statement:

'The British Government approached the "Maritime Stewardship Council" (MSC) in London, to seek certification of the sustainability of the Patagonian toothfish fishery in the CCAMLR area around South Georgia. The certification process was carried out by the British entity "Moody Marine Ltd", based on assessment criteria established by the MSC.

The Government of Argentina protested at the appropriate time to the British government, objecting to this unilateral action, since after all the administration of the fishery around South Georgia is linked to the controversial nature of that territory. Moreover, the Government of Argentina made several representations stressing the controversial nature of the fishery to the certifying body. These arguments were disregarded and the certifying body continued with the certification process.

The Government of Argentina reaffirms that the Malvinas (Falkland) Islands, South Georgia and South Sandwich Islands are an integral part of its national territory and that these islands and surrounding waters are the subject of a sovereignty dispute with the United Kingdom.

The Government of Argentina hereby reiterates that it rejects the above action by the British Government, the process carried out by the abovementioned entity and its results.'

14.10 The UK thanked ASOC for presenting its paper, and in response to Argentina, made the following statement:

'It is unfortunate that Argentina has felt compelled to raise this matter within the Commission. Certification under the MSC is not a matter which appears on our agenda. Nevertheless, since the issue has been raised it allows the UK to comment on the South Georgia fishery and the MSC scheme.

It was not so long ago that we were facing in Subarea 48.3 the sort of problems that have since become evident elsewhere in the Convention's waters. Seven years ago IUU fishing in the waters around South Georgia was rife. It gave the UK, and the Commission generally, very grave concern. Up to and through 1995 IUU fishing was certainly a significant problem.

But from early 1996 we began to curb that problem by means of tough enforcement measures on the ground, through fisheries patrolling and aerial surveillance. Those who infringed were rapidly dealt with – at times with massive fines. Since then, through various rigorous management actions, the UK has managed to convert what was a fishery possibly leading towards difficulties to now a fishery which, in respect of toothfish, is perhaps the model within the Convention Area.

We have now what we believe is a sustainable regime. It is tightly managed and regulated though it must be emphasised that such regulation is wholly in accord with CCAMLR and its conservation measures.

Over the past three fishing seasons we have seen the results of our work demonstrated in the approach of this Commission towards toothfish in Subarea 48.3. The TAC was 4 500 tonnes two years ago; last year it was elevated to 5 800 tonnes based on the consensus advice of the Scientific Committee. Now, this year we see a consensus recommendation from the Scientific Committee that would see the TAC increase yet again. This is recognition of a stock under sustainable management.

As an initiative entirely separate from CCAMLR, the UK submitted the toothfish fishery around South Georgia to the MSC scheme for certification. We see no need to go into the details of the MSC approach since it is probably well known to many in this Commission.

In brief, following extensive consultations through the independent mechanism of the MSC, we have now arrived at a situation whereby a formal recommendation has now been put to the MSC indeed recommending the South Georgia fishery for certification under the scheme.

This certification process has taken a great deal of time and effort on our part including tighter management of the fishery. The UK is hopeful that we will see this procedure through to a successful end, with certification endorsed.

If this occurs, we will have for the first time a fishery in the Southern Ocean subject to the MSC. This we think is a significant achievement – and one which others may wish to consider in respect of the fisheries under their control. We hope that before we meet next year the UK will be in a position to announce that achievement.

Now, turning to the matter of sovereignty raised by Argentina. The UK has no doubt about its sovereignty over South Georgia and the South Sandwich Islands and their surrounding maritime areas. It is a point that the UK has made on a number of occasions in this Commission. It is however a matter that we raise with some reluctance simply because this Commission cannot solve our bilateral problems, nor we suspect does it wish to be subjected to these matters. With that comment we hope this matter can now be closed.'

14.11 Argentina pointed out that it rejected the views expressed by the UK, that it reiterated the position expressed previously and that it reserved its right to expand further on it at a later stage after the conclusion of CCAMLR-XXI.

14.12 With respect to CCAMLR-XXI/BG/27, Chile appreciated ASOC's contributions, and stated that this presentation demonstrated the great effort invested by this organisation in fighting IUU fishing activities. However, item 12 of the aforesaid document mentions that APRODEBA, the Chilean Artisanal Association of Toothfish Producers (Asociación Artesanal de Productores de Bacalao), has been involved in an intense collaboration with ASOC in order to convince the Government of Chile to support Australia's proposal for the inclusion of *D. eleginoides* in CITES Appendix II. The Delegation of Chile informed that APRODEBA is a member of the National Confederation of Artisanal Fishers of Chile

(CONAPACH, or Confederación Nacional de Pescadores Artesanales de Chile), and that the President of this organisation has made it official that the organisation does not agree with the Australian proposal. Moreover, the Chilean Delegation indicated that last week the Chilean Minister for Agriculture had a meeting with NGOs, and that both CONAPACH and APRODEBA were represented therein. At this meeting, APRODEBA accepted CONAPACH's view that it is not appropriate to include *D. eleginoides* in CITES Appendix II.

CEP

14.13 The CEP Observer (Dr Press) noted that the reports of the Executive Secretary, as Observer to the ATCM, and the Chair of the Scientific Committee, as Observer to CEP-V, were relevant to this discussion. He reinforced the statements made previously about the excellent level of cooperation.

FAO

14.14 The FAO Observer (Dr R. Shotton), in his report (CCAMLR-XXI/BG/36), noted that FAO has held a technical consultation on the suitability of the CITES criteria for listing commercial species, which will be considered at COP-12 in Chile this year. The FAO's Committee on Fish Trade has made related recommendations, which will be considered by the Fisheries Department. FAO has solicited regional fisheries bodies for their input and is negotiating a Memorandum of Understanding with CITES to clarify inter-institutional arrangements.

14.15 Negotiations continue for establishing a fisheries commission in the southern Indian Ocean adjacent to the CCAMLR region. A second ad hoc Technical Committee Meeting was held in May 2002 to review available information and management requirements for demersal species in this region. The report of this meeting will be available in December 2002. A review of Soviet/Ukraine research and exploratory fishing for the southern Indian Ocean has been completed and will be printed this year.

14.16 FAO continues its program of IPOAs. Little progress has been made with seabird and shark issues, although funds are available to develop national assistance programs in the case of management of elasmobranchs fisheries.

14.17 FAO continues to collaborate with RFMOs as appropriate and a third meeting of these bodies will be held at FAO in March 2003 to consider (i) external factors affecting the management of fisheries, and (ii) indicators to assess the performance of regional fisheries bodies.

14.18 National ratification of the FAO Compliance Agreement remains a priority. Global developments in IUU fishing are monitored and the first report on achievements in the implementation of the IPOA-IUU will be presented at the 25th Session of COFI.

14.19 The Commission agreed to co-sponsor the 'Deep Sea 2003' Conference to be held in New Zealand in December 2003. This would further promote CCAMLR to a wider audience. The Commission also agreed that the Executive Secretary and Science Officer should participate in the conference.

IUCN

14.20 IUCN's report (CCAMLR-XXI/BG/34) summarised pertinent resolutions and recommendations from the 2000 World Conservation Congress and highlighted relevant IUCN publications and activities, including the upcoming World Parks Congress in September 2003 where the contribution of marine protected areas to sustainable development will be featured.

14.21 IUCN noted that the commitment of governments at the WSSD (Johannesburg, South Africa, 26 August to 4 September 2002) to protection of biodiversity also called for the development of representative systems of MPAs by 2012. IUCN further noted that the coming into force of Annex V on Area Protection and Management to the Antarctic Environmental Protocol provided a basis for Parties to the Antarctic Treaty and CCAMLR to promote a system of representative marine protected areas. IUCN encouraged CCAMLR Members to consider several actions to progress such a system for the Southern Ocean. These are described in SC-CAMLR-XXI, paragraph 9.5.

14.22 In regard to pirate fishing and seabird mortality from longlining in the Southern Ocean and adjacent waters, IUCN again encouraged Members to consider whether CITES may bring some added value to the existing CCAMLR measures for toothfish through its more comprehensive membership and global coverage of international trade. IUCN referred Members to a *Briefing Paper on Marine Fish and CITES* prepared by IUCN, TRAFFIC and the World Wide Fund for Nature (WWF) (CCAMLR-XXI/BG/39) for a discussion of some of the broader issues relating to the application of CITES provisions to marine fish species.

14.23 IUCN also introduced CCAMLR-XXI/BG/38 regarding *Fishery Activities and Trade of Patagonian Toothfish in South America: a Regional Perspective*, prepared by TRAFFIC South America. This is a summary of a document that is being prepared for publication in Spanish in December. IUCN, on behalf of TRAFFIC South America, thanked the government agencies, industry associations and individuals that assisted in its research, including some individuals present at the meeting. IUCN requested that any comments or suggestions be brought to the attention of TRAFFIC South America.

14.24 With regard to CCAMLR-XXI/BG/38 Rev. 1 submitted by the IUCN, which had been just distributed, Argentina reserved its right to consider the issue at a later stage, after the conclusion of CCAMLR-XXI. However, Argentina wished to point out, on a preliminary basis, that some aspects of the document fall outside the competence of this Commission.

14.25 Brazil expressed concern about the lack of accuracy of the text in the document in regard to fisheries and trade of *D. eleginoides* by Brazil. There were no fisheries for this species off the Brazilian coast and no notification was sent to CCAMLR of Brazil's intention

to fish in the Convention Area. Many actions are under way to guarantee full compliance with all CCAMLR conservation measures when Brazil enters this fishery in the future (CCAMLR-XXI/BG/44).

14.26 Uruguay also expressed concern about elements relating to them in the paper which were incorrect and they offered to provide corrections to IUCN prior to the paper's publication.

14.27 Chile advised it was grateful for the reports, however it felt that there were elements in the papers which required updating and reflected subjective interpretation. Chile advised it would communicate with IUCN, maintaining the good relationship which had been established.

14.28 IUCN stated it welcomed comments from the countries concerned. It looked forward to further consultations and would make any necessary corrections in the final publication.

IWC

14.29 The IWC Observer (Prof. B. Fernholm, Chair of IWC) reported that the 54th Annual Meeting of IWC took place from 20 to 24 May 2002 in Shimonoseki, Japan, under his Chairmanship (CCAMLR-XXI/BG/42). He noted the following points of interest:

- (i) There was a difference of views as to whether the Commission should accept Iceland's new instrument of adherence with a reservation. Last year's decision that Iceland should attend the meeting as an observer was upheld at the annual meeting, but at a Special Meeting of the Commission in October, Iceland was admitted.
- (ii) Proposals for whale sanctuaries in the South Pacific and South Atlantic failed to gain the necessary majority for adoption. A proposal to change the provision for the Southern Ocean Sanctuary was not adopted and it remains.
- (iii) Although the IWC had accepted and endorsed the Revised Management Procedure (RMP) for commercial whaling, it noted that work on a number of issues, including specification of an inspection and observer system must be completed (Revised Management Scheme) before the IWC could consider establishing catch limits other than zero. This work is ongoing and an intersessional Commissioners' meeting was held in October 2002 to advance this work.
- (iv) Two permits by Japan for scientific whaling were considered: (i) an extension of its continuing program in the southern hemisphere, and (ii) for a long-term research program in the western North Pacific. Different views on the value of this research were expressed in the SC-IWC and the IWC.
- (v) The next Annual Meeting of the IWC will take place in Berlin, Germany, from 16 to 19 June 2003. The 2004 meeting will be held in Italy in May.

Reports of CCAMLR Observers at Meetings of Other International Organisations

ICCAT

14.30 The European Community, CCAMLR Observer to the Annual Meeting of ICCAT held in Murcia, Spain, in November 2001, briefly presented its report (CCAMLR-XXI/BG/4). Two main issues of relevance to CCAMLR were discussed at the meeting, the first being the matter of IUU fisheries. Discussions along the lines of those being held in CCAMLR are being held within ICCAT and proposals similar to those proposed at CCAMLR-XXI were also discussed by ICCAT.

14.31 The second issue of interest to CCAMLR was the question of seabird by-catch. There were a number of papers tabled in relation to this matter, but there was insufficient time for addressing this issue due to the long discussions on management measures of the quotas in question. This issue will be raised again at this year's annual meeting which is currently taking place in Bilbao, Spain. The European Community will report back to CCAMLR-XXII on the outcomes of this year's ICCAT meeting.

Expert Consultation of Regional Fisheries Management Bodies on the Harmonisation of Catch Certification

14.32 CCAMLR was represented at the IUU Consultation, in La Jolla, USA, from 9 to 11 January 2002, by the Science Officer and the Compliance Administrator. The Science Officer advised that the Secretariat's report of the meeting (CCAMLR-XXI/BG/10) had been considered in full by SCOI as part of the work of the CDS Informal Group. He drew the Commission's attention to the conclusions in the report:

- (i) Participation of the CCAMLR Secretariat at the consultation gave the opportunity to all participating RFMOs to jointly consider details of existing catch certification and documentation programs and plans for future programs globally. CCAMLR's experience in the development, implementation and operation of the CDS was extensively used at the consultation. It was noted that the CCAMLR scheme includes all the basic elements and procedures recommended by the consultation for harmonised catch certification and documentation programs.
- (ii) Recommendations made by the consultation could be viewed as a first step in the development of harmonised catch certification and documentation programs. Further work is required to elaborate such important procedural requirements as the responsibilities of Flag, Port, Export and Import States. The question of the consistency of the CDS with trade-related provisions of the World Trade Organization (WTO) remains unresolved and would also require further work.

COFI

14.33 Germany acted as CCAMLR Observer at the Eighth Session of the COFI Sub-Committee on Fish Trade held in Bremen, Germany, from 12 to 16 February 2002. Germany reported in CCAMLR-XXI/BG/3 that deliberations at the meeting focused on problems with fish trade worldwide.

14.34 One of two topics of interest to CCAMLR was the CITES listing criteria. It was agreed that the report from the FAO second technical consultation on the suitability of the CITES criteria for listing commercially exploited aquatic species should be conveyed to the CITES Secretariat.

14.35 Several countries reiterated their reservations about the role of CITES in relation to resources exploited by fisheries. The view was expressed that CITES should be seen as a complementary instrument in the protection of such resources, for example, in cases where management regimes are not in place, and that the CITES listing should be limited to exceptional cases only and when all relevant bodies associated with the management of the species in question agreed that a listing would be advantageous.

14.36 The COFI Sub-committee further requested the secretariats of FAO and CITES to coordinate in the drafting of a Memorandum of Understanding, as previously referred to by the FAO Observer, to facilitate dialogue and exchange of views. This Memorandum should be considered and possibly approved at the 2003 meetings of COFI and the CITES standing committee.

14.37 There was general agreement that many of the implications of a CITES listing had not been explored in detail and that there was a need for FAO to investigate the matter for exploited fish species.

14.38 The second topic of interest was the feasibility and practicability of harmonising catch documentation used by regional fishery bodies in relation to trade. The COFI Sub-committee was informed about the existing documentation programs that have been adopted by RFMOs, namely ICCAT, CCSBT, IOTC and CCAMLR. It was also informed about the outcome of the Expert Consultation referred to in paragraph 14.32.

14.39 Many delegations felt that the outcome of the consultation was a step in the right direction for the harmonisation of catch documentation for trade purposes, but there was a need for further work. Several delegations expressed concern over the participation in the consultation of regional fishery bodies on harmonisation of catch certification and the view was expressed that there should have been more participation from developing, major fishing and importing countries, and from persons who handle catch and/or trade documents. Some delegations cautioned against subjecting commercially exploited species to both the CITES listing and trade documentation schemes and expressed preference for the latter as a regulating mechanism.

IWC

14.40 The Commission noted the report submitted by the Observer to the 54th Meeting of the IWC (Japan) (CCAMLR-XXI/BG/46) and the comments made by the Chair of the IWC (paragraph 14.29).

Committee on Trade and Environment Special Session

14.41 As CCAMLR Observer to the two meetings of the CTE Special Session held in March and June 2002, New Zealand referred Members to its self-explanatory report in CCAMLR-XXI/BG/21. The report provided information on the informal consultations of organisation of work, planning of the Multilateral Environmental Agreements (MEA) Information Session, WTO Rules and Specific Trade Obligations in MEAs, observer status and environmental goods and services.

IATTC

14.42 The CCAMLR Observer (USA) to the 69th Meeting of ICCAT (26 to 28 June 2002, Mexico) submitted its report to the meeting (CCAMLR-XXI/BG/32). Issues reported on covered conservation and management of yellowfin and bigeye tuna, limitations on fishing capacity, by-catch, compliance and renegotiation of the IATTC Convention.

World Summit on Sustainable Development

14.43 South Africa, CCAMLR's Observer to the WSSD held in Johannesburg, South Africa, from 26 August to 4 September 2002, referred Members to its report (CCAMLR-XXI/BG/35). It urged all the Members present whose governments had shown commitment through attending the WSSD and concluding the Plan of Implementation, to view the observer's report and draw the Commission's attention to paragraph 2 which outlined that sustainable development has three components – economic development, social development and environmental protection – as interdependent and mutually reinforcing pillars. Poverty eradication, changing unsustainable patterns of production and consumption, and protecting and managing the natural resource base of economic and social development are overarching objectives essential for sustainable development.

CCSBT

14.44 Australia tabled the report of its observer at the fourth meeting of the CCSBT Ecologically Related Species Working Group (CCSBT-ERSWG) (held in Tokyo, Japan, from 26 to 28 November 2001); this report had only just been approved by CCSBT.

14.45 Prof. Croxall, Convener of ad hoc WG-IMAF, welcomed this report. It contained important new information which would be considered during the intersessional work of WG-IMAF.

Procedures for Submission of Observers' Reports

14.46 The UK observed that the Commission was facing a similar problem to that of the Scientific Committee under the same agenda item, in that valuable material was unable to be appropriately presented by observers, or adequately discussed by the Commission, due partly to the lateness of submission of some reports and partly to the structure of the meeting. The UK suggested that the Commission might consider adopting a similar procedure of deadlines for documents to that agreed by the Scientific Committee (SC-CAMLR-XXI, paragraph 9.34). Observers were, therefore, urged to ensure that their reports were submitted to the Secretariat in sufficient time to allow appropriate consideration by the Commission.

14.47 Chile associated itself with the UK's remarks regarding the limited opportunity for consideration of the valuable content of observers' reports within the present structure of the Commission's agenda. Within the scope of Agenda Item 15, Chile would endeavour to highlight the importance of these contributions to the objective of the Convention, while awaiting a change of policy towards participation of competent non-governmental organisations in the Scientific Committee's working groups that could also contribute to expanding these exchanges.

14.48 In this regard, the USA noted that observer reports require careful consideration, but are often presented late to the Commission. The USA proposed that these should be submitted well before the meeting for distribution, but no longer need be formally presented. Rather, the observer need only address specific pertinent points and answer questions raised on the contents of the paper.

Cooperation with Committee on Trade and Environment of the WTO

14.49 The Commission considered the paper submitted by the Secretariat (CCAMLR-XXI/20) and noted that the procedures for dealing with intersessional invitations to the Secretariat, as set out in Annex 4, paragraphs 11 and 12, would apply to all invitations received from other organisations. However, it asked the Secretariat to prepare draft guidelines, to be considered by the Commission at its next meeting, for dealing specifically with future invitations from the WTO.

Nomination of Observers to 2002/03 Meetings of International Organisations

14.50 The following observers were nominated to represent CCAMLR at meetings of international organisations in 2002/03:

- 12th Meeting of the Conference of Parties of CITES, 3 to 15 November 2002, Santiago, Chile – Chile (CCAMLR-XX, paragraph 12.50).
- Fourth Global Meeting of Regional Seas Conventions and Action Plans, 21 to 23 November 2002, Montreal, Canada – Canada or the USA (see paragraph 14.51).

- Second International Fishers' Forum, 19 to 22 November 2002, Hawaii, USA – USA.
- International Conference against Illegal, Unreported and Unregulated Fishing (in collaboration with FAO and the European Community), 25 to 26 November 2002, Santiago de Compostela, Spain – Spain.
- 20th Session of the CWP on Fishery Statistics (including discussions on FIGIS), 21 to 24 January 2003, Victoria, Seychelles – Data Manager.
- 25th Session of COFI, 24 to 28 February 2003, Rome, Italy – Executive Secretary.
- Third Meeting of the FAO Regional Fisheries Bodies, 3 to 4 March 2003, Rome Italy – Executive Secretary.
- SCAR's GIWA Action Group, April 2003, Curitiba, Brazil – Brazil.
- 55th Annual Meeting of the IWC, 16 to 19 June 2003, Berlin, Germany – Germany.
- Committee on Trade and Environment (CTE) of the WTO, June–July 2003 (dates to be confirmed), Geneva, Switzerland – Secretariat or New Zealand (see paragraph 14.52).
- ATCM-XXVI, 9 to 20 June 2003, Madrid, Spain – Executive Secretary.
- CEP-VI – Antarctic Treaty, 9 to 20 June 2003, Madrid, Spain – Chair, Scientific Committee.
- 18th Regular Meeting of ICCAT, 17 to 24 November 2003, Dublin, Ireland – European Community.
- Deep Sea 2003 Conference (an international conference on the governance and management of deep sea fisheries), 1 to 4 December 2003, Queenstown, New Zealand – Executive Secretary and Science Officer (paragraph 14.19).
- CCSBT10 Annual Commission Meeting, 7 to 10 October 2003, Christchurch, New Zealand – New Zealand.
- 2003 Annual Meetings of IATTC, 17 to 28 June 2003, Antigua, Guatemala – USA.

14.51 The Commission requested the Executive Secretary to write to the Government of Canada requesting it to represent CCAMLR as an observer at the Fourth Global Meeting of Regional Seas Conventions and Action Plans to be held in Montreal in November this year. The USA will act as observer should Canada decline the invitation.

14.52 The Commission agreed that it would be beneficial for a member of the Secretariat to represent CCAMLR at the CTE WTO meetings to be held in 2003 should sufficient funds be available from the budget. Otherwise New Zealand will serve as the CCAMLR observer.

IMPLEMENTATION OF THE OBJECTIVE OF THE CONVENTION

15.1 The Commission considered two papers submitted by Australia (CCAMLR-XXI/BG/13) and Chile (CCAMLR-XXI/BG/44) addressing some current issues relating to the objective of the Convention.

15.2 The Commission agreed that its role as a conservation organisation with responsibility for managing fisheries in the Southern Ocean gives it the attributes of an RFMO within the context of the UN and its subsidiary bodies. This management role is clearly envisaged in the formulation of the Convention, and CCAMLR's competence as an RFMO is particularly evident in relation to management of *Dissostichus* spp.

15.3 The Commission noted with appreciation the endorsement by the WSSD of the ecosystem approach and other proposals which contribute to the achievement of CCAMLR's objectives as set out in Article II of the Convention.

15.4 Chile noted that cooperation with respect to the Convention Area and areas adjacent was important because of CCAMLR's need for information from these areas and EEZs where fish species on which CCAMLR is focusing are being harvested. Papers submitted to this year's meeting by Chile, Brazil and the IUCN had expressed the necessity for a regional approach to be developed.

15.5 In this respect, Chile noted that the Scientific Committee and WG-FSA are addressing such issues as migration, distribution and breeding of toothfish stocks. The existing achievements of the CDS are expected to be even greater with the development of a fully electronic system, and amongst a number of organisations seeking to harmonise such certification processes, CCAMLR is a recognised leader.

15.6 The new terms of reference developed for SCIC will allow the Committee to establish subsidiary working groups to consider specific priority issues. Chile suggested that these might include the investigation into how issues similar to those faced by SCOI are addressed by other organisations and how information provided in papers by observers to the Commission's meeting can be collected and used.

15.7 Norway expressed appreciation for the papers presented on this agenda item, noting that the continued existence of this item on the agenda permitted the Commission to ensure that it was able to address, in a consistent, analytical manner, issues which may otherwise be hurried in discussions on other matters. Of the three priority issues identified in last year's report for consideration under this item, Norway noted that the restructuring of SCOI had now been dealt with, but that approaches for cooperation with other elements of the Antarctic Treaty System and with other regional fishery bodies remain outstanding.

15.8 Norway was pleased to note the proposed international symposium to be organised by Australia and Chile, as this would provide the opportunity for further consideration of such issues, but pointed out that further information on the proposed symposium would need to be provided, and that care should be taken to ensure that its timing would be convenient for all intended participants.

15.9 Several Members at this point in the debate commented further on the implications of the matter raised by the proposal to list toothfish under CITES. At the time of adoption of the report, it was agreed that the record of these interventions were more appropriately held under Agenda Item 10.

15.10 Argentina thanked Chile for its paper and recalled that it had requested at previous meetings that, given its importance, the subject should remain on the agenda. Argentina shared several concepts presented by Chile in the paper. In respect of the application of criteria for harmonisation between different legal contexts, Argentina agreed with the benefits outlined by Chile, although also it should be emphasised that in certain cases, as it was experienced in previous meetings, it is necessary to approach with caution, in particular when the proposals based on harmonisation criteria conflict with principles of international law. Such a situation may well appear in the matter of allocation of competences.

15.11 The European Community saw it as fitting that this item on the agenda should be addressed towards the end of the meeting, as the Commission has had very intense discussions during this meeting on matters that are truly at the heart of this organisation's life and purpose. The European Community believed that the Commission had, during these days, reaffirmed its role and reinforced its commitment to continue to work and cooperate to ensure the attainment of the objectives of the Convention.

15.12 The European Community noted the strengthening of CCAMLR's institutional framework, particularly with the new SCIC terms of reference and the intensification of cooperation with regional fishery and environmental organisations. There are many developments occurring simultaneously, and these echo through the work of the Commission. There was a need for timely and effective communication of CCAMLR's work and, noting the participation of many Commission delegates in other forums, the European Community stressed the need for individuals to further these cooperative efforts.

15.13 The European Community noted that discussions on the proposal to list toothfish in CITES Appendix II touched on the key issue of CCAMLR's commitment towards conservation through decisive measures and effective implementation of those measures by Members. In the view of the European Community, it is important that the Commission convinces the world that it is doing its own job before it needs to appeal to others for assistance. The Commission should invite and appeal to others to use the CCAMLR system. The European Community requested Australia to reconsider its proposal and reaffirmed the necessity to work through cooperation with CITES.

15.14 Brazil thanked Australia and Chile for the papers they had presented and noted, in particular, Chile's comments with regard to the harmonisation of efforts with regard to fisheries and conservation. Brazil was looking forward to the proposed symposium where these issues could be more extensively addressed including careful consideration of such matters as Australia's proposal for CITES listing of toothfish sometime in the future.

15.15 Australia welcomed the discussions presented by Chile, which provided the opportunity for the Commission to ponder its significant role in world affairs; a role which should not be underestimated. The comments of delegates in response to Chile's paper were encouraging, and Australia would continue to work with Chile to ensure the maximum possible representation at the proposed symposium.

15.16 Chile expressed appreciation for the positive comments on its paper and presentation, and confirmed Australia's advice that the symposium proposed for the end of August 2003 in Valdivia, Chile, would be developed with the aim of participation by all Members.

15.17 Chile noted wide acceptance of Australia's paper on the role of CCAMLR as an RFMO and the competent organisation in respect of toothfish in the Convention Area. As a recognised RFMO, CCAMLR should participate in the Review Conference of the UN Fish Stocks Agreement (UNFSA) which would provide a unique occasion for a global assessment of the stocks and the status of various initiatives designed to curb IUU fishing. Among those, the IPOA-IUU and other FAO initiatives to probe the linkages between industry subsidies, fishing capacity and IUU fishing; the operation of the MCS web, based in Chile; the International Conference on the Governance and Management of Deep Sea Fisheries; and the Santiago de Compostela International Conference are all important steps in the same direction.

ELECTION OF CHAIR OF THE COMMISSION

16.1 In accordance with the agreed procedure in the footnote to Rule 8 of the Rules of Procedure, the Commission agreed that Japan shall provide the Chair from the conclusion of the 2002 meeting until the end of the 2004 meeting.

16.2 In accepting the nomination, Japan apologised that it was not yet able to provide a name for the position as this had not yet been determined. However, Japan assured the Commission that the nominee would be qualified for the position.

16.3 The USA pointed out that many other organisations did not use CCAMLR's procedure for selecting Chairs by alphabetical selection by country, and that Members may wish to consider a policy for sometime in the future whereby individuals are chosen for the Chair without reference to their country.

NEXT MEETING

Invitation of Observers to the Next Meeting

17.1 The Commission invited the following States to attend the Twenty-second Meeting of the Commission as observers:

- Accessing States – Bulgaria, Canada, Finland, Greece, Netherlands, Peru and Vanuatu;
- non-Contracting Parties participating in the CDS who are involved in harvesting or landing and/or trade of toothfish – the People's Republic of China, Mauritius, Seychelles and Singapore; and
- non-Contracting Parties not participating in the CDS but possibly involved in harvesting or landing and/or trade of toothfish – Angola, Belize, Bolivia, Colombia,

Indonesia, Kenya, Madagascar, Malaysia, Mexico, Mozambique, Panama, Philippines, Sao Tome and Principe, St Vincent and the Grenadines, Thailand and Togo.

17.2 As the Secretariat had encountered some difficulties in identifying appropriate contacts in some of the above countries, the FAO Observer offered the assistance of local offices of FAO to facilitate the delivery of such invitations.

17.3 In light of the developing cooperation between CCAMLR and CITES, the Commission invited the CITES Secretariat to attend the Twenty-second Meeting as an observer (paragraph 10.25).

17.4 The following international organisations were also invited: ASOC, CCSBT, CEP, CPPS, FAO, FFA, IATTC, ICCAT, IOC, IUCN, IWC, SCAR, SCOR, SPC and UNEP.

Date and Location of the Next Meeting

17.5 Noting that any alternative meeting venue would be unlikely to be available in time for the next meeting, the Commission agreed that the current location at Wrest Point Hotel would again be used for the Twenty-second Meeting of the Commission, to be held in Hobart, Australia, from 27 October to 7 November 2003. Heads of Delegation were requested to be in Hobart for a meeting on 26 October 2003.

OTHER BUSINESS

18.1 The UK referred to paragraph 14.46 where concern was raised over the shortage of time often available for Members to read papers before the meeting. The UK noted that the ATCM has clear rules for the submission of papers, which are rigorously applied. The Commission asked the Secretariat to consult with the Chairs of the Scientific Committee and SCOI intersessionally in order to draw up a set of draft procedures, possibly along the lines of those adopted by the ATCM and CEP, for consideration by the Commission at its next meeting.

REPORT OF THE TWENTY-FIRST MEETING OF THE COMMISSION

19.1 The report of the Twenty-first Meeting was adopted.

CLOSE OF THE MEETING

20.1 In his closing remarks, the Chair expressed his appreciation to the Members of Commission, the Chair of the Scientific Committee (Dr Holt), the current Executive Secretary (Dr Miller), the previous Executive Secretary (Mr E. de Salas) and the Secretariat staff for

their support during the past two years. He had been honoured to be Chair of the Commission during a time in which it had generated many initiatives devoted to achieving its goal. He felt the future was full of new challenges with the Commission moving ahead in full sail.

20.2 Mr R. Arnaudo (USA), on behalf of the Commission, thanked Dr Sasanelli for his leadership and hard work over the past two years. Progress had been made and the durability of the institution had survived the rather contentious two weeks of the meeting, and Mr Arnaudo credited the Chair for helping the Commission through this.

20.3 Ambassador J. Berguño (Chile) also expressed his appreciation to the Chair for helping to guide the Commission through its work.

20.4 Prior to closing the meeting, Dr Sasanelli was presented with a gavel by Dr Miller so that he could add a personal touch to the closure.

20.5 The Chair of the Commission then closed the Twenty-first Meeting.

Table 1: Exploratory fisheries for *Dissostichus* spp. notified for the 2002/03 season.

Region (outside EEZs)	Gear	Member
48.6	Longline	Japan, New Zealand, South Africa
58.4.2	Longline	Australia
58.4.3a	Longline	Australia, Japan
58.4.3b	Longline	Australia, Japan
58.4.4	Longline	Japan, South Africa
58.6	Longline	Japan, South Africa
88.1	Longline	Japan, New Zealand, Russia, South Africa, Spain
88.2	Longline	Japan, New Zealand, Russia

Table 2: Categories and codes used to classify conservation measures.

Category	2-digit Code
Compliance	10
General Fishery Matters	
Notifications	21
Gear regulations	22
Data reporting	23
Research and experiments	24
Minimisation of incidental mortality	25
Fishery Regulations	
General measures	31
Fishing seasons, closed areas and prohibition of fishing	32
By-catch limits	33
Finfish fisheries	
Toothfish	41
Icefish	42
Other finfish	43
Crustacean fisheries	
Krill	51
Crab	52
Other crustaceans	53
Mollusc fisheries	
Squid	61
Other molluscs	62
Protected Areas	
CEMP sites	91

LIST OF PARTICIPANTS

LIST OF PARTICIPANTS

CHAIR

Dr Nicola Sasanelli
Embassy of Italy
Canberra, Australia

CHAIR, SCIENTIFIC COMMITTEE

Dr Rennie Holt
Southwest Fisheries Science Center
National Marine Fisheries Service
La Jolla, California, USA

ARGENTINA

Representative:

Ministro Ariel R. Mansi
Dirección General de Antártida
Ministerio de Relaciones Exteriores,
Comercio Internacional y Culto
Buenos Aires

Alternate Representative:

Dr. Enrique R. Marschoff
Instituto Antártico Argentino
Buenos Aires

Adviser:

Dr. Esteban Barrera-Oro
Instituto Antártico Argentino
Buenos Aires

AUSTRALIA

Representative:

Dr Anthony Press
Australian Antarctic Division
Environment Australia
Tasmania

Alternate Representatives:

Dr Andrew Constable
Australian Antarctic Division
Environment Australia
Tasmania

Mr John Davis
Compliance Section
Australian Fisheries Management Authority
Canberra

Mr Ian Hay
Australian Antarctic Division
Environment Australia
Tasmania

Mr Glenn Hurry
Department of Agriculture, Fisheries
and Forestry Australia
Canberra

Mr Robin Nair
Department of Foreign Affairs and Trade
Tasmania

Ms Viki O'Brien
Antarctic Fisheries
Australian Fisheries Management Authority
Canberra

(week 1)

Mr Paul Panayi
Legal Branch
Department of Foreign Affairs and Trade
Canberra

(week 1)

Mr Geoff Rohan
Australian Fisheries Management Authority
Canberra

Advisers:

Mr Barry Baker
Environment Australia
Canberra

Ms Robyn Bromley
Environment Australia
Canberra

Ms Sarah Chapman
Australian Antarctic Division
Environment Australia
Tasmania

Mr Martin Exel
Representative of Australian Fishing Industry
Austral Fisheries
Western Australia

Mr Quentin Hanich
Representative of Australian
Conservation Organisations
Canberra

Mr Charles Hausknecht
Ministry of Agriculture Fisheries
and Forestry Australia
Canberra

Mr Greg Johannes
Representative of State and Territory Government
Office of Antarctic Affairs
Tasmania

Dr Stephen Nicol
Australian Antarctic Division
Environment Australia
Tasmania

Mr Les Scott
Representative of Australian Fishing Industry
Petuna Sealord Pty Ltd
Tasmania

Ms Gillian Slocum
Australian Antarctic Division
Environment Australia
Tasmania

Mr Chris Webb
Australian Antarctic Division
Environment Australia
Tasmania

Mr Dick Williams
Australian Antarctic Division
Environment Australia
Tasmania

Ms Sara Williams
Environment Australia
Canberra

BELGIUM

Representative: Mr Daan Delbare
Department of Sea Fisheries
Oostende

BRAZIL

Representative: Dr Edith Fanta
Departamento Biologia Celular
Universidade Federal do Paraná
Curitiba

CHILE

Representative: Embajador Jorge Berguño
Instituto Antártico Chileno
Santiago

Alternate Representative: Sra. Valeria Carvajal
Subsecretaría de Pesca
Ministerio de Economía
Valparaíso

Advisers: Sr. Carlos Martínez
Dirección General del Territorio
Marítimo y Marina Mercante
Valparaíso

Prof. Carlos Moreno
Instituto Antártico Chileno
Universidad Austral de Chile
Valdivia

Sr. Sergio Mujica
National Fisheries Service
Ministry of Economy Development
and Reconstruction
Valparaíso

EUROPEAN COMMUNITY

Representative: Ms Fuensanta Candela Castillo
Directorate-General for Fisheries
of the European Commission
Brussels

Alternate Representative: Mr Staffan Ekwall
Directorate-General for Fisheries
of the European Commission
Brussels

Advisers: Dr Volker Siegel
Sea Fisheries Research Institute
Hamburg

Mr Struan Stevenson
European Fisheries Committee
European Parliament
Brussels

Mr Jean-Pierre Vergine
Directorate-General for Fisheries
of the European Commission
Brussels

FRANCE

Representative: M. Michel Trinquier
Ministère des Affaires étrangères
Paris

Alternate Representative: M. Michel Brumeaux
Ministère des Affaires étrangères
Paris

Advisers: M. Jacques Albin
Cap Bourbon S.A.
La Réunion

M. Yann Becouarn
Ministère de l'agriculture et de la pêche
Paris

Prof. Guy Duhamel
Muséum National d'Histoire Naturelle
Laboratoire d'ichthyologie générale et appliquée
Paris

M. François Garde
Administrateur Supérieur des Terres australes
et Antarctiques françaises
Paris

M. Marc Ghiglia
Union des Armateurs à la Pêche de France
Paris

GERMANY

Representative: Mr Hermann Pott
Federal Ministry for Consumer Protection,
Food and Agriculture
Bonn

Alternate Representative: Dr Karl-Hermann Kock
Federal Research Centre for Fisheries
Institute of Sea Fisheries
Hamburg

Adviser: Mr Stephan Mathé
Embassy of Germany
Canberra, Australia

INDIA

Representative: Mr V. Ravindranathan
Department of Ocean Development
Centre for Marine Living Resources and Ecology
Kochi

Alternate Representative: Mr P.K. Pattanaik
Department of Animal Husbandry and Dairying
Ministry of Agriculture
New Delhi

ITALY

Representative: Ambassador Luchino Cortese
Ministry of Foreign Affairs
Rome

Alternate Representative: Prof. Gian Carlo Carrada
Department of Zoology
University of Naples Federico II
Naples

Advisers: Prof. Silvano Focardi
Department of Environmental Sciences
University of Siena
Siena

Prof. Letterio Guglielmo
Dipartimento di Biologia Animale
University of Messina
Messina

JAPAN

Representative: Mr Satoru Goto
Ministry of Agriculture, Forestry and Fisheries
Tokyo

Alternate Representatives:
(week 1) Mr Yoshiaki Ito
Fishery Division, Economic Affairs Bureau
Ministry of Foreign Affairs
Tokyo

Mrs Keiko Suzuki
Fishery Division
Ministry of Foreign Affairs
Tokyo

Advisers: Prof. Mitsuo Fukuchi
Center for Antarctic Environment Monitoring
National Institute of Polar Research
Tokyo

Mr Tetsuo Inoue
Japan Deep Sea Trawlers Association
Tokyo

Dr So Kawaguchi
National Research Institute of Far Seas Fisheries
Shimizu

Mr Ryota Matsuda
International Affairs Division
Fisheries Agency
Ministry of Agriculture, Forestry and Fisheries
Tokyo

Dr Mikio Naganobu
National Research Institute of Far Seas Fisheries
Shimizu

Mr Ryoichi Sagae
Japan Deep Sea Trawlers Association
Tokyo

Mr Tsuneaki Sato
Far Seas Fisheries Division
Fisheries Agency
Ministry of Agriculture, Forestry and Fisheries
Tokyo

Mr Ichiro Shimizu
Trade and Economic Cooperation Bureau
Ministry of Economy, Trade and Industry
Tokyo

KOREA, REPUBLIC OF

Representative: Mr Jung-hee Yoo
Embassy of the Republic of Korea
Canberra, Australia

Alternate Representatives: Mr Jeong-in Suh
Embassy of the Republic of Korea
Canberra, Australia

Dr SungKwon Soh
International Cooperation Division
Ministry of Maritime Affairs and Fisheries
Seoul

Mr Sung-nam Joh
Division of Distant Water Fishery
Ministry of Maritime Affairs and Fisheries
Seoul

Advisers: Mr Choon-ok Ku
Dongyang Fisheries Co. Ltd
Seoul

Mr Byung-goo Min
Korea Deep Sea Fisheries Association
Seoul

Mr Doo-sik Oh
Insung Corporation
Seoul

NAMIBIA

Representative: Mr Peter Amutenya
Ministry of Fisheries and Marine Resources
Windhoek

Alternate Representative: Mr Peter Schivuté
Ministry of Fisheries and Marine Resources
Walvis Bay

Adviser: Mr Angel Tordesillas
NovaNam Limited
Luderitz

NEW ZEALAND

Representative: Mr Trevor Hughes
Ministry of Foreign Affairs and Trade
Wellington

Alternate Representative: Mr Grant Bryden
Ministry of Foreign Affairs and Trade
Wellington

Advisers: Ms Anna Broadhurst
Ministry of Foreign Affairs and Trade
Wellington

Ms Alexandra Edgar
Ministry of Fisheries
Wellington

Mr Greg Johansson
Industry Representative
Timaru

Mr Grahame Morton
Ministry of Foreign Affairs and Trade
Wellington

Mr Damien Rogers
Ministry of Fisheries
Wellington

Dr Kevin Sullivan
Ministry of Fisheries
Wellington

Mr Greg Williams
Industry Representative
Christchurch

Ms Mariska Wouters
Department of Conservation
Wellington

NORWAY

Representative: Ambassador Jan Tore Holvik
Royal Ministry of Foreign Affairs
Oslo

Alternate Representative: Mr Terje Løbach
Directorate of Fisheries
Bergen

Advisers: Mr Are Dommasnes
Marine Resources Centre
Institute of Marine Research
Bergen

Dr Davor Vidas
Fridtjof Nansen Institute
Lysaker

POLAND

Representative: Mr Tomasz Zoladkiewicz
Embassy of the Republic of Poland
Sydney, Australia

Alternate Representative: Mr Ireneusz Wojcik
Adviser
Independent Fisheries Ltd
Christchurch, New Zealand

RUSSIAN FEDERATION

Representative: Mr Leonid Kholod
State Committee for Fisheries
of the Russian Federation
Moscow

Alternate Representatives: Mr Vadim Brukhis
State Committee for Fisheries
of the Russian Federation
Moscow

Dr Konstantin Shust
VNIRO
Moscow

Advisers: Mr Gennady Boltenko
Department of International Cooperation
State Committee of Russian Federation
for Fisheries
Moscow

Mr Nikita Demin
Pelagial Joint Stock Company
Petropavlovsk-Kamchatsky

Mr Alexei Kouzmitchev
Pelagial Joint Stock Company
Petropavlovsk-Kamchatsky

Mr Vladimir Senioukov
PINRO
Murmansk

Mr Victor Solodovnik
VNIRO
Moscow

Dr Viacheslav Sushin
AtlantNIRO
Kaliningrad

Mr Vasily Titushkin
Legal Department
Ministry of Foreign Affairs
Moscow

SOUTH AFRICA

Representative: Ms Theresa Akkers
Marine and Coastal Management
Department of Environment Affairs
Cape Town

Alternate Representative: Mr Barry Watkins
Marine and Coastal Management
Department of Environment Affairs
Cape Town

Advisers: Mr Christian Badenhorst
Department of Foreign Affairs
Pretoria

Mr Daniel Bailey
Fishing Industry Representative
Cape Town

Mr Tim Reddell
Fishing Industry Representative
Cape Town

SPAIN

Representative: Sra. Carmen-Paz Martí
Secretaría General de Pesca Marítima
Madrid

Alternate Representative:
(week 2) Sr. Javier Garcia-Larrache
Embassy of Spain
Canberra, Australia

Adviser: Sr. Luis López Abellán
Instituto Español de Oceanografía
Centro Oceanográfico de Canarias
Santa Cruz de Tenerife

SWEDEN

Representative: Ambassador Greger Widgren
Ministry for Foreign Affairs
Stockholm

Alternate Representatives: Dr Marie Jacobsson
Ministry for Foreign Affairs
Stockholm

Prof. Bo Fernholm
Swedish Museum of Natural History
Stockholm

Dr Rolf Åkesson
Ministry of Agriculture Food and Fisheries
Stockholm

UKRAINE

Representative: Dr Volodymyr Herasymchuk
State Committee for Fisheries of Ukraine
Ministry of Agricultural Policy of Ukraine
Kiev

Alternate Representative: Dr Evgeni Goubanov
YugNIRO
State Committee for Fisheries of Ukraine
Crimea

UNITED KINGDOM

Representative: Dr Mike Richardson
Polar Regions Section
Overseas Territories Department
Foreign and Commonwealth Office
London

Alternate Representative: Ms Helen Mulvein
Foreign and Commonwealth Office
London

Advisers: Dr David Agnew
Renewable Resources Assessment Group
Imperial College
London

Prof. John Beddington
Department of Environmental Science
and Technology
Imperial College
London

Mr Harvey Bell
Polar Regions Section
Overseas Territories Department
Foreign and Commonwealth Office
London

Prof. John Croxall
British Antarctic Survey
Cambridge

Ms Kerenza Holzman
British High Commission
Canberra, Australia

Ms Indrani Lutchman
World Wide Fund for Nature
Godalming

Prof. Paul Rodhouse
British Antarctic Survey
Cambridge

UNITED STATES OF AMERICA

Representative: Mr Raymond V. Arnaudo
Office of Oceans Affairs
US Department of State
Washington, DC

Alternate Representative:

Ms Robin Tuttle
Office of Science and Technology
National Marine Fisheries Service
Silver Spring, Maryland

Advisers:

Ms Roberta Chew
Office of Oceans Affairs
US Department of State
Washington, DC

Mrs Beth Clark
The Antarctica Project
The Antarctic and Southern Ocean Coalition
Washington, DC

Ms Kimberly Dawson
National Seafood Inspection Laboratory
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Pascagoula, Mississippi

Mr E. Spencer Garrett
National Seafood Inspection Laboratory
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Pascagoula, Mississippi

Mr Michael Gonzales
National Marine Fisheries Service
Southwest Enforcement Division
Long Beach, California

Dr Roger Hewitt
Southwest Fisheries Science Center
National Marine Fisheries Service
La Jolla, California

(week 1)

Mr Steven Koplín
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Silver Spring, Maryland

Mr Paul Ortiz
Office of General Counsel
National Oceanic and Atmospheric Administration
Long Beach, California

Dr Polly Penhale
Office of Polar Programs
National Science Foundation
Arlington, Virginia

URUGUAY

Representative: Capt. Julio Lamarthée
Ministerio de Relaciones Exteriores
Comisión Interministerial CCRVMA-Uruguay
Montevideo

Alternate Representative: Sr. Jorge Cambiasso
Dirección Nacional de Recursos Acuáticos
Ministerio de Ganadería, Agricultura y Pesca
Montevideo

Advisers: C/N Aldo Felici
Instituto Antártico Uruguayo
Montevideo

Sr. Alberto T. Lozano
Ministerio de Relaciones Exteriores
Coordinador Técnico de la Comisión
Interministerial de la CCRVMA-Uruguay
Montevideo

Dr. Hebert Nion
Dirección Nacional de Recursos Acuáticos
Montevideo

OBSERVERS – INTERNATIONAL ORGANISATIONS

CEP Dr Anthony Press
Australian Antarctic Division
Environment Australia
Kingston, Australia

FAO Dr Ross Shotton
Fishery Resources Division
Food and Agriculture Organization
of the United Nations
Rome, Italy

IOC Dr Angus McEwan
CSIRO Division of Marine Research
Hobart, Australia

IUCN Ms Kristina Gjerde
IUCN
Poland

Ms Anita Sancho
TRAFFIC South America
Quito, Ecuador

Ms Anna Willock
TRAFFIC Oceania
Sydney, Australia

IWC Prof. Bo Fernholm
Swedish Museum of Natural History
Stockholm, Sweden

Dr Karl-Hermann Kock
Federal Research Centre for Fisheries
Institute of Sea Fisheries
Hamburg, Germany

Dr Deborah Thiele
School of Ecology and Environment
Deakin University
Warrnambool, Australia

SCAR Dr Edith Fanta
Universidade Federal do Paraná
Curitiba, Brazil

OBSERVERS – NON-GOVERNMENTAL ORGANISATIONS

ASOC Dr Alan Hemmings
ASOC
Christchurch, New Zealand

Ms Sarah Dolman
Whale and Dolphin Conservation Society
Watson, ACT, Australia

Ms Sarah Duthie
Greenpeace New Zealand
Auckland, New Zealand

Ms Virginia Gascón
ASOC
Madrid, Spain

Mr Alistair Graham
ASOC
Hobart, Australia

Ms Andrea Kavanagh
National Environmental Trust
Washington, DC, USA

Ms Desley Mather
Greenpeace International
Sydney, Australia

Ms Margaret Moore
ASOC
Australia

Dr Cristian Pérez Muñoz
ASOC Latin America
Santiago, Chile

Mr Mark Stevens
The Antarctica Project
ASOC
Washington, DC, USA

OBSERVERS – NON-CONTRACTING PARTIES

**CHINA,
PEOPLE'S REPUBLIC OF**

Mr Gang Zhao
Bureau of Fisheries
Ministry of Agriculture
Beijing

Mr Weijia Qin
Chinese Arctic and Antarctic Administration
Beijing

Mr Dong Yan
International Fisheries Corporation
China National Fisheries Corporation
Beijing

MAURITIUS

Mr Ismet Jehangeer
 Ministry of Fisheries
 Port Louis

MOZAMBIQUE

Mr Francisco Bomba
 Ministerio dos Pescas
 Maputo

SEYCHELLES

Mr Gerard Domingue
 Seychelles Fishing Authority
 Victoria

SECRETARIAT**Executive Secretary**

Denzil Miller

Science/Compliance and Enforcement

Science/Compliance Officer
 Scientific Observer Data Analyst
 Compliance Administrator
 CDS Support Officer

Eugene Sabourenkov
 Eric Appleyard
 Natasha Slicer
 Jacque Bennett

Data Management

Data Manager
 Database Developer
 Data Entry Specialist

David Ramm
 Tim Pedersen
 Lydia Millar

Administration/Finance

Administration/Finance Officer
 Finance Assistant
 General Office Administrator

Jim Rossiter
 Christina Macha
 Rita Mendelson

Communications

Communications Officer
 Publications and Website Assistant
 French Translator/Team Coordinator
 French Translator
 French Translator
 French Translator
 Russian Translator/Team Coordinator
 Russian Translator
 Russian Translator
 Spanish Translator/Team Coordinator
 Spanish Translator
 Spanish Translator

Genevieve Tanner
 Doro Forck
 Gillian von Bertouch
 Bénédicte Graham
 Floride Pavlovic
 Michèle Roger
 Natalia Sokolova
 Ludmila Thornett
 Vasily Smirnov
 Anamaría Merino
 Margarita Fernández
 Marcia Fernández

Website and Information Services

Website and Information Services Officer
Information Services Assistant

Rosalie Marazas
Philippa McCulloch

Information Technology

Information Technology Manager
Information Technology Support Specialist

Fernando Cariaga
Simon Morgan

Interpreting Team

Ms Lucy Barua
Ms Sabine Bouladon
Ms Daniela Cincotti
Ms Peps Demirel
Mr Hulus Hulusi
Ms Rosa Kamenev
Mr Jay Lloyd-Southwell
Mr Peter Peterson
Ms Ludmila Stern
Mr Philippe Tanguy
Ms Emy Watt

LIST OF DOCUMENTS

LIST OF DOCUMENTS

- CCAMLR-XXI/1 Provisional Agenda for the Twenty-first Meeting of the Commission for the Conservation of Antarctic Marine Living Resources
- CCAMLR-XXI/2 Provisional Annotated Agenda for the Twenty-first Meeting of the Commission for the Conservation of Antarctic Marine Living Resources
- CCAMLR-XXI/3 Examination of the audited financial statements for 2001
Executive Secretary
- CCAMLR-XXI/4 Review of the 2002 budget, draft 2003 budget and forecast budget for 2004
Executive Secretary
- CCAMLR-XXI/5 Notification of Spain's intention to initiate an exploratory fishery in Subarea 88.1 for *Dissostichus* spp. in the 2002/03 season
Delegation of Spain
- CCAMLR-XXI/6 Notification of exploratory fisheries for *Dissostichus* spp. in the 2002/03 season
Delegation of South Africa
- CCAMLR-XXI/7 Notification by New Zealand of its intention to continue an exploratory fishery for *Dissostichus* spp. in CCAMLR Subareas 88.1 and 88.2 for the 2002/03 season
Delegation of New Zealand
- CCAMLR-XXI/8 Notification by New Zealand of its intention to continue an exploratory fishery for *Dissostichus* spp. in CCAMLR Subarea 48.6 for the 2002/03 season
Delegation of New Zealand
- CCAMLR-XXI/9 Notification of exploratory fisheries for *Dissostichus* spp. in the 2002/03 season
Delegation of Japan
- CCAMLR-XXI/10 Notification of Australia's intention to conduct a longline fishery in Division 58.5.2 for *Dissostichus eleginoides*
Delegation of Australia

CCAMLR-XXI/11	Notification of Australia's intention to conduct an exploratory longline fishery in Divisions 58.4.3a and 58.4.3b for <i>Dissostichus</i> spp. Delegation of Australia
CCAMLR-XXI/12	Notification of Australia's intention to conduct an exploratory longline fishery in Division 58.4.2 for <i>Dissostichus</i> spp. Delegation of Australia
CCAMLR-XXI/11 CCAMLR-XXI/12 Addendum	To be read in conjunction with Australia's notifications for exploratory fisheries in the 2002/03 season Delegation of Australia
CCAMLR-XXI/13	CCAMLR Secretariat Strategic Plan: Summary Report to SCAF Executive Secretary
CCAMLR-XXI/14 Rev. 1	Documentation relating to CITES COP-12 Proposal 39 – inclusion in Appendix II of <i>Dissostichus eleginoides</i> and <i>D. mawsoni</i> Executive Secretary
CCAMLR-XXI/15	CCAMLR conservation measures: review of the numbering system Secretariat
CCAMLR-XXI/16 Rev. 1	Notification by Russia of its intention to initiate an exploratory fishery for <i>Dissostichus</i> spp. in CCAMLR Subareas 88.1 and 88.2 for the 2002/03 season Delegation of Russia
CCAMLR-XXI/17	Executive Secretary's Report to SCAF 2002 Executive Secretary
CCAMLR-XXI/18 Rev. 1	Proposal for an electronic web-based Catch Documentation Scheme for <i>Dissostichus</i> spp. Delegation of the USA
CCAMLR-XXI/19	Review of SCOI working arrangements Delegation of the European Community
CCAMLR-XXI/20	Cooperation with the Committee on Trade and Environment of the World Trade Organization (WTO) Secretariat
CCAMLR-XXI/21	A proposal to establish a CCAMLR centralised Vessel Monitoring System (VMS) Delegation of Australia

CCAMLR-XXI/22	International conference on the governance and management of deep-sea fisheries Secretariat
CCAMLR-XXI/23	Modification of the operation of Article 73(2) of the United Nations Convention on the Law of the Sea to assist in preventing IUU fishing that undermines CCAMLR conservation and management measures Delegation of Australia
CCAMLR-XXI/24	Achieving sustainable fisheries for <i>Dissostichus</i> spp.: managing the harvesting of stocks outside of the CCAMLR area Delegation of Australia
CCAMLR-XXI/25	Report of the Standing Committee on Administration and Finance (SCAF)
CCAMLR-XXI/26	Report of the Standing Committee on Observation and Inspection (SCOI)

CCAMLR-XXI/BG/1 Rev. 2	List of documents
CCAMLR-XXI/BG/2	List of participants
CCAMLR-XXI/BG/3	Report on the Committee on Fisheries Sub-Committee on Fish Trade Eighth Session (Bremen, Germany, 12 to 16 February 2002) CCAMLR Observer (Germany)
CCAMLR-XXI/BG/4	Rapport de la dix-septième réunion annuelle de l'ICCAT (Murcia, Espagne, novembre 2001) Observateur de la CCAMLR (Communauté européenne)
CCAMLR-XXI/BG/5	Implementation of Conservation Measures in 2001/02 Secretariat
CCAMLR-XXI/BG/6	Summary of current conservation measures and resolutions in force 2001/02 Secretariat
CCAMLR-XXI/BG/7	Administración Chilena de la pesquería de bacalao de profundidad (<i>Dissostichus eleginoides</i>) Delegación de Chile (Executive Summary available in English)

CCAMLR-XXI/BG/8	Report on attendance at the Fifth Meeting of the Committee for Environmental Protection Under the Madrid Protocol Chair of the Scientific Committee
CCAMLR-XXI/BG/9	Calendar of meetings of relevance to the Commission in 2002/03 Secretariat
CCAMLR-XXI/BG/10	Report on the Expert Consultation of Regional Fisheries Management Bodies on the Harmonisation of Catch Certification (La Jolla, USA, 9 to 11 January 2002) Secretariat
CCAMLR-XXI/BG/11	Minutes of an informal meeting on the development of an electronic web-based CDS (Pascagoula, Mississippi, USA, 20 to 23 August 2002) Secretariat
CCAMLR-XXI/BG/12	Report on CDS catch verification procedure Delegation of Uruguay
CCAMLR-XXI/BG/13	The role of CCAMLR Delegation of Australia
CCAMLR-XXI/BG/14	International Conference against Illegal, Unreported and Unregulated Fishing (Santiago de Compostela, Spain, 25 and 26 November 2002) Delegation of Spain
CCAMLR-XXI/BG/15	Report of the CCAMLR Observer to ATCM-XXV (Warsaw, Poland, 9 to 20 September 2002) Executive Secretary
CCAMLR-XXI/BG/15 Corrigendum	Report of the CCAMLR Observer to ATCM-XXV (Warsaw, Poland, 9 to 20 September 2002) Executive Secretary
CCAMLR-XXI/BG/16	Information in relation to new and exploratory fisheries This document should be read in conjunction with CCAMLR-XXI/16 Rev. 1 Secretariat

CCAMLR-XXI/BG/17 Rev. 1	Évaluation de la pêche illicite dans les eaux françaises adjacentes aux îles Kerguelen et Crozet pour la saison 2001/02 (1 ^{er} juillet 2001 – 30 juin 2002) Informations générales sur la zone CCAMLR 58 et la zone FAO 51 Délégation française
CCAMLR-XXI/BG/18	Estimated IUU fishing for toothfish in that portion of Australia's EEZ within Division 58.5.2 – 1 July 2001 to 30 June 2002 Delegation of Australia
CCAMLR-XXI/BG/19	CCAMLR centralised vessel monitoring system (VMS) implementation plan Delegation of Australia
CCAMLR-XXI/BG/20	The application of Port State jurisdiction The Antarctic and Southern Ocean Coalition
CCAMLR-XXI/BG/21	Observer report to CCAMLR on meetings of the Committee on Trade and Environment Special Session CCAMLR Observer (New Zealand)
CCAMLR-XXI/BG/22	Report on CDS catch verification procedure Delegation of Russia
CCAMLR-XXI/BG/23	Report to CCAMLR on the verification of catches reported from the high seas outside the Convention Area Republic of Seychelles
CCAMLR-XXI/BG/24	Rationale for the establishment of an electronic web-based Catch Documentation Scheme for <i>Dissostichus</i> spp. Secretariat
CCAMLR-XXI/BG/25	Implementation of the System of Inspection and other CCAMLR enforcement provisions in 2001/02 Secretariat
CCAMLR-XXI/BG/26	Implementation and operation of the Catch Documentation Scheme in 2001/02 Secretariat
CCAMLR-XXI/BG/27	Report of the Antarctic and Southern Ocean Coalition (ASOC) to the XXI Meeting of the Convention on the Conservation of Antarctic Marine Living Resources The Antarctic and Southern Ocean Coalition

CCAMLR-XXI/BG/28	Priority issues – The Antarctic and Southern Ocean Coalition (ASOC) for the XXI Meeting of the Convention on the Conservation of Antarctic Marine Living Resources The Antarctic and Southern Ocean Coalition
CCAMLR-XXI/BG/29	Position statement on listing toothfish under Appendix II of the Commission on International Trade in Endangered Species (CITES) The Antarctic and Southern Ocean Coalition
CCAMLR-XXI/BG/30	A CCAMLR response to use of flags of convenience by IUU vessels in the Convention Area The Antarctic and Southern Ocean Coalition
CCAMLR-XXI/BG/31	CDS-related information from Canada
CCAMLR-XXI/BG/32	Report to CCAMLR of the 69th Meeting of the Inter-American Tropical Tuna Commission (26 to 28 June, Manzanillo, Mexico) CCAMLR Observer (USA)
CCAMLR-XXI/BG/33	Report on SCAR activities 2001/02 and Report of the CCAMLR Observer to SCAR-XXVII (Shanghai, People’s Republic of China, 13 to 26 July 2002) SCAR Observer at CCAMLR, CCAMLR Observer at SCAR GOSEAC liaison with the Scientific Committee of CCAMLR E. Fanta (Brazil)
CCAMLR-XXI/BG/34	Report of the World Conservation Union (IUCN) Twenty-first Meeting of the Commission for the Conservation of Antarctic Marine Living Resources Submitted by the IUCN
CCAMLR-XXI/BG/35	Report of CCAMLR Observer to WSSD CCAMLR Observer (South Africa)
CCAMLR-XXI/BG/36	FAO Observer’s Report FAO Observer (R. Shotton)
CCAMLR-XXI/BG/37	Report of the Scientific Committee Chair to the Commission
CCAMLR-XXI/BG/38 Rev. 1	Fishery activities and trade of Patagonian toothfish in South America: a regional perspective Submitted by the IUCN
CCAMLR-XXI/BG/39	Marine fish and the Twelfth Meeting of the Conference of the Parties to CITES, Santiago, Chile 2002 Submitted by the IUCN

- CCAMLR-XXI/BG/40 Information from the Delegation of the European Community
- CCAMLR-XXI/BG/41 Biological prospecting in Antarctica
Delegation of the United Kingdom
- CCAMLR-XXI/BG/42 IWC Observer's Report to CCAMLR Annual Meeting 2002
IWC Observer (B. Fernholm, Sweden)
- CCAMLR-XXI/BG/43 Report of the Fourth Meeting of the CCSBT Ecologically
Related Species Working Group
CCAMLR Observer (B. Baker, Australia)
- CCAMLR-XXI/BG/44 The objective of the Convention
Delegation of Chile
- CCAMLR-XXI/BG/45 CITES/CCAMLR – frequently asked questions
The Antarctic and Southern Ocean Coalition
(available in English and Spanish)
- CCAMLR-XXI/BG/46 54th Annual Meeting of the International Whaling
Commission
CCAMLR Observer (Japan)
- CCAMLR-XXI/BG/47 CCAMLR intersessional tribunal
Delegation of Australia
- CCAMLR-XXI/BG/48 Application of CITES to fisheries management – a cause for
concern
Delegation of Norway
- CCAMLR-XXI/BG/49 Preparations for fishing activity and trade of *Dissostichus
eleginoides* by Brazil
Delegation of Brazil

- SC-CAMLR-XXI/1 Provisional Agenda for the Twenty-first Meeting of the
Scientific Committee for the Conservation of Antarctic Marine
Living Resources
- SC-CAMLR-XXI/2 Provisional Annotated Agenda for the Twenty-first Meeting
of the Scientific Committee for the Conservation of Antarctic
Marine Living Resources
- SC-CAMLR-XXI/3 Report of the Working Group on Ecosystem Monitoring and
Management
(Montana, USA, 5 to 16 August 2002)

SC-CAMLR-XXI/4	Report of the Working Group on Fish Stock Assessment (Hobart, Australia, 7 to 17 October 2002)
SC-CAMLR-XXI/5	Application by ASOC for observer status at meetings of subsidiary bodies of the Scientific Committee Secretariat
SC-CAMLR-XXI/6	Proposed partnership between CCAMLR and FIGIS-FIRMS Secretariat
SC-CAMLR-XXI/7	A proposal to modify the boundaries of Statistical Division 58.5.2 to define William's Ridge Delegation of Australia

SC-CAMLR-XXI/BG/1	Catches in the Convention Area in the 2000/01 and 2001/02 seasons Secretariat
SC-CAMLR-XXI/BG/2	Observer's report from the 54th Meeting of the Scientific Committee of the International Whaling Commission (Shimonoseki, Japan, 27 April to 9 May 2002) CCAMLR Observer (K.-H. Kock, Germany)
SC-CAMLR-XXI/BG/3	Beach debris survey – Main Bay, Bird Island, South Georgia 2000/01 Delegation of the United Kingdom
SC-CAMLR-XXI/BG/4	Entanglement of Antarctic fur seal <i>Arctocephalus gazella</i> in man-made debris at Bird Island, South Georgia during the 2001 winter and the 2002 breeding season Delegation of the United Kingdom
SC-CAMLR-XXI/BG/5	Beach debris survey – Signy Island, South Orkney Islands 2002 Delegation of the United Kingdom
SC-CAMLR-XXI/BG/6	Entanglement of Antarctic fur seal <i>Arctocephalus gazella</i> in man-made debris at Signy Island, South Orkney Islands 2001/02 Delegation of the United Kingdom
SC-CAMLR-XXI/BG/7	Fishing gear, marine debris and oil associated with seabirds at Bird Island, South Georgia, 2001/02 Delegation of the United Kingdom

SC-CAMLR-XXI/BG/8	United Kingdom report on data relating to the assessment and avoidance of incidental mortality in the Convention Area 2001/02 Delegation of the United Kingdom
SC-CAMLR-XXI/BG/9	Summary of notifications of new and exploratory fisheries in 2002/03 Secretariat
SC-CAMLR-XXI/BG/10	Data Management: report on activities during 2001/02 Secretariat
SC-CAMLR-XXI/BG/11	Intersessional meeting of Coordinating Working Party on Fisheries Statistics (CWP) Secretariat
SC-CAMLR-XXI/BG/12	VACANT
SC-CAMLR-XXI/BG/13	Marine debris and its impact on marine living resources (status of data submitted) Secretariat
SC-CAMLR-XXI/BG/14	Summary of scientific observation programs conducted during the 2001/02 season Secretariat
SC-CAMLR-XXI/BG/15	Synopses of working papers submitted to WG-EMM-02 Secretariat
SC-CAMLR-XXI/BG/16	Report of the Convener of WG-EMM-02 to SC-CAMLR-XXI
SC-CAMLR-XXI/BG/17	Calendar of meetings of relevance to the Scientific Committee in 2002/03 Secretariat
SC-CAMLR-XXI/BG/18	Conservation of marine areas in the Australian EEZ around the territory of Heard Island and McDonald Islands: notice of intent by Australia to declare a HIMI Marine Reserve and conservation zone Delegation of Australia
SC-CAMLR-XXI/BG/19 Rev. 3	Information on the crab fishery in Subarea 48.3 in 2001/02 and notification for 2002/03 Delegation of Japan
SC-CAMLR-XXI/BG/20	Progress toward an agreement on the conservation of albatrosses and petrels Delegation of Australia

SC-CAMLR-XXI/BG/21	IMAF assessment of new and exploratory fisheries by statistical areas (ad hoc WG-IMAF)
SC-CAMLR-XXI/BG/22	IMAF summary of research on seabird populations and distributions
SC-CAMLR-XXI/BG/23	IMAF by-catch of seabirds in IUU fisheries in the Convention Area
SC-CAMLR-XXI/BG/24	Initiatives by BirdLife International's Seabird Conservation Programme Delegation of South Africa
SC-CAMLR-XXI/BG/25	Report from the 2002 ICES meeting in Copenhagen CCAMLR Observer (Belgium)
SC-CAMLR-XXI/BG/26	Minutes of the Editorial Board meetings held in 2002 during WG-EMM and WG-FSA Secretariat
SC-CAMLR-XXI/BG/27	Background information supporting the Report of the Meeting of WG-FSA, 7 to 17 October 2002 (SC-CAMLR-XXI/4) Working Group on Fish Stock Assessment
SC-CAMLR-XXI/BG/28	WG-FSA Standard Assessment Methods Working Group on Fish Stock Assessment
SC-CAMLR-XXI/BG/29	Fish species profiles – mackerel icefish Convener of WG-FSA
SC-CAMLR-XXI/BG/30	Fish species profiles – toothfish Convener of WG-FSA
SC-CAMLR-XXI/BG/31	Working Group on Fish Stock Assessment Convener's Report to the Scientific Committee 2002
SC-CAMLR-XXI/BG/32	Draft fishery plans Secretariat
SC-CAMLR-XXI/BG/33	Scientific Committee Report to SCOI Chair of the Scientific Committee
SC-CAMLR-XXI/BG/34	Ad hoc WG-IMAF Convener's summary for the Scientific Committee

- SC-CAMLR-XXI/BG/35 Relevamiento de desechos marinos en la Costa de la Base Científica Antártica Artigas (BCAA) en la Isla Rey Jorge/ 25 de Mayo – temporada 2001/02
Delegación de Uruguay
- SC-CAMLR-XXI/BG/36 Report of Observer to the Second GLOBEC Science Meeting (Qingdao, China, 15 to 18 October 2002)
CCAMLR Observer (S. Nicol, Australia)

**AGENDA FOR THE TWENTY-FIRST MEETING
OF THE COMMISSION**

AGENDA FOR THE TWENTY-FIRST MEETING OF THE COMMISSION

1. Opening of the Meeting
2. Organisation of the Meeting
 - (i) Adoption of the Agenda
 - (ii) Report of the Chair
3. Finance and Administration
 - (i) Report of SCAF
 - (ii) Audited Financial Statements for 2001
 - (iii) Audit Requirements for the 2002 Financial Statements
 - (iv) Secretariat Strategic Plan
 - (v) Contingency Fund
 - (vi) Budgets for 2002, 2003 and 2004
 - (vii) Members' Contributions
4. Scientific Committee
5. Observation and Inspection
 - (i) Report of SCOI
 - (ii) Operation of the System of Inspection
 - (iii) Operation of the Scheme of International Scientific Observation
 - (iv) Compliance with Conservation Measures
 - (v) Review of SCOI Working Arrangements
6. Assessment and Avoidance of Incidental Mortality of Antarctic Marine Living Resources
 - (i) Marine Debris
 - (ii) Incidental Mortality of Marine Animals during Fishing Operations
7. Catch Documentation Scheme for *Dissostichus* spp. (CDS)
 - (i) Report of SCOI
 - (ii) Annual Summary Report
 - (iii) CDS Fund
 - (iv) Confiscated or Seized Catches
 - (v) Development of an Electronic Paperless Web-based CDS
 - (vi) Improvements to the CDS
8. Illegal, Unregulated and Unreported (IUU) Fishing in the Convention Area
 - (i) Report of SCOI
 - (ii) Information provided by Members under Articles X and XXII of the Convention

- (iii) Implementation of Other Measures to Eliminate IUU Fishing
 - (a) Cooperation with Non-Contracting Parties
 - (b) CCAMLR Vessel Database
 - (c) Implementation of CDS-related Conservation Measures and Resolutions
 - (d) Additional Measures
- 9. New and Exploratory Fisheries
- 10. Proposed CITES Listing for Toothfish
- 11. Conservation Measures
 - (i) Review of Existing Measures
 - (ii) Consideration of New Measures and Other Conservation Requirements
- 12. Management Under Uncertainty
 - (i) Regulatory Framework
- 13. Cooperation with Other Elements of the Antarctic Treaty System
 - (i) Cooperation with Antarctic Treaty Consultative Parties
 - (ii) Cooperation with SCAR
 - (iii) Assessment of Proposals for Antarctic Specially Protected Areas, which include Marine Areas
- 14. Cooperation with Other International Organisations
 - (i) Reports of Observers from International Organisations
 - (ii) Reports from CCAMLR Representatives at Meetings of International Organisations in 2001/02
 - (iii) Nomination of Representatives to Meetings of International Organisations in 2002/03
- 15. Implementation of the Objectives of the Convention
- 16. Election of Chair of the Commission
- 17. Next Meeting
 - (i) Invitation of Observers to the Next Meeting
 - (ii) Arrangements for Future Meetings
- 18. Other Business
- 19. Report of the Twenty-first Meeting of the Commission
- 20. Close of the Meeting.

**REPORT OF THE STANDING COMMITTEE
ON ADMINISTRATION AND FINANCE (SCAF)**

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REPORT OF THE STANDING COMMITTEE ON ADMINISTRATION AND FINANCE (SCAF)

The Committee noted that the Commission had deferred to it Item 3 of the Commission's Agenda (Finance and Administration). The Agenda, as included as Appendix A to the Commission's Provisional Agenda (CCAMLR-XXI/1), was adopted (Appendix I).

EXAMINATION OF AUDITED FINANCIAL STATEMENTS FOR 2001

2. The Committee noted from the audit report that a full audit had been carried out on the 2001 Financial Statements and that there were no cases of non-compliance with Financial Regulations or International Accounting Standards. The Committee **recommended that the Commission accept the financial statements as presented in CCAMLR-XXI/3.**

AUDIT REQUIREMENT FOR 2002 FINANCIAL STATEMENTS

3. The Committee noted that the Commission had decided in 1994 that a full audit should be performed on average once every two years, and in 1995 that this would be required at least once every three years. As a full audit has been performed on the 2001 Financial Statements, it was **recommended that the Commission require only a review audit to be performed on the 2002 Financial Statements.** It was noted that a full audit would be required on the 2003 statements if the proposed new budget format and change to an accrual accounting system are agreed by the Commission.

APPOINTMENT OF AUDITOR

4. The Australian National Audit Office has been the Commission's auditor since the Commission was established. As the Office's latest two-year appointment expired after completion of the audit of the 2001 Financial Statements, the Committee **recommended that the Commission appoint the Australian National Audit Office as its auditor for the 2002 and 2003 Financial Statements.**

REVIEW OF BUDGET FOR 2002

5. The Committee noted the advice of the Secretariat that it was not anticipated that the total budgeted expenditure for the year would be exceeded and that the other income was higher than budgeted. As a result, it **recommended that the Commission adopt the revised budget for 2002 as presented in Appendix II, including an increase in the amount transferred to the Contingency Fund.**

6. The Committee noted that contributions for 2002 from two Members, were currently still outstanding. One Member had not fully paid its contribution for 2001 by the date that the 2002 contribution was payable and was therefore in default under Article XIX(6) of the Convention as it has not yet fully paid its outstanding amounts.

7. The Committee **recommended that the Commission approve expenditure in 2002 from Special Funds:**

- **A\$14 000 from the CDS Special Fund for work on the development of an electronic CDS; and**
- **A\$15 400 from the Compliance and Enforcement Special Fund in respect of Secretariat representation at an FAO Consultation on the Development of Model Catch Documentation and Reporting Measures.**

8. The Committee noted that competency for determining expenditure from all funds, including Special Funds, remains with the Commission. In the case of the US Observer Fund, the Commission has recognised that the Fund provider has retained competency for expenditure from the Fund.

MANAGEMENT REVIEW AND STRATEGIC PLAN

9. The Committee noted that all outstanding issues relating to the 1997 Management Review have now been addressed, many through the introduction of the Secretariat Strategic Plan, and consequently advised the Commission that it would no longer require annual reports from the Executive Secretary on its implementation.

10. The Committee received advice from the Executive Secretary on the Establishment of a Secretariat Strategic Plan. It **recommended that the Plan be used as a basis for future annual appraisals of the performance of the Executive Secretary.**

AUTHORITY OF EXECUTIVE SECRETARY

11. The Committee recognised the appropriate existing procedures whereby attendance at meetings of other organisations is determined by the Commission at its annual meeting. However, it noted the increasing number of invitations which are extended to the Executive Secretary, intersessionally, to attend such meetings before the next annual meeting of the Commission. SCAF therefore **recommended that the Commission recognise the authority of the Executive Secretary to determine whether or not such attendance is appropriate and may attend if budgetary resources permit.**

12. In this respect, the Committee **recommended that the Commission recognise the Executive Secretary's authority to represent the Commission at such meetings and in correspondence:**

The Executive Secretary may convey to others:

- **to all – information that is publicly available; and**
- **to selected recipients – information which the Commission has determined is to be presented to a target audience.**

If the Executive Secretary considers it appropriate to provide additional information, this must be advised to Members beforehand, giving them the opportunity to object to any such disclosure.

In all instances, the Executive Secretary must comply with CCAMLR's data access rules.

13. With the establishment of the Secretariat Strategic Plan and the related proposed format of the annual budget, the Committee noted that the Commission is provided with sufficient information to determine and monitor the total amounts and functional allocations of staff resources. As a result, it **recommended that the Commission recognise the Executive Secretary's authority to revise the gradings of individual General Service staff positions, subject to the approved budget allocations.**

SECRETARIAT STAFF

14. The Committee noted the advice of the Executive Secretary that a new form of staff contract has been developed to be used for all staff. It recognised the necessity for this to be checked by a lawyer to ensure that it appropriately covered the legal rights and responsibilities of both the Commission and the employee, and **recommended that the Commission accept the inclusion in the 2003 budget of A\$7 000 as a maximum amount to be expended in this respect.** In addition, SCAF noted that the development of the contract would be an integral part of identifying key performance criteria and associated appraisal procedures for individual staff.

15. The Committee received the advice of the Executive Secretary that the rates of pay of General Service staff are to be reviewed during 2003, following the structural changes resulting from the establishment of the Secretariat Strategic Plan. It noted that the review would be carried out within the Secretariat, with assistance of information from the Australian Government, so no costs would be involved in the exercise. It noted further that the Secretariat would report to the Commission next year on the results of its review and on any potential budgetary implications.

16. The Committee received the advice of the SCAF Chair that of all appropriate agencies available in Australia, only one has been able to provide a quote for the performance of a review of the Professional Staff salary structure. The Committee was concerned that, at A\$22 000, the quote appeared high and noted the comments in the Commission's 2001 report (CCAMLR-XX, paragraph 3.9) that adequate experts for the performance of the review could possibly be provided by Members themselves. Consequently, it **recommended that the Commission ask Members to research this possibility intersessionally in order that the Commission can reach a decision next year on the possibility of a review being performed in 2004.**

17. The Committee again considered the possibility of extending the application of education grants to cover dependants attending university. It **recommended that no decision be made on this matter until the results of a review of the Professional Staff salary structure is finalised.**

18. The Committee noted that staff members who are citizens of certain Member States are not entitled to participate in the Australian basic medical cover system. It **recommended that the Commission provide appropriate insurance coverage for such staff members and their dependants.**

19. The Committee noted that access to employment for Professional Staff should be equally available to citizens of all Members. It **recommended that the Commission develop procedures to facilitate the dissemination of information about positions vacant in all Member countries.**

CONTINGENCY FUND

20. At its 2001 meeting, the Commission established a Contingency Fund. Noting that this is intended to be used for necessary expenditure which has not yet been specifically authorised by the Commission, SCAF **recommended that the following definitions be agreed by the Commission for unforeseen and extraordinary expenditure as envisaged in Financial Regulation 4.5:**

‘Unforeseen expenditure’ is expenditure of which the Commission had been unaware at the time of its previous meeting, but which is necessary for the fulfilment of tasks required by the Commission to be performed, with the amount not being possible to subsume into the annual budget without inordinate disruption of the Commission’s work.

‘Extraordinary expenditure’ is expenditure the nature of which was known by the Commission at its previous meeting, but the extent of which is far greater than had been anticipated at that time, with the extra amount not being possible to subsume into the annual budget without inordinate disruption of the Commission’s work.

21. The Committee further **recommended that the following procedures should be applied for any use of the Fund:**

(i) **As soon as the Executive Secretary believes that there is a reasonable expectation of unforeseen or extraordinary expenditure, he/she will consult with the SCAF Chair and Vice-Chair to confirm that:**

- **the nature of the expenditure complies with the above definitions;**
- **the Contingency Fund has sufficient capacity to cover the expenditure;**
and
- **it is not possible to defer the decision on the use of the Fund until the next meeting of the Commission.**

- (ii) **The Executive Secretary will advise all Members of any intended use of the Fund.**
- (iii) **Any Member that considers such expenditure from the Fund to be inappropriate shall advise the Chair accordingly, including any proposal for alternative action.**
- (iv) **The Commission Chair shall consult with the SCAF Chair and the Executive Secretary. If the three parties agree with the Member's advice, then this shall be acted upon and Members will be advised accordingly. If the parties fail to come to agreement on the Member's advice, and if time permits, then Members will be asked to decide on the issue in accordance with Rule 7. If there is insufficient time for such a decision, or if Members are unable to reach consensus, then the Executive Secretary, in consultation with the Commission Chair and the SCAF Chair and Vice-Chair, shall determine to what extent to use the Fund.**
- (v) **Any actual expenditure from the Fund will be advised to Members immediately.**
- (vi) **The Executive Secretary will report to the subsequent meeting of the Commission any expenditure from the Fund, including related expenditure from the current and future budgets of the General Fund, and proposals to re-establish the Contingency Fund at its former level.**

ACCRUAL ACCOUNTING

22. The Committee noted that the basis of accounting currently used for the Commission's budget is no longer in line with that used by the majority of Member governments. It **recommended that the Commission adopt a full accrual basis of accounting for future budgets, commencing with 2003.** It noted that such a change is also in accordance with advice from the Commission's auditor.

23. To ensure that the basis of accounting does not conflict with Financial Regulations, the Committee **recommended that the Commission amend Financial Regulation 5.2 as follows:**

5.2 Staff Assessment Levy paid by an employee of the Commission shall be regarded by the Commission as payment towards the annual budget contribution for the year ~~following payment of levy.~~

BUDGET FORMAT

24. The Committee **recommended that the Commission adopt the revised form of budget presentation as applied in Appendix III.** It noted that this form aligns with the revised functional structure identified in the Secretariat Strategic Plan and thereby facilitates the allocation of resources between such functions.

COST RECOVERY

25. The Committee recognised the continuing concern of the Commission and Scientific Committee on the high number of applications received for new and exploratory fisheries and, in particular, those applications which are not subsequently prosecuted. It considered a proposal tabled by the European Community on the possibility of charging for each application, with a proportional refund if it is prosecuted. A number of potential practical issues were raised, which could not be resolved at this time. The principle of cost recovery was generally accepted. SCAF also noted Russia's stated difficulty in adopting the principle of cost recovery. The Committee **recommended that the Commission ask the Scientific Committee and Secretariat to provide advice to its next meeting on time and monetary costs associated with applications, with a view to the proposal tabled, and any other suggestions from Members, being further considered at that time.**

FUTURE MEETING ARRANGEMENTS

26. The Committee recognised the scarcity in Hobart of suitable, economically acceptable venues for future meetings of the Commission and Scientific Committee and noted the positive results of the work of the Secretariat in investigating the possibility of developing such a venue within the building which houses the Commission's headquarters.

27. The Committee considered that this possibility has considerable potential and **recommended that the Commission direct the Secretariat to pursue this opportunity with utmost expediency.**

28. Further, to avoid the risk of opportunities being missed and unnecessary delays occurring, the Committee **recommended that the Commission establish a Project Oversight Team with authority to further the project, facilitate any necessary intersessional investigations and take any decisions which might be required to further the project, without incurring a financial liability for the Commission, and keep within the terms of reference set out below.**

29. It is envisaged that, in addition to the Secretariat and specific Member representatives, the team may require participation by representatives from the Australian Commonwealth Government, as depositary, and Tasmanian Government as host State. Germany and Australia offered to be represented on the team. Other Members may be included if they require.

30. In this respect, SCAF **recommended that the following terms of reference should be applied to the Team:**

- **The main aim of the project is to secure suitable long-term facilities for the annual meetings of the Commission and Scientific Committee, without consequential negative budgetary impact.**
- **The team is empowered, subject to subsequent confirmation by the Commission, to negotiate, with the Australian and Tasmanian Governments,**

potential property developers and any other appropriate party, possible terms of tenancy of such facilities, including layout, price and number of years' commitment.

- **The team will keep the Commission informed of the progress of the project through Commission circulars, and provide sufficient notice, in accordance with the Commission's terms of reference, of any decisions which might be requested of the Commission.**

31. In proposing this, SCAF recognised that for any such development to be economical to a developer, there will be a need for a multi-year commitment from the Commission, possibly up to 12 years.

32. The Committee noted that the current venue has been provisionally booked for 2003 and **recommended that the Commission ask the Secretariat to research opportunities for a larger room in which the Standing Committee on Observation and Inspection (SCOI) may operate.**

BUDGET FOR 2003

33. The Committee had received the advice of the Scientific Committee on its own budget and on items in the Commission budget of relevance to the Scientific Committee. SCAF noted that the Scientific Committee budget total for 2003 was A\$1 800 less than had been included in the Commission's draft budget for 2003 as presented in CCAMLR-XXI/4, and that an additional A\$8 000 had been requested from the Commission's budget for additional work by the Secretariat in preparation for the review of CEMP indices. The Committee **recommended that the Commission approve the Scientific Committee proposed budget of A\$171 700 for inclusion in the Commission's 2003 budget.**

34. The Committee endorsed the proposal of the Secretariat that the budget be increased by A\$2 500 for the installation of security video surveillance at the Commission's Headquarters and A\$1 200 for the reprinting of maps of the Convention to be used in table mats at the annual meetings. It also endorsed the inclusion of A\$6 800 for the attendance of the Executive Secretary and Science Officer at a conference on the governance of deep-sea fisheries (CCAMLR-XXI/22), subject to a decision by the Commission on the appropriateness of such participation.

35. To minimise the effects that additional expenditures would have on the Commission's agreed aim of zero real budgetary growth and noting Germany's and Russia's aim for zero nominal growth, the Committee **recommended that the net increase in budgetary expenditure recommended in this report be compensated by a reduction in the amount to be transferred to the Contingency Fund to the end that the total Member Contributions will be the same amount as was presented in CCAMLR-XXI/4.**

36. With the above provisions, the Committee **recommended that the Commission adopt the budget for 2003 as presented in Appendix III to this report.**

37. Argentina, Japan, Russia, Spain and Uruguay advised the Committee that procedural processes prevented them from being able to meet the 1 March deadline for payment of their

2003 contributions. SCAF **recommended that these Members only be granted an extension to the deadline, in accordance with Financial Regulation 5.6** and noted the advice of other Members, that the Members concerned should continue to seek ways of resolving such procedural difficulties in future years. The Committee noted that it will continue to consider the possibility of interest charges or other means of encouraging earlier payments.

FORECAST BUDGET 2004

38. In considering the forecast budget for 2004, SCAF recalled that the figures are indicative only and caution should be taken when they are used as a basis for financial budgeting by individual Members. It noted particularly that new projects funded in their initial stages from the CDS Fund are likely to have ongoing financial implications for the General Fund in future years.

CDS FUND

39. The Committee endorsed the advice of the CDS Fund Review Panel that:

‘The panel noted the support of SCOI for the proposal to develop an electronic CDS, as presented in CCMLR-XXI/18, and the fact that A\$14 000 has already been expended from the CDS Special Fund on this project during 2002. The panel recommended that a maximum of A\$89 000 be further expended from the Fund on this project in the next year in accordance with the proposal presented, on the proviso that the travel costs in relation to the proposed training seminar be used only for necessary expenditure for participants not representing a Member State.’

CLOSE OF MEETING

40. The Committee noted that at the time when it closed its meeting, the meeting of SCOI had not yet concluded its business. The Committee therefore advised that the Commission may receive advice from SCOI on budgetary issues which have not yet been addressed by SCAF, and that this would need to be considered in the context of advice provided in the SCAF Report.

41. The report of the meeting was adopted.

AGENDA

Standing Committee on Administration and Finance (SCAF)
(Hobart, Australia, 21 to 25 October 2002)

1. Organisation of the Meeting
2. Examination of Audited Financial Statements for 2001
3. Audit Requirements for the 2002 Financial Statements
4. Appointment of Auditor
5. Secretariat Strategic Plan
6. Secretariat Management Review
7. Review of 2002 Budget
8. Budget and Accounting Practices
9. Cost Recovery
10. Contingency Fund
11. Budget for 2003
 - (i) Professional Staff Salaries
 - (ii) Higher Education Allowance for Professional Staff Dependents
 - (iii) Consideration of Future Meeting Arrangements
 - (iv) Scientific Committee Budget
 - (v) Advice from SCOI
12. Timing of Members' Contributions
13. Forecast Budget for 2004
14. CDS Fund
15. Any Other Business
16. Adoption of the Report.

REVISED BUDGET FOR 2002
(all amounts in Australian dollars)

	BUDGET	
	Adopted 2001	REVISED 2002
INCOME		
Members' Contributions	2 371 990	2 371 990
From (to) Contingency Fund	(62 090)	(88 814)
Items from previous year		
Interest	18 000	43 469
New Members' Contributions	0	0
Staff Assessment Levy	372 700	372 849
Surplus	0	1 106
	2 700 600	2 700 600
EXPENDITURE		
Salaries and Allowances		
Professional Staff	950 100	950 100
Translation	343 500	343 500
Support Staff	670 850	670 850
Total	1 964 450	1 964 450
Capital Expenditure		
	12 200	12 200
Communication		
Postage & Freight	29 900	27 900
Internet	31 900	37 900
Facsimile	12 300	9 300
Telephone	11 400	10 400
Total	85 500	85 500
Hire & Lease		
Computers	101 700	101 700
Maintenance & Training	29 800	29 800
Photocopying Equipment	14 900	14 900
Meetings Venue	49 300	49 300
Translation/Interpretation	142 300	142 300
Multilingual Equipment	36 100	36 100
Translation Facilities	16 700	16 700
Total	390 800	390 800
Travel		
	125 650	125 650
Support Costs		
Auditor	12 000	12 000
Insurance	19 300	19 300
Light & Power	17 800	17 800
Printing and Copying	37 800	37 800
Stationery	20 400	20 400
Miscellaneous	14 700	14 700
Total	122 000	122 000
	2 700 600	2 700 600

BUDGET FOR 2003 (PROPOSED FORMAT)

(all amounts in Australian dollars)

	BUDGET ITEMS					Total 2003	Forecast 2004	Scientific Committee Budget included	
	Data Management	Compliance	Communications	IT	Administration			Budget 2003	Forecast 2004
INCOME									
Members' Contributions						2 435 000	2 528 300		
From (to) Special Fund						(8 100)	(27 900)		
Items from previous year									
Interest						44 700	48 500		
New Members' Contributions						0	0		
Staff Assessment Levy						386 100	399 200		
Surplus						0	0		
						2 857 700	2 948 100		
EXPENDITURE									
<u>Sub items</u>									
Salaries and Allowances	447 500	460 000	672 000	162 100	318 700	2 060 300	2 125 700	93 000	99 700
Equipment Leasing	15 400	12 900	38 900	51 500	17 800	136 500	142 600	6 700	6 800
Insurance and maintenance	4 800	3 000	9 200	18 200	10 200	45 400	48 600	0	0
Training	6 900	7 100	8 100	5 700	3 800	31 600	24 700	0	0
Meeting Facilities	0	0	40 000	0	202 900	242 900	251 500	0	0
Travel	18 000	11 000	22 000	0	82 300	133 300	120 100	63 100	57 100
Printing and Copying	0	0	55 300	0	4 700	60 000	67 800	1 400	1 900
Communications	0	0	63 700	0	23 200	86 900	95 200	2 400	3 800
Sundry	2 300	1 700	2 700	6 500	47 600	60 800	71 900	5 100	6 300
	494 900	495 700	911 900	244 000	711 200	2 857 700	2 948 100	171 700	175 600

**REPORT OF THE STANDING COMMITTEE
ON OBSERVATION AND INSPECTION (SCOI)**

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REPORT OF THE STANDING COMMITTEE ON OBSERVATION AND INSPECTION (SCOI)

OPENING OF THE MEETING

1.1 The meeting of the Standing Committee on Observation and Inspection (SCOI) was held from 21 to 24 October 2002 chaired by Dr H. Nion (Uruguay). All Members of the Commission participated in the meeting. No Members invoked a ruling in accordance with Rule 32(b) of the Commission Rules of Procedure. Therefore, Observers from the People's Republic of China, Mauritius, Mozambique, Seychelles, Antarctic and Southern Ocean Coalition (ASOC) and the World Conservation Union (IUCN) participated in the meeting as appropriate.

1.2 The Committee adopted the Agenda as contained in CCAMLR-XXI/1.

1.3 The Agenda and list of papers considered by the Committee are contained in Appendices I and II respectively.

OPERATION OF THE CATCH DOCUMENTATION SCHEME

Annual Summary Reports under Conservation Measure 170/XX

2.1 The Secretariat presented annual reports which comprised information on the operation of the Catch Documentation scheme for *Dissostichus* spp. (CDS) (CCAMLR-XXI/BG/25), details of cooperation with non-Contracting Parties (SCOI-02/11) and CDS-derived and national trade statistics (SCOI-02/6).

2.2 The Committee noted that the CDS had been fully established and was providing CCAMLR with information required in order to track the trade of toothfish caught in the Convention Area and adjacent waters and ensure that catches taken within the Convention Area were consistent with CCAMLR conservation measures. CDS procedures for Port and Import States continued to improve and the Secretariat continued its work with Re-exporting States to improve procedures. Re-export documents were now being received by the Secretariat in significant quantities.

2.3 A number of non-Contracting Parties, identified in 2001/02 as Port States or States involved in the trade of toothfish, have been invited by CCAMLR to implement the CDS. The Secretariat continues its work with these Parties in accordance with the 'Policy for Cooperation with non-Contracting Parties'.

2.4 Several points of concern regarding the operation of the CDS were identified by the Secretariat and referred to the informal CDS group and SCOI for consideration (see paragraph 2.23).

2.5 The Committee noted that Canada, as a Contracting Party to CCAMLR, was still not in a position to implement the CDS despite a number of diplomatic demarches made by CCAMLR Members during the 2001/02 intersessional period. The Secretariat also continued

to correspond with Canada. In its most recent letter, Canada advised that it was examining the feasibility of implementing, on a voluntary basis, the CDS. The main difficulty encountered was the apparent lack of domestic legislation or regulatory authority appropriate to implement the CDS. The Committee expressed disappointment that Canada has still not implemented the CDS and recommended that diplomatic demarches continue in the 2002/03 intersessional period.

2.6 The Committee also noted Resolution 3 taken at ATCM-XXV in Warsaw, Poland, this year. The Resolution implies that Canada, as a party to the Antarctic Treaty and an Acceding State to the Convention, should be urged to implement the CDS. The Committee welcomed the support of the ATCM towards CCAMLR.

2.7 The Secretariat presented its annual summary report of CDS data and national trade statistics (SCOI-02/6). The Committee considered these summaries and noted with concern the continued high level of catches reported in the Indian Ocean sector outside the Convention Area.

2.8 The Committee noted information submitted by Mauritius which provided a list of vessels landing in Port Louis during the 2001/02 intersessional period. The Committee noted that no vessels were reported to have landed in Port Louis without a catch document.

2.9 The Committee noted that a number of landings had been reported from ports in Mozambique during the 2001/02 intersessional period, four of which were not documented under the CDS. The vessels were: *Noemi* (Belize), two landings by the *Santo Antero* (Portugal) and one landing by the *Notre Dame* (Bolivia). The vessels' Flag States, as well as the Import State(s), where known, were notified and investigations are pending.

2.10 Mozambique also denied permission for the Uruguayan-flagged vessel, *Dorita*, to unload toothfish in its ports. The vessel subsequently landed fish in the port of Mombasa, Kenya. A catch document was submitted to the Secretariat, the landing certificate of which had been signed by a Uruguayan inspector. The Secretariat subsequently wrote to Kenya, urging it to implement the CDS.

2.11 The other Uruguayan-flagged vessel, *Lugalpesca*, unloaded its cargo of toothfish at Maputo and departed from Mozambique. A catch document was submitted to the Secretariat, the landing certificate of which had been signed by a Uruguayan inspector.

2.12 The Committee thanked Mozambique for its cooperation with CCAMLR during 2002. It hoped that Mozambique would accept an invitation to join CCAMLR and to participate in the CDS.

2.13 No other landings in the territories of non-participating Parties were reported.

CDS Fund

2.14 The Committee was advised that the Chair of the CDS Fund Panel had received the following two proposals for expenditure of the CDS Fund during 2001/02 (see paragraphs 2.28 and 5.75):

- (i) a proposal on a pilot project for the establishment of an electronic web-based CDS (submitted by the USA); and
- (ii) a proposal to establish a centralised vessel monitoring system (VMS) for monitoring fishing vessels (submitted by Australia).

2.15 The Chair of the CDS Fund Panel advised that not all Panel members had submitted comments on these proposals and that the Panel would continue its work during CCAMLR-XXI. The report of the Panel was duly submitted directly to SCAF.

Seized or Confiscated Catches

2.16 The Committee noted that Australia had issued two catch documents in respect of seized or confiscated catches during the 2001/02 intersessional period. These related to fish confiscated as a result of the apprehensions of the Russian-flagged vessels *Lena* and *Volga* (see paragraph 5.2).

2.17 The USA reported that it was currently investigating three shipments of toothfish for which they could not confirm that the underlying fishing was conducted in a manner upholding the biological principles of CCAMLR conservation measures. As part of those three investigations, the USA has seized 89 tonnes of toothfish product for potential forfeiture.

2.18 The European Community noted that Contracting Parties had the opportunity to contribute to the CDS Fund should they have received any funds as a result of legal action taken in respect of catches seized or confiscated by them and enquired whether Contracting Parties which had issued Specially Validated *Dissostichus* catch documents had any intentions in this respect.

2.19 Australia, France and the USA advised the Committee that their respective domestic legislation prevented them from contributing such income to the CDS Fund. Australia noted that funds collected from seized catches were returned to Treasury and were recognised and used in the Government's actions in respect of illegal, unregulated and unreported (IUU) fishing activities.

Improvements to the CDS

2.20 During the 2001/02 intersessional period, the CDS Intersessional Group continued its work, culminating in a two-day informal meeting of the CDS group immediately prior to CCAMLR-XXI. Participants comprised representatives from Australia, European Community, Japan, New Zealand, Seychelles, South Africa and the USA.

2.21 The Chair of the CDS group (Mr E.S. Garrett, USA) presented to the Committee the report of the meeting of the CDS group (Appendix III). The CDS group had discussed a number of tasks identified at CCAMLR-XX for further consideration and discussed other possible improvements to the CDS.

2.22 The USA and Chile have continued to improve their bilateral working arrangements over the 2001/02 intersessional period. Chile has provided advance notification of all shipments of toothfish for which catch documents have been issued. This notification included both a listing of shipments and the scanned images of those catch documents.

2.23 The Committee considered the report of the group, and noted that the majority of the CDS group expressed general support for adoption of stronger measures to prevent misreporting catches and trade in *Dissostichus* spp. The Committee endorsed a number of the recommendations of the group and passed them on to the Commission. In particular, the Committee recommended that:

- (i) the current format of summaries of CDS data developed by the Secretariat be amended as proposed by the CDS group, including the addition of the table indicating the location of a catch (i.e. Exclusive Economic Zone (EEZ) versus high seas) and the percentage of the harvest by product type along with the standard conversions;
- (ii) a standard set of summary CDS data be developed by SCOI which should be annually published by the Secretariat as part of the *Statistical Bulletin* or placed on the CCAMLR website. The development of such a dataset should involve consultations with other international organisations in order to obtain their views on what type of data reporting might be required for their work;
- (iii) Members be requested to jointly work with the World Customs Organization (WCO) in order to introduce universal harmonised tariff codes for *Dissostichus* spp. products;
- (iv) cooperation with FAO and regional fishery management organisations (RFMOs) continue in respect of the development of a harmonised catch document system;
- (v) whilst Members often participate at meetings of international organisations and can represent CCAMLR, Secretariat staff should attend the most important meetings that relate to CDS;
- (vi) countries be requested to provide information on conversion factors and food additives in order to apply these to CDS data reports and that the current CCAMLR conversion factors be employed until more detailed information on conversion factors is obtained;
- (vii) the Secretariat and national CDS officers continue to investigate differences between weights of toothfish landed and exported on a case-by-case basis;
- (viii) multiple transshipments at sea, defined as two or more transshipments, be prohibited until a standard procedure can be developed to prevent fraud and accurately account for catch movements; and
- (ix) catch document validation and verification procedures and measures be standardised for all Parties to the CDS for all stages of the trade cycle.

2.24 The Committee also recommended that the CDS group continue its work intersessionally in 2002/03 and that the terms of reference of this meeting be clarified. A list

of tasks for the intersessional work is appended (Appendix IV). The Committee also drew to the Commission's attention that the CDS group would require a three-day intersessional meeting. Consideration could be given to holding this meeting earlier than immediately prior to CCAMLR-XXII and in a more central location than Hobart.

2.25 The Committee considered a paper submitted by ASOC which discussed the application of Port State jurisdiction in respect of inspections of vessels visiting Antarctic waters (CCAMLR-XXI/BG/20). The Committee welcomed this contribution.

2.26 Argentina, while thanking ASOC for its important contribution, stressed the need to note the difference between the concept of 'Port State jurisdiction' and that of 'Departure State jurisdiction', the latter not being widely accepted in international law. While strongly supporting efforts to enhance port State jurisdiction, Argentina considered that Departure State jurisdiction, as a means for asserting jurisdiction in relation to past or future events occurring in Antarctica or on the high seas, may be contrary to UN Convention on the Law of the Sea (UNCLOS).

2.27 The Committee proposed to ASOC that the paper be revised, in particular, the attached draft Memorandum of Understanding in order to address fishing vessels specifically. ASOC agreed to undertake the required revision and to submit the revised paper next year. It was further noted that FAO will address the issue of Port State control of foreign fishing vessels at an Expert Consultation taking place from 4 to 7 November 2002.

Proposal for an Electronic Web-based CDS

2.28 The Committee reviewed a presentation by the USA and the Secretariat on the proposal to develop a pilot scheme to examine the feasibility of transferring the existing paper-based CDS to an electronic web-based format as described in CCAMLR-XXI/18, BG/11, BG/24 and SCOI-02/5.

2.29 The Committee agreed that an electronic web-based CDS format would be beneficial to the operation of the CDS assisting the tracking of toothfish trade in real time, resolve missing or incorrect information and greatly reducing the opportunity for fraudulent activity.

2.30 The Committee recommended that the Commission endorse a proposal for a trial of the system in the 2002/03. The pilot project will run in parallel with the current paper system, to be evaluated and subsequently decided on prior to its implementation in full by the Commission.

2.31 The Committee noted the list of issues that the pilot project should address, such as data security, data access, levels of user and State access to data, and electronic evidence. Consideration should also be given as to who should be the participants in the pilot project.

OPERATION OF THE SYSTEM OF INSPECTION AND COMPLIANCE WITH CONSERVATION MEASURES

Inspections Undertaken in the 2001/02 Season

3.1 The Secretariat reported that there were 32 CCAMLR inspectors designated by Australia, Chile, New Zealand, UK and the USA. In total, five CCAMLR inspectors designated by the UK were deployed in Subarea 48.3 during the 2001/02 season.

3.2 In the 2001/02 season eight inspection reports were received from CCAMLR inspectors, all designated by the UK. All inspections took place in Subarea 48.3. Vessels inspected were of the following flags: Chile (1), Japan (1), Russia (1), Spain (2), UK (1) and Uruguay (2). All vessels inspected were reported as complying with conservation measures in force.

Actions taken by Flag States in respect of Inspections Undertaken

3.3 The Committee expressed its thanks for information reported in accordance with Paragraph XII of the System of Inspection, by CCAMLR Flag States in respect of prosecutions and sanctions imposed on their flag vessels as a consequence of inspections conducted.

3.4 Chile informed the Committee of actions it had taken against vessels involved in infringements of CCAMLR conservation measures reported by inspections undertaken nationally (SCOI-02/9). The paper contained details of the court proceedings initiated over the period 1993 to 1996 with respect to the vessels *Ercilla*, *Puerto Ballena*, *Chaval* and *Mar del Sur 1*. Chile noted that no new proceedings for IUU fishing have been initiated after 1996.

3.5 Argentina informed the Committee that proceedings carried out in relation to infringements of CCAMLR conservation measures by the vessels *Estela*, *Magallanes I*, *Vieirasa Doce*, *Marunaka* and *Kinsho Maru* had concluded as the vessels had admitted their charges. Payment of the fines was pending. In addition, Argentina informed that legal action was under way against the vessel *Antartic I* involved in a presumed infringement of a CCAMLR conservation measure and Argentine domestic legislation (see CCAMLR-XXI/BG/25, paragraph 36).

Improvements to the System of Inspection

3.6 There were no proposals received from Members on the improvement of the System of Inspection.

Compliance with Conservation Measures

3.7 The Committee considered annual summaries of information prepared by the Secretariat on compliance with conservation measures. Details of compliance with fisheries management measures and data submission were given in CCAMLR-XXI/BG/5 along with details of compliance with enforcement-related measures given in CCAMLR-XXI/BG/25.

3.8 The Committee noted that no problems with fisheries management and data submission measures were reported by the Secretariat in CCAMLR-XXI/BG/5.

3.9 From information on enforcement-related measures presented in CCAMLR-XXI/BG/25, the Committee noted that a number of late licence notifications were received in 2001/02 after the established deadline (Conservation Measure 119/XX 'Licensing and Inspection Obligations of Contracting Parties with regard to their Flag Vessels Operating in the Convention Area'). Out of 57 notifications received, 10 were received after the deadline.

3.10 Chile reported that it has conducted port inspections on four of its own-flagged vessels in accordance with Conservation Measure 119/XX. New Zealand and Uruguay reported that all own-flagged vessels were inspected.

3.11 Chile, UK and Uruguay reported port inspections of vessels of Contracting Parties made in accordance with Conservation Measure 147/XIX 'Provisions to ensure Compliance with CCAMLR Conservation Measures by Vessels, including Cooperation between Contracting Parties'. The flags of the vessels inspected were Chile, Japan, Republic of Korea, Poland, Russia, South Africa, Spain, USA and Uruguay. No violations of Conservation Measure 147/XIX were reported.

3.12 The Committee also considered information required under Conservation Measure 148/XX 'Automated Satellite-Linked Vessel Monitoring Systems (VMS)' which requires that Members notify of the movements of their flag vessels into, out of and between areas, subareas and divisions of the Convention Area. The Committee noted that of 42 vessels reported to have harvested in the Convention Area during the 2002 fishing season, 17 had not submitted the required information.

3.13 In accordance with paragraphs 7.22 and 7.23 of CCAMLR-XV, Members are required to inform the Secretariat of name changes, re-flagging and re-registration of their vessels. Seven reports of re-flagging or intended re-flagging had been received in the 2001/02 intersessional period.

3.14 No instances of bait-box bands discarded were reported by CCAMLR inspectors or were observed by scientific observers (Conservation Measure 63/XV 'Regulation of the use and disposal of plastic packaging bands on fishing vessels').

3.15 The Committee noted advice received from the Chair of the Scientific Committee on matters of compliance with Conservation Measure 29/XIX 'Minimisation of the Incidental Mortality of Seabirds in the Course of Longline Fishing or Longline Fishing Research in the Convention Area'. Data on compliance with all elements of Conservation Measure 29/XIX have been prepared by WG-FSA based on factual data submitted by scientific observers (SC-CAMLR-XXI/BG/33).

3.16 The European Community expressed the view that it was doubtful whether the Scientific Committee should compile compliance data in relation to Conservation Measure 29/XIX, but also make a compliance assessment based on these data. According to the European Community, it would be more appropriate that the compliance assessment be carried out in the framework of SCOI based on the data compiled by the Scientific Committee. Such an arrangement would also give Members the opportunity to give more input on the compliance level of vessels in that forum.

3.17 The Committee also noted that, in relation to potential achievement of full compliance with Conservation Measure 29/XIX and the continuing low level of seabird by-catch, the Scientific Committee reaffirmed its advice to the Commission (SC-CAMLR-XIX, paragraph 4.43) that any relaxation of closed seasons should proceed in a step-by-step fashion and the results be carefully monitored and reported.

3.18 Argentina requested information about whether legal actions have been taken against those vessels not complying with Conservation Measure 29/XIX.

3.19 The European Community noted that, in this respect, the assessment would be made on the basis of a scientific observer report, rather than an inspector's report. Such data could hardly be used in a court of justice. In the view of the European Community, only inspection reports would be suitable to serve as evidence in this respect.

3.20 The Committee considered three options put forward by the Scientific Committee for the extension of the fishing season. In considering options it was agreed to focus compliance aspects and leave other aspects of the proposals for consideration by the Commission.

3.21 The Committee agreed in principle with the proposals put forward by the Scientific Committee concerning a possible extension of the toothfish fishing season in Subarea 48.3. The Committee noted that such an extension would only be implemented once there was full compliance of the fishing fleet overall. The Committee endorsed the Scientific Committee's view that extension of the end rather than the start of the season was preferable, once there was full compliance with Conservation Measure 29/XIX.

3.22 The Committee agreed to recommend to the Commission that in the forthcoming season only vessels in Subarea 48.3 that were judged to have complied fully with Conservation Measure 29/XIX in 2001/02, be allowed to fish during the last two weeks of April to enable a preliminary assessment of seabird by-catch during this period. During the 2001/02 season only the UK-flagged vessel *Argos Helena* was judged to have complied fully with Conservation Measure 29/XIX in the fishery in Subarea 48.3.

3.23 ASOC asked whether the Scientific Committee had any data on the possible consequential effects of relaxing the closed season for CCAMLR-authorized fishing activity in relation to increased exposure of seabirds to IUU vessels. ASOC noted that whilst there might be a reasonable basis for considering that a longer season need not increase seabird by-catch by these authorized vessels, it was important to know whether their activities might attract seabirds to areas where they would be at risk from IUU vessels which employed no mitigation measures – and from which no reports of seabird mortality would be received.

3.24 The Chair of the Scientific Committee advised that there was no data available on this aspect, and agreed that it warranted consideration.

Improvements to Conservation Measures

3.25 The Secretariat drew the attention of the Committee to one fisheries regulatory decision taken in the past by the Commission and which might require clarification. This related to fishing in the Convention Area by vessels chartered by Members. During the past two years the Secretariat continued to receive from time to time queries on this matter. The most recent query was from a fishing industry representative in Poland.

3.26 In the past, the Commission had considered the question of responsibility for catch reporting and the attribution of catches for the purposes of Article XIX.3 of the Convention. In particular, the Commission decided that in the case of joint ventures where one party is not a Member of CCAMLR, the party which was a Member of CCAMLR would be expected to assume responsibility for reporting data and ensuring compliance with conservation measures (CCAMLR-XII, paragraph 4.5; CCAMLR-XVI, paragraph 8.17).

3.27 The Committee stated that, whilst acknowledging that joint ventures may occur, joint ventures should not allow non-CCAMLR flagged vessels to fish inside the Convention Area.

3.28 The Committee recommended to the Commission that any sort of devolution of the responsibilities of Flag States should be avoided and that only vessels under the jurisdiction of CCAMLR Flag States could be issued with licences to fish in the Convention Area (Conservation Measure 119/XX). It was felt that this requirement clarifies the responsibilities attached to CCAMLR Members in respect of any joint ventures to fish in the Convention Area.

IMPLEMENTATION OF THE SCHEME OF INTERNATIONAL SCIENTIFIC OBSERVATION

4.1 A summary of all scientific observation programs undertaken in accordance with the scheme was given in SC-CAMLR-XXI/BG/14.

4.2 A total of 24 longline and 10 trawl finfish cruises were conducted within the Convention Area during the 2001/02 season with national and international Scientific Observers aboard all vessels. A total of five observations were conducted by international observers on four vessels fishing for krill in Subarea 48.3. An additional three observations were conducted on two South African vessels fishing in waters adjacent to the Convention Area, as well as one observation conducted by an international observer on a vessel fishing for crabs in Subarea 48.3.

4.3 Reports received from scientific observers with factual detail on sightings of fishing vessels were discussed by the Committee together with other information on IUU fishing activities in the Convention Area.

4.4 The Committee noted that, as in the past, the report of the Scientific Committee will include advice to the Commission on all aspects of the scheme and also on scientific observation requirements for 2002/03 fisheries.

4.5 The Committee noted that this year it had not received any advice from the Scientific Committee on the administration or operation of the scheme or the need for its improvement. Consequently, no advice to the Commission on the operational requirements of the scheme was considered.

ILLEGAL, UNREGULATED AND UNREPORTED FISHING IN THE CONVENTION AREA

Information Provided by Members in Accordance with Articles X and XXII of the Convention, the System of Inspection and the Scheme of International Scientific Observation

5.1 The Committee considered information submitted by Members relating to activities in the Convention Area which affect the implementation of the objectives of the Convention as well as compliance with conservation measures in force, including reports on IUU fishing activities in the Convention Area.

5.2 Australia presented information to SCOI on a number of major incidents of IUU fishing during the 2001/02 season (SCOI-02/15). These incidents comprised:

- the sighting of the *Lena* (Russia) fishing illegally in the Australian EEZ in Division 58.5.2 and its subsequent hot pursuit by an Australian fisheries patrol;
- the sighting of vessels alleging to be the *Kambott* (Mauritania) and the *Nova Tuna 1* (Ghana) in Division 58.4.3, later identified by Australia as the *Arvisa 1* and the *Dorita*, both flagged to Uruguay;
- the sighting in Division 58.5.1 and pursuit of the *Eternal* (Netherlands Antilles), ex-*Arvisa 1* (Uruguay); and
- the arrest of the *Lena* (Russia) and the *Volga* (Russia) for fishing illegally inside the Australian EEZ in Division 58.5.2.

5.3 The Australian presentation highlighted that a very high level of IUU fishing continues and it was now a highly organised form of transnational crime. Members' vessels and nationals were involved; VMS and other requirements agreed by CCAMLR were not being properly implemented; fraudulent use of the CDS is occurring; non-Contracting Party vessels were also involved, notably from Bolivia; and that stronger measures were needed immediately to combat IUU fishing.

5.4 Australia advised the Committee that it had made diplomatic approaches to the Netherlands Antilles, Netherlands and Uruguay requesting that reflagging of the *Arvisa 1* and *Dorita* be denied. Australia drew attention to Resolution 13/XIX which urged Contracting Parties to avoid re-flagging vessels of non-Contracting Parties with a history of IUU fishing in the Convention Area. Australia expressed disappointment that a temporary flagging certificate was granted to the *Arvisa 1* by Netherlands Antilles.

5.5 The Committee believed that the problem of reflagging IUU vessels should be drawn directly to the attention of the Netherlands, a Party to the Convention. It was recommended

that the Commission instruct the Executive Secretary to write to the Netherlands with a request not to undermine the Convention by accepting applications for reflagging IUU vessels.

5.6 In respect of the presentation given by Australia, Japan explained its position regarding the import of 54 tonnes of toothfish caught by the vessel *Dorita*. Japan stated that the cargo was accepted in full accordance with Conservation Measure 170/XX and based on a letter and a copy of VMS data provided by the vessel's Flag State through diplomatic channels.

5.7 The Observer from the Peoples' Republic of China advised the Committee that, with respect to the import of a shipment of toothfish from one of the vessels, it had contacted the CCAMLR Secretariat and received confirmation that the catch document was issued and certified by the Flag State of the vessel as required under the CDS.

5.8 Uruguay expressed full support for the actions taken by Australia and other Members in combating IUU fishing and drew the attention of the Committee to the number of port inspections conducted by Uruguayan port authorities. However, Uruguay believed that some of the information presented by Australia still required clarification, particularly as legal proceedings initiated against Navalmar S.A., the owner of *Arvisa I*, had not yet concluded. However, the Uruguayan court had taken precautionary measures against Navalmar S.A. by suspending the hearing of an application to purchase a vessel to replace *Arvisa I*.

5.9 Uruguay emphasised that VMS data received through France Telecom did not raise doubt as to the position of the *Arvisa I*, especially taking into account that information from Australia was received some 40 days after sightings of the vessels *Nova Tuna* and *Kambott*.

5.10 Uruguay advised the Committee of recent improvements to its VMS including the installation of the software 'Smart Track' which enables automatic plotting of vessel position on digitalised charts.

5.11 Australia stated that it would continue to pursue measures to effectively combat IUU fishing. However, the recent incidents were neither unreported or unregulated; they were blatant acts of illegal fishing in CCAMLR waters, in the Australian EEZ specifically, and also off the coast of Prydz Bay. There was direct evidence of flagrant disregard for CCAMLR conservation and management measures. Therefore, such activities were significantly undermining the credibility of the Convention and its Commission. While recognising that addressing the problem of IUU fishing was a major task, Australia stated that it was not an impossible one and CCAMLR-XXI must vigorously address this issue. Australia had proposed a suite of initiatives to combat IUU fishing and asked Members to seriously address these.

5.12 Australia advised that it would provide Uruguay and other CCAMLR Members with all available evidence concerning the sightings of the two vessels in CCAMLR waters earlier in 2002, and welcomed statements of cooperation from Uruguay. Australia stated that it was obvious some Members' VMS were not complying with Conservation Measure 148/XX, as demonstrated by Australia's sighting of two vessels off the Antarctic coast, when the Flag State (Uruguay) VMS showed them to be located over 1 000 km to the north. Australia stated that this discrepancy was not a mistake but direct evidence that the VMS were being tampered with or were not operating in a manner that complied with CCAMLR requirements.

5.13 The USA pointed out that during the discussions, several delegations referred to a VMS instrument described as a ‘mechanical VMS’, which allows the vessel’s crew to upload their position and other data to a satellite for downloading to the Flag State, and by definition the procedure is not an automated VMS, does not conform to the requirements of Conservation Measure 148/XX and should never be referred to as an automated VMS in CCAMLR discussions.

5.14 Further, in relation to incidents of illegal fishing in the Australian EEZ at Heard and McDonald Islands, Australia asserted that when it had approached Russian authorities over the *Lena* and the *Volga*, Russia had asked whether Australia knew the whereabouts of two of its vessels fishing for toothfish. All such vessels were required by CCAMLR to be monitored by VMS.

5.15 In turn, Russia stated that it officially informed the Australian authorities of actual locations of two of its vessels.

5.16 Russia reaffirmed its continued support of the two fundamental tools agreed by CCAMLR to combat IUU fishing, i.e CDS and VMS. With reference to the two Russian-flagged vessels apprehended by Australia, Russia explained that the vessel *Volga* had been detained outside the Australian EEZ in Division 58.5.2 and that investigations of the incident were still pending. Appropriate actions were taken by Russia with respect to the second vessel *Lena*. It should be noted that several weeks before the incident, the vessel was sold to a non-Russian company and, at the time of the vessel’s apprehension, only a couple of Russian mechanics still remained on board. Russia also advised that the fishing licence of the previous owner of the vessel was cancelled.

5.17 Russia also gave details of a national VMS program which includes monitoring of about 2 500 vessels from two VMS centres, in the ports of Petropavlovsk-Kamchatsky and Murmansk. Both VMS systems, Inmarsat-C and Argos, were in use. According to domestic legislation, any vessel found in breach of VMS regulations may be deprived from having a fishing licence for up to two years depending on the nature of the infringement. Like Uruguay, Russia has encountered several incidents involving tampering with VMS transponders aboard vessels.

5.18 Australia welcomed the commitment of Russia to combating IUU fishing and its advice that it would revoke the licence, for a period of two years, of any Russian vessel found anywhere on the high seas without VMS. Australia noted the information from Russia about the change of ownership of the *Lena* and asked Russia whether the licence issued to the company owning the *Lena* had been withdrawn following Australia’s representations about the *Lena* fishing illegally inside Australia’s EEZ in December 2001 and its subsequent failure to obey directions from an Australian fisheries patrol. Australia also asked Russia to provide VMS data for the *Lena* for the period from its sighting by the Australian patrol in December 2001 until the end of the hot pursuit.

5.19 Australia also stated that it wished the meeting to note that it objected to the presence of agents and representatives of companies implicated in IUU fishing at the current sessions of CCAMLR, either as members of delegations or otherwise. Australia stated that their presence at the meeting undermined the Commission’s aims and objectives.

5.20 South Africa informed SCOI that it had recently undertaken port inspections of the following three vessels: *Noemi* (Belize), *Lugalpesca* and *Viola* (Uruguay).

5.21 The Uruguayan-flagged vessel *Lugalpesca* had entered Durban, South Africa, for reprovisioning after having discharged toothfish in the port of Maputo, Mozambique, during October 2002. The vessel had on board a catch document and the landing was supervised by a Uruguayan-designated inspector. The vessel was subsequently inspected by South Africa but no evidence was found to indicate that the vessel had engaged in IUU fishing activities.

5.22 The Belize-flagged fishing vessel *Noemi* discharged toothfish in Beira, Mozambique, in September 2002. It was claimed that the fish were caught on the high seas outside the CCAMLR Convention Area. The vessel, which did not have VMS installed, was subsequently inspected in Durban, South Africa, and electronic logbooks provided by the Master subsequently showed the vessel to have fished in the French EEZ within Division 58.5.1 of the Convention Area.

5.23 With respect to the vessel *Noemi*, it was recommended that the Commission request the Executive Secretary to write to Belize advising details of investigations initiated by South Africa and requesting that Belize order the vessel to remain in Durban until full investigation of its activities are completed.

5.24 France reported that, based on information obtained by South Africa, it had started investigations of the fishing activities of the vessel *Noemi* in the French EEZ around the Kerguelen Islands.

5.25 South Africa also reported that the Uruguayan-flagged vessel *Viola*, currently in dry dock in Cape Town harbour, had discharged 4 960.8 kg of toothfish without a catch document in Cape Town, South Africa, in July 2002. Uruguayan authorities had indicated that the vessel had been fishing in FAO Area 41 outside the Convention Area and, although being equipped with VMS, was unable to provide the VMS plot. In the event that the vessel owner cannot furnish the required catch documentation and relevant vessel plots, South Africa intends seizing the vessel and its catch.

5.26 Uruguay reported that early in 2002 the vessel *Viola* had infringed national fisheries regulations and legal proceedings had been initiated against the vessel owners. According to information available to Uruguay, the vessel later applied for re-flagging to South Africa.

5.27 South Africa asked Uruguay whether details of legal proceedings against the vessel could be made available to its authorities. Uruguay undertook to provide the required information to South Africa via appropriate diplomatic channels.

5.28 South Africa also indicated that the *Viola* is currently flagless in Cape Town and that any potential reflagging of *Viola* would be in strict accordance with CCAMLR Resolution 13/XIX and national law.

5.29 The UK also raised concerns over the fraudulent nature of VMS data, citing two examples. The first related to the Uruguayan-flagged vessel *Atlantic 52* whose VMS data were barely credible. The data as presented on first submission indicated that the vessel was at times travelling at speeds of over 100 knots. 'Reworking' of the data as presented placed

the vessel along the southern boundary of Area 51 where toothfish was not believed to be present in any number. The UK continued to liaise with Uruguay to clarify inconsistencies found.

5.30 The UK also drew the attention of the Committee to VMS data for the Russian-flagged *Eva I* for the period from November 2001 to March 2002 which showed major gaps. More importantly, detailed analysis of the VMS position reports indicated four periods when identical position plots had been replicated. It was clear in the view of the UK that this detailed analysis of these data using plotting and GPS tools showed that they had probably been completely fabricated.

5.31 Russia advised that their experts would consult with the UK Delegation about the VMS data presented, with a view to examining this matter in more detail.

5.32 The Committee agreed that the information presented exposed the true nature of IUU fishing activities and that the nationals and vessels of both Contracting and non-Contracting Parties were involved. Key problems revealed were related to re-flagging and non-compliance with the requirements of VMS.

5.33 Chile praised Australia and other Members for actions taken against IUU and noted that information about IUU fishing activities should not detract from the value of VMS, but a close look must be taken at its present use. The lesson was that VMS should be used at all times and in all areas. The concepts of nationals, offshore companies and tax havens; incidents of Port and Flag States unwilling or unable to control the activities of their vessels, and of crews brutally coerced by their masters, should be closely investigated and considered with a view to improving existing and establishing new measures.

5.34 Norway noted the Chilean concern about vessels without nationality and stated that such vessels on the high seas were subject to the jurisdiction of any State. Thus any State may impose penalties on a stateless vessel for engaging in IUU fishing on the high seas. The problem unveiled in other RFMOs was, however, that a number of countries did not have in place domestic legislation enabling them to prosecute such vessels. Norway mentioned that it had recently amended its Fisheries Law to tackle the problem. Norway urged other Parties to examine whether they were in a position to take legal action against stateless vessels under their domestic legislation.

5.35 The UK commented that Resolution 13/XIX addressed the issue of re-flagging of non-Contracting Party vessels. It proposed extending and enhancing this resolution by making it applicable to all States' vessels (not just those of non-Contracting Parties) and making it a conservation measure.

5.36 Uruguay proposed that consideration be given to amending Conservation Measure 170/XX to reverse the onus of proof for the Flag State to issue or refuse to issue a catch document, applicable also to vessels fishing for *Dissostichus* spp. on the high seas.

5.37 Namibia referred to legal threats and actions Contracting Parties received from vessel owners or their representatives. In this regard, Namibia asked to what extent the Commission, other Contracting Parties or any independent body could assist in the case of one Contracting Party being subject to legal proceedings due to its refusal to allow landing,

refuelling, provision or re-flagging of a vessel with a history of IUU fishing. Namibia suggested that Contracting Parties should explore the possibility of de-registering those vessels which have a history of IUU fishing.

5.38 Australia stated that, in the case of one Contracting Party being threatened, all Contracting Parties should be in support of such a Member.

5.39 Chile stated that such actions seriously undermined the Convention and that Namibia or any other Member placed in its situation deserved the solidarity and assistance of all Commission Members.

5.40 The Secretariat suggested that it would be useful if the Commission consider the utility of CCAMLR compiling its own plan of action in support of the FAO IPOA-IUU (CCAMLR-XXI/BG/25).

5.41 The Committee recommended to the Commission that a CCAMLR plan be developed in support of IPOA-IUU.

5.42 Members considered all the abovementioned proposals, proposals put forward by Australia (CCAMLR-XXI/21, 23 and 24) and also a set of proposals put forward by the European Community, aimed at preventing further problems with re-flagging and misuse of VMS. A number of these proposals were elaborated further and recommended for adoption by the Commission (see paragraphs 5.97 and 5.98).

5.43 The Committee noted the advice received from the Chair of the Scientific Committee on the level of IUU fishing activities in the Convention Area and their impact of marine living resources. In particular, it was noted that:

- (i) the catches attributed by CDS reports of catches from outside the Convention Area in Areas 51 and 57 were unlikely to have come from those areas and most likely to have come from within the Indian Ocean sector of the Convention Area;
- (ii) IUU catches within the Indian Ocean sector of the Convention Area were most likely to be underestimated;
- (iii) current levels of IUU fishing had depleted stocks in Division 58.4.4 and in Subareas 58.6 and 58.7, and the catch rates in Division 58.5.1 had substantially declined; and
- (iv) current levels of IUU fishing would substantially reduce populations of seabirds which have been taken as by-catch in longline fishing operations.

5.44 The Committee noted the estimates of IUU fishing activities provided by Australia for Division 58.5.2 and by France for Division 58.5.1 and Subarea 58.6 (CCAMLR-XXI/BG/17 Rev. 1 and BG/18 respectively).

5.45 The majority of Members of the Committee agreed that catches reported from Areas 51 and 57 were not credible and questioned the veracity of information reported in catch documents which did not match available knowledge of toothfish distribution and potential biomass for waters outside the Convention Area.

5.46 However, the Republic of Korea expressed its concerns on the majority's view that could discourage a legitimate fishing operation on the high seas outside the Convention Area and noted that its vessels fishing for toothfish in Area 57 fully complied with all CCAMLR measures that can be applied to those vessels, including even the implementation of the voluntary Resolution 17/XX as mandatory.

5.47 The Committee agreed that there was a need to bring together the expertise of SCOI and the Scientific Committee in order to assess total removals of toothfish. The Committee recommended that the Commission consider establishing a task group which could meet in the first week of the WG-FSA meeting.

Implementation of Other Measures to Eliminate IUU Fishing

Cooperation with Non-Contracting Parties

5.48 The Secretariat reported on cooperation with non-Contracting Parties on the implementation of the CDS (CCAMLR-XXI/BG/26 and SCOI-02/10). As required, the Secretariat corresponded with each non-Contracting Party whose vessels were implicated in IUU fishing in the Convention Area.

5.49 The Secretariat requested information on landings of toothfish from those non-Contracting Parties, especially from those which had not yet introduced CDS and provided them with information about the Commission, its management measures and the steps needed to implement the CDS.

5.50 Mauritius and Mozambique submitted information on landings (CCAMLR-XXI/BG/26 and SCOI-02/11 respectively). All details of vessels and landings were cross-checked by the Secretariat with information contained in the CDS Database.

5.51 In addition, the Committee noted the document SCOI-02/12 which contained information from Bolivia on the establishment of the Bolivian Maritime Fishery Commission and the document SCOI-02/13 containing information from Belize on recent developments in legal and administrative matters related to fisheries. The Committee noted that Bolivian and Belize vessels had undermined, or appeared to have undermined, the effectiveness of CCAMLR conservation measures.

5.52 During the meeting, the Committee was provided with copies of a letter from Indonesia in response to the Secretariat's letter providing details of recent landings of toothfish in Jakarta. The letter from Indonesia proposed that the Directorate General of Management of Marine and Fisheries Resources in Indonesia be nominated as 'CCAMLR inspectors or agents so that supervision...of trade in...toothfish in Indonesia can be conducted more efficiently'.

5.53 In light of the information contained in the letter from Indonesia that the Russian-flagged vessels *Strela* and *Zarya* had landed some 700 tonnes of toothfish in Indonesian ports, and noting that both of these vessels had been proposed for inclusion in exploratory fisheries in the Convention Area, New Zealand asked whether Russia could advise as to the previous history of the vessels and of the steps taken to verify the consistency of this catch with CCAMLR conservation measures.

5.54 Russia advised that these were newly-built vessels purchased by owners via a third party and flagged to Russia in 2002. The Russian Delegation undertook to communicate with fisheries authorities in Russia and vessel owners in order to obtain information related to the posed questions.

5.55 The Committee recommended that the Executive Secretary write to Indonesia with detailed information on the CDS responsibilities of Indonesia as a Port and Export State and inviting Indonesia to become a Party to CCAMLR and fully implement the CDS.

5.56 The Committee also noted the extensive work conducted by the Secretariat on cooperation with non-Contracting Parties and that the work was in full accordance with provisions of the Conservation Measure 118/XX ‘Scheme to Promote Compliance by Non-Contracting Party Vessels with CCAMLR Conservation Measures’.

CCAMLR Vessel Database

5.57 The Secretariat reported that it continued to update the CCAMLR Vessel Database with all available information, particularly on vessels with a history of involvement in IUU fishing (CCAMLR-XX, paragraphs 5.19 and 5.26 and Annex 5, paragraphs 2.119 to 2.121). In order to further assist with the development of the database, the Secretariat maintained a list of contact details of Member’s national fisheries monitoring and surveillance authorities. The list was available on the CCAMLR website. To date, information had been provided by Australia, France, Germany, Namibia, New Zealand, South Africa and the USA. Information from other Members was still required.

5.58 Whilst the task of collecting vessel information had been more or less routine, it was difficult to discern ‘flags of convenience’ in the light of various definitions of the term currently in use. The Secretariat sought guidance on the definition of such flags to be used in determining ‘flag of convenience’ vessels. The Secretariat proposed that, based on a definition of a non-Contracting Party vessel which undermines CCAMLR conservation measures (see Conservation Measure 118/XX) (SCOI-02/4), a ‘flag of convenience’ could be defined as ‘The flag of a State which is not party to CCAMLR and/or which does not enforce CCAMLR conservation measures and whose vessels fish in areas covered by CCAMLR conservation measures’.

5.59 The Committee noted that international maritime law did not precisely define ‘flags of convenience’.

5.60 The Committee considered the request and decided that there was no reason to further define the term.

Implementation of CDS-related Conservation Measures and Resolutions

5.61 The Secretariat reported on implementation by Members of CDS-related conservation measures and resolutions, which included port inspections of vessels of non-Contracting Parties (Conservation Measures 118/XX and 147/XIX), actions taken with respect to the flagging of non-Contracting Party vessels (Resolution 13/XIX), use of ports not implementing

the CDS (Resolution 15/XIX), the application of VMS in the CDS (Resolution 16/XIX) and the application of VMS and other measures to verify CDS catch data from high seas areas outside the Convention Area (Resolution 17/XX).

5.62 The Committee noted a report submitted by the Secretariat (CCAMLR-XXI/BG/25).

5.63 At CCAMLR-XX, the Commission agreed that CDS data which reported catches on the high seas outside the Convention Area be considered more closely (CCAMLR-XX, paragraph 5.5) and that Russia and Uruguay be invited to report to CCAMLR-XXI on the verification of catches reported from the high seas outside the Convention Area (CCAMLR-XX, paragraph 5.20). These reports were submitted (CCAMLR-XXI/BG/12 and BG/22). In addition, Seychelles also submitted a report on a voluntary basis (CCAMLR-XXI/BG/23).

5.64 The Committee requested that reports of Russia and Uruguay be translated. Consideration of these reports was postponed until the Commission plenary.

Additional Measures

5.65 Chile referred to CCAMLR-XXI/BG/7 on the national administration of its domestic fishery, both artisanal and industrial, for *Dissostichus eleginoides* as an example of the complementarity of national and international measures designed to enforce compliance with CCAMLR conservation measures. Chile noted that more detailed analysis of the management of this fishery would be made at the Commission level with the necessary explanations of what Chile believes to be lessons to be drawn from this model.

5.66 The European Community presented a document introducing proposed draft conservation measures and resolutions on IUU fishing. In its presentation, the European Community informed that in June 2002, it had approved its Action Plan for the Eradication of IUU fishing. This plan, in accordance with FAO's IPOA-IUU, identified a number of actions to be taken, *inter alia*, in the framework of RFMOs. The European Community proposals were thus aimed at reinforcing CCAMLR's compliance scheme and procedures and building on the progress that CCAMLR had achieved over the years, which caused it to be acknowledged as a pioneer organisation in the field of the fight against IUU fishing.

5.67 On the basis of a detailed examination of the existing compliance measures in force in the framework of CCAMLR, the European Community considered three key aspects: procedures to address and discourage non-compliance by Members; procedures to identify and monitor the activities of IUU vessels; and the activities of Parties in respect of their interaction with Flag States that do not comply with their obligations regarding jurisdiction and control according to international law with respect to vessels entitled to fly their flag in the Convention Area.

5.68 In addition, the European Community proposed a number of modifications of CCAMLR conservation measures in force to ensure the overall consistency of CCAMLR's compliance mechanisms, reinforce port controls of vessels carrying *Dissostichus* spp. on board and link the use of VMS to the licensing requirements set forth in Conservation Measure 119/XX. Finally, the European Community proposed to amend Conservation

Measure 170/XX to incorporate stronger controls on landings, imports, exports and re-exports of toothfish, particularly those regarding catches made outside the Convention Area, along the lines of Resolution 17/XX.

5.69 Chile expressed agreement with the content of the European Community proposal and most of the proposed amendments, but stated reservations to a general approach which could blur essential differences between Members and non-Contracting Parties to CCAMLR and fail to address the issue of flags of convenience, which it considered critical in the fight against IUU fishing. These differences of emphasis should not prevent agreement on the reinforcement of the integrated set of measures already in force.

5.70 Japan expressed its concern about the overfishing of toothfish by IUU fisheries and recognised the importance of trade-related measures as a tool of conservation of toothfish stocks.

5.71 Japan also recognised that, in order to be consistent with international law, trade-related measures must be introduced in accordance with the procedures agreed by Member countries so that the measures will not be regarded as a unilateral action. It also indicated that very few cases were justified in being contested under the General Agreement on Tariffs and Trade (GATT) Article 20(g) regarding general disputes on measures relating to the conservation of exhaustible natural resources.

5.72 In light of these, Japan stressed that it is indispensable that CCAMLR establishes a certain procedure for the introduction of these measures similar to those established by other RFMOs such as the International Commission for the Conservation of Atlantic Tuna (ICCAT) and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT).

5.73 Therefore, Japan requested the Committee to consider recommending to the Commission the Japanese proposal for the CCAMLR Action Plan for Toothfish.

5.74 The Committee also considered a proposal submitted by Australia to establish a centralised/dual-reporting¹ VMS.

5.75 Australia presented CCAMLR-XXI/21 as well as a supplementary paper outlining a proposal for the establishment of a centralised or dual-reporting VMS system. Under the proposal, the Flag State would require vessels fishing for toothfish to transmit identification and position information directly to the CCAMLR Secretariat as well as to the Flag State.

5.76 Australia pointed out that information before SCOI (SCOI-02/14, Table 5.30) indicated that some 50% of toothfish catches were identified as having been taken by IUU vessels and that the majority of that catch was reported as having been taken from outside the CCAMLR Convention Area. Australia drew attention to information provided by the Secretariat (CCAMLR-XXI/BG/25) that some 16 Members had not notified the Secretariat of details of their VMS arrangements. Australia also drew attention to the earlier discussions in SCOI and said that it was clear that there was demonstrated widespread abuse of the VMS and CDS taking place. This abuse was undermining the sustainability of resources for which CCAMLR had responsibility.

¹ A VMS which reports to both the Flag State and the Secretariat.

5.77 Therefore, Australia considered that it was crucial that VMS be linked to the CDS to improve compliance with the CDS and Conservation Measure 148/XX. Australia noted that the proposal did not involve a devolution of Flag State responsibilities. The costs involved with the proposal were outlined in CCAMLR-XXI/21.

5.78 Australia expressed its belief that the costs involved with a centralised VMS were minor in comparison to the potential benefits. Australia noted that the problem of IUU fishing was a matter for all Members as the international repute of the Commission, as well as the livelihoods of individual fishers of CCAMLR Members, was at stake.

5.79 The European Community thanked Australia for the proposal stating that it believed that VMS was a useful tool for the monitoring and control of fishing activities.

5.80 The European Community advised that a system of Flag State reporting of VMS information to a Secretariat had been implemented in the North Atlantic. The European Community described such models whereby VMS signals can be submitted from the vessel to the Flag State authority and then forwarded by the Flag State to a secretariat. In this model, Parties have the option of choosing whether a signal is relayed directly from the vessel or forwarded via the vessel Flag State. The European Community also noted the issues of confidentiality, the role of the Secretariat and the format of reports which might be transmitted to the Secretariat. The European Community also noted that financial implications would need to be considered and that a pre-condition of the proposed system would be the availability of funds.

5.81 New Zealand advised that this might be a reasonable approach where the information had to be provided to the Secretariat within a defined time frame, such as within 24 hours of receipt by the Flag State. Brazil supported the proposal along the lines described by the European Community as applying to NAFO. Chile agreed in principle with the proposal as modified by the European Community, but noted domestic legislative difficulties associated with the provision of confidential VMS data.

5.82 New Zealand stated that it was prepared to have VMS data transmitted directly from New Zealand vessels to a Commission centralised VMS. New Zealand understood, however, that some Members might not be able to adhere to this approach and therefore recognised that a reporting system via the Flag State to the Secretariat might be appropriate. New Zealand was of the view that the transmission of VMS data from Flag States to the Secretariat should be without delay and in near real time.

5.83 Norway supported the initiative taken by Australia to establish a centralised system. However, Norway was of the view that the information deriving from the VMS should be submitted to CCAMLR via the Fisheries Monitoring Centre of the vessel Flag State. Norway further noted that the information should be transmitted without delay. Norway also mentioned that the issue of confidentiality should be carefully examined. In this regard, Norway mentioned that NAFO and NEAFC have adopted appropriate rules that could serve as a template in CCAMLR. Finally, Norway stated that Parties have to agree on the use of this data by the Secretariat and access by others.

5.84 Whilst noting that Australia has undertaken a great deal of work which eventually would enhance CCAMLR efficiency, Russia expressed support for the Norwegian and European Community proposals.

5.85 It was suggested that there were sufficient measures in place to provide for VMS integrity if Flag States were given the opportunity to work them through. Other delegations noted the urgency of the matter and the need for demonstrated action. It was also noted that Flag States' failure to comply with VMS and CDS measures imposed costs on other States in the form of lost catches, administrative delays and having to apply enforcement measures to protect their interests.

5.86 Argentina expressed appreciation for the efforts of Australia reflected in CCAMLR-XX/21. However, Argentina believed that because of domestic legislation matters and issues relating to the confidential treatment of the information concerned, the national VMS was adequate. The fact that the current system has failed on occasions does not justify replacing it with a centralised system, as it would not be justified to replace the CCAMLR Scheme of International Scientific Observation by a centralised system, merely because in some instances the aforesaid system did not function properly. Argentina stated that it applied Conservation Measure 148/XX in the Convention Area, and voluntarily in the high seas and within Argentina's EEZ. In any case, what was needed was to substantially improve the channels through which the information reaches the Secretariat.

5.87 Brazil reported that all its flagged vessels have VMS on board and that this data should be first transmitted to the Flag State authorities and then to the Secretariat.

5.88 Japan, whilst acknowledging the merits of a centralised VMS system or dual reporting VMS in improving the CDS, pointed out that full analysis of long-term cost-benefit implications are necessary. Japan also expressed concern that suitable procedures to prevent the system from the disclosure of VMS data were not adequately considered taking into account the nature of the data which are of great value to IUU vessels. Therefore, Japan was of the opinion that the proposal should be studied in more detail.

5.89 Russia acknowledged the problems certain countries were facing in implementing VMS and stated that more work should be done on this matter.

5.90 South Africa thanked Australia for the proposal and expressed support for both the centralised VMS and dual-system VMS, although they acknowledged the concerns of the European Community. Further, South Africa already subscribed to a domestic centralised VMS, as all vessels of a certain size are required by national law to have VMS on board. South Africa expressed hope that, in the implementation of a dual-system VMS, any information should be relayed to the Secretariat with a minimum of delay. South Africa also drew the attention of the Committee to possible safety benefits which could be provided by a centralised VMS.

5.91 The Republic of Korea thanked Australia for reminding it of the importance of centralised VMS through the Minister's letter and advised that it would need to consult with its government and industry sector after CCAMLR-XXI.

5.92 Namibia expressed its support for the proposal but noted that due consideration would need to be given to the potential costs of implementation.

5.93 Ukraine stated that it supported the proposal as it would provide monitoring of vessels and vessel owners. Ukraine noted that the costs per vessel would be minimal and pointed out that confidentiality issues should be of no greater concern than those already existing under

the current levels of reporting which need to be reported under existing conservation measures. Ukraine also pointed out that, by acceding to the Convention, Flag States had already devolved some of their responsibilities.

5.94 A number of delegations drew attention to the sensitivity of VMS data and the need for absolute confidentiality to be maintained for such data if provided to the Secretariat. Australia noted that the Scientific Committee was currently reviewing the Rules for Access and Use of CCAMLR Data. Australia agreed that this was indeed a sensitive matter which would require strong protocols. It was also noted that the Committee endorsed a need to consult with the Scientific Committee on issues of evaluation of IUU catches (see paragraph 5.47). The consultation would be able to review the VMS information provided to the Secretariat and consider how it would best be used to strengthen the system. This would be an iterative process in which Members would have the opportunity to comment on how their data was used and protected.

5.95 An informal group was established to consider these issues during the meeting of the Committee.

5.96 The informal group considered a number of proposals related to compliance, addressing IUU fishing and the use of a dual-reporting VMS. The group's discussions were based on SCOI-02/16 and 02/17 and a proposal by the Delegation of Australia for a 'Dual-Reporting Vessel Monitoring System'.

5.97 The Committee noted the agreement by the informal group to amend paragraphs 1 and 4 of Conservation Measure 147/XIX. The Committee recommended that the Commission adopt the revised paragraphs 1 and 4 of Conservation Measure 147/XIX (Appendix V).

5.98 The Committee noted that useful progress had been made on the proposals for new and amended conservation measures and a resolution addressing IUU fishing and the use of a centralised VMS. In the absence of consensus, the Committee agreed to forward to the Commission a number of draft conservation measures and resolutions for consideration (Appendix VI).

Other Measures

5.99 The Committee considered a proposal submitted by Australia to modify the operation of Article 73(2) of UNCLOS (CCAMLR-XXI/23) and a proposal for managing the harvest of *Dissostichus* spp. outside the Convention Area (CCAMLR-XXI/24).

5.100 Australia introduced CCAMLR-XXI/23, outlining a proposal to modify the operation of Article 73(2) of UNCLOS to assist in preventing IUU fishing that undermines CCAMLR conservation and management measures.

5.101 Article 73(2) of UNCLOS required the prompt bonding and release of vessels, which in Australia's view constrained the ability of States to take effective measures to combat IUU fishing. Many of the vessels involved in IUU fishing were chronic offenders, and once released were almost certain to return to illegal fishing. Given the serious threat that IUU

fishing posed to marine resource conservation and the significant difficulty associated with arresting IUU vessels, Australia stated that allowing them to return to IUU fishing severely undermined the CCAMLR conservation and management regime.

5.102 The requirement for the prompt release of vessels under Article 73(2) of UNCLOS meant that a detaining State was required to set a reasonable bond or other financial security for the release of a detained vessel. However, ‘reasonable bond or other security’ was not defined in UNCLOS. Pragmatically, determining what constitutes a reasonable bond had created significant difficulties for States prosecuting vessels apprehended for fishing illegally in their EEZs. Coastal States were faced with a dilemma over the need to strike a balance between setting a bond high enough to deter illegal fishers from retrieving their vessels and resuming fishing over the period of legal proceedings but also avoiding a challenge from the Flag State through the International Tribunal for the Law of the Sea (ITLOS) about the level of the bond.

5.103 States had sought to set bonds for apprehended vessels at levels that would deter their return to illegal activity while legal proceedings were completed. However, as there had been a number of successful challenges by Flag States through ITLOS on the reasonableness of a bond and Coastal States were hesitant to set bonds too high and leave their Government open to expensive legal challenges, ITLOS had displayed a willingness to reduce the level of the bond or financial security set by a Coastal State according to its own assessment. Australia viewed this trend regarding the interpretation and application of Article 73(2) of UNCLOS with some concern. In Australia’s view, States should have a right to set a bond for the release of an apprehended vessel at a level that was sufficient to deter further illegal fishing activities.

5.104 Australia proposed that the modification would operate in respect of any fishing vessels, or support craft, that were apprehended by a CCAMLR Member for fishing in contravention of CCAMLR conservation and management measures. It would apply primarily in the case of fishing vessels that are arrested by the authorities of CCAMLR Member States that exercise jurisdiction and control over maritime areas that are located within the CCAMLR Convention Area. The proposal to modify the requirement of Article 73(2) would operate only in respect of vessels apprehended by a CCAMLR Member, it would not apply to crew; the requirement for a detaining State to promptly release detained crew would continue to apply.

5.105 Australia said that in its view Article 311(3) of UNCLOS allows that two or more States may conclude agreements modifying or suspending the operation of provisions of UNCLOS.

5.106 Chile, UK and New Zealand indicated that they felt the substance of the paper presented by Australia went beyond the mandate of SCOI and proposed that this matter was more appropriately discussed directly by the Commission. SCOI endorsed this view.

5.107 Australia presented its proposal for managing the harvest of *Dissostichus* spp. outside the CCAMLR Convention Area. IUU fishers had been exploiting the fact that the northern limits of the range of *Dissostichus* spp. lie just beyond the northern boundary of the Convention Area by claiming that catches taken inside the Convention Area but validated under the CDS as having come from areas outside the Convention Area (FAO Areas 51

and 57 in particular) (CCAMLR-XXI/24). Australia proposed that the Commission agree to alter the jurisdiction of the Convention specified in Article I in accordance with Article XXX as the:

- most easily recognisable option for extending CCAMLR's competency to manage the harvesting of *Dissostichus* spp. outside the current CCAMLR Convention Area;
- mechanism with the greatest strength for combating IUU fishing for *Dissostichus* spp.; and
- necessary step to support the Commission's efforts to conserve *Dissostichus* spp. stocks within the current CCAMLR Convention Area.

5.108 Australia encouraged that toothfish on the high seas outside the Convention Area be managed in a manner consistent with management inside and that the best way to do so was to bring it under a single management body.

5.109 In response, the USA articulated that amending the boundaries was both a complex and political issue, and was probably better discussed in the Commission rather than in SCOI. The USA indicated that amendment to the Convention was an enormous undertaking and would take a very long time, probably in the order of several years. Further, changing the area for which CCAMLR had a mandate would not necessarily address the problem of IUU fishing.

5.110 Norway indicated that CCAMLR should develop other means to solve this issue, and stated that it was not appropriate for SCOI to handle this matter which was more appropriately addressed in discussions by the Commission. Chile agreed with the position of the USA and Norway, and indicated that to answer some of the questions raised over the catch of toothfish from Areas 51 and 57 could be advanced through possible exploratory/research fishing in those regions.

5.111 Australia drew attention to the outcomes of discussions of the Scientific Committee regarding the catches of toothfish from Areas 51 and 57 which indicated the likelihood that catches from these areas were in reality taken from within CCAMLR waters and that the current level of removals was unsustainable. It was not necessary to undertake exploratory fishing to settle this matter.

5.112 Namibia indicated its support for this proposal put forward by Australia to seek the consent of the Commission to agree to possible alteration of the Convention jurisdiction specified in Article I. Namibia reminded the Committee of the huge task involved in conducting a study prior to a possible extension of CCAMLR's northern boundaries. This includes the study on toothfish geographical distribution, migration patterns, as well as overlapping with existing or emerging regimes.

5.113 Argentina stressed the need for comprehensive studies on species migration patterns and distribution areas. It also indicated that complex problems may arise as a result of the overlapping of areas of responsibility of various regional fisheries management and conservation organisations when, acting with respect to the same resource, they expand their area of competence.

5.114 The European Community supported the concerns of Australia over the catch of toothfish declared as being taken outside of CCAMLR waters, however, it indicated that the matter of boundary changes was something more appropriately dealt with within the plenary of the Commission. The European Community drew attention to the package of measures it had proposed including amendments to Conservation Measure 170/XX.

5.115 The Ukraine stated it supported the Australian proposal but indicated that Members should not lose time in resolving this matter because of the rate at which the resource was being depleted. The FAO representative at the last meeting had promised to support Members if the Commission chose to extend the jurisdiction of CCAMLR. Area 51 had been raised as an issue last year and now Area 57 was also an issue.

5.116 The Republic of Korea supported the US position and comments by Norway. Korea advised that it had caught some 1 000 tonnes of toothfish in Area 57, which had been properly recorded in the CDS and validated by automated VMS.

REVIEW OF SCOI WORKING ARRANGEMENTS

6.1 At CCAMLR-XX, Members were requested to consider the proposal by the European Community to amend SCOI's Terms of Reference and to submit any comments directly to the European Community (CCAMLR-XX, paragraphs 8.15 and 8.16 and Annex 8).

6.2 The European Community advised SCOI that comments were received intersessionally from Australia, Germany, Poland, UK, Uruguay and the USA. The revised draft was submitted as CCAMLR-XXI/19.

6.3 The Committee considered the draft of the revised terms of reference and organisation of work of the proposed Standing Committee on Implementation and Compliance (SCIC). Several editorial changes were proposed and incorporated in the draft during the meeting. It was also agreed that the Committee would decide later, when required, on the organisation of subsidiary bodies to be established in order to facilitate its work.

6.4 The Committee recommended that the Commission adopt the revised terms of reference (Appendix VII).

ADVICE TO SCAF

7.1 The following recommendations of the Committee have financial consequences:

- (i) a pilot project of the proposed electronic web-based CDS (paragraph 2.30); and
- (ii) a three-day intersessional meeting of the informal CDS group to be held immediately preceding CCAMLR-XXII (paragraph 2.24).

OTHER BUSINESS

8.1 The USA distributed information relating to the International Monitoring, Control and Surveillance Network (MCS). The network is intended to organise enhanced cooperation, coordination, information collection and exchange among national organisations responsible for fisheries-related monitoring, control and surveillance. The network encourages participation of all CCAMLR Parties and non-Contracting Parties. Australia and New Zealand supported this initiative.

8.2 The Committee also noted that an International Conference against Illegal, Unregulated and Unreported Fishing is to be held in Santiago de Compostela, Spain, on 25 and 26 November 2002 (CCAMLR-XXI/BG/14). Spain advised that a report and other documents of the conference would be made available to the CAMLR Secretariat after the meeting.

8.3 Brazil drew the attention of the Committee to the needs of small delegations at CCAMLR annual meetings where the presence of a delegate was required at a number of meetings simultaneously. In particular, Brazil requested that a special arrangement for distributing SCOI documents were put in place for such small delegations, e.g. via Heads of Delegation.

8.4 Australia requested the Secretariat that, irrespective of the meeting venue for CCAMLR-XXII, an alternative meeting room be arranged for the Committee next year. Current meeting room facilities were found to be inadequate for such meetings.

ELECTION OF THE CHAIR OF SCOI

9.1 The Committee elected Mr Y. Becouarn (France) as Chair of SCOI for the next two years, taking effect from the end of CCAMLR-XXI.

9.2 The Committee noted that the election of the Vice-Chair was deferred until the meeting of the Commission.

9.3 The Committee thanked Dr Nion for his contribution over the past two years.

ADOPTION OF REPORT AND CLOSE OF MEETING

10.1 The Report of SCOI was adopted and the meeting closed.

AGENDA

Standing Committee on Observation and Inspection (SCOI)
(Hobart, Australia, 21 to 24 October 2002)

1. Organisation of the Meeting
 - (i) Adoption of the Agenda
2. Catch Documentation Scheme for *Dissostichus* spp. (CDS)
 - (i) Annual Summary Report
 - (ii) CDS Fund
 - (iii) Confiscated or Seized Catches
 - (iv) Development of an Electronic Paperless Web-based CDS
 - (v) Improvements to the CDS
 - (vi) Advice to the Commission
3. System of Inspection and Compliance with Conservation Measures
 - (i) Inspections Undertaken
 - (ii) Actions by Flag and Port States in respect of Inspections Undertaken
 - (iii) Improvements to the System of Inspection
 - (iv) Compliance with Conservation Measures
 - (v) Advice to the Commission
4. Scheme of International Scientific Observation
 - (i) Observation Programs Undertaken
 - (ii) Improvements to the Scheme
 - (iii) Advice to the Commission
5. Illegal, Unregulated and Unreported (IUU) Fishing in the Convention Area
 - (i) Members' Reports under Articles X and XXII of the Convention, the System of Inspection and the Scheme of International Scientific Observation
 - (ii) Implementation of Other Measures to Eliminate IUU Fishing
 - (a) Cooperation with Non-Contracting Parties
 - (b) CCAMLR Vessel Database
 - (c) Implementation of CDS-related Conservation Measures and Resolutions
 - (d) Additional Measures
 - (iii) Advice to the Commission

6. Review of SCOI Working Arrangements
7. Advice to SCAF
8. Other Business
9. Election of Chair of SCOI
10. Adoption of the Report
11. Close of the Meeting.

LIST OF DOCUMENTS

Standing Committee on Observation and Inspection (SCOI)
(Hobart, Australia, 21 to 24 October 2002)

SCOI-02/1	Agenda
SCOI-02/2	List of Documents
SCOI-02/3	Reports of inspections carried out in accordance with the CCAMLR System of Inspection for 2000/01
SCOI-02/4	Flags of Convenience Secretariat
SCOI-02/5	Report of discussions by the CDS Working Group on the CCAMLR Catch Documentation Scheme (CDS) for <i>Dissostichus</i> spp.
SCOI-02/6	Annual summary reports under Conservation Measure 170/XX Secretariat
SCOI-02/7	Control y fiscalización de la actividad pesquera en el Área de la Convención para la conservación de los recursos vivos marinos antárticos (CCRVMA/CCAMLR), temporada 2001/2002 Chile
SCOI-02/8	Information from Bolivia on the establishment of the Bolivian Maritime Fishery Commission
SCOI-02/9	Informe de causas sustanciadas en Chile por infracciones a la norma CCAMLR a Septiembre de 2002 Chile
SCOI-02/10	Report on inspection and implementation of sanctions – 2001/02 South Africa
SCOI-02/11	Cooperation with non-Contracting Parties Secretariat
SCOI-02/12	Information on landings of toothfish in Port Louis Mauritius

SCOI-02/13	A letter from IMMARBE, Belize of 11 October 2002 Secretariat
SCOI-02/14	Estimates of catch and effort from IUU fishing (extract from the 2002 Report of the Working Group on Fish Stock Assessment)
SCOI-02/15	Correspondence relating to sightings of fishing vessels reported by Australia Secretariat
SCOI-02/16	Proposal of CCAMLR action plan 'Toothfish' Delegation of Japan
SCOI-02/17	European Community proposals: Draft conservation measures and resolution on IUU fishing – explanatory memorandum Delegation of the European Community
Other Documents	
CCAMLR-XXI/14 Rev. 1	Documentation relating to CITES COP-12 Proposal 39 – inclusion in Appendix II of <i>Dissostichus eleginoides</i> and <i>D. mawsoni</i> Executive Secretary
CCAMLR-XXI/15	CCAMLR conservation measures: review of the numbering system Secretariat
CCAMLR-XXI/18 Rev. 1	Proposal for an electronic web-based Catch Documentation Scheme for <i>Dissostichus</i> spp. Delegation of the USA
CCAMLR-XXI/19	Review of SCOI working arrangements Delegation of the European Community
CCAMLR-XXI/20	Cooperation with the Committee on Trade and Environment of the World Trade Organization (WTO) Secretariat
CCAMLR-XXI/21	A proposal to establish a CCAMLR centralised Vessel Monitoring System (VMS) Delegation of Australia

CCAMLR-XXI/23	Modification of the operation of Article 73(2) of the United Nations Convention on the Law of the Sea to assist in preventing IUU fishing that undermines CCAMLR conservation and management measures Delegation of Australia
CCAMLR-XXI/24	Achieving sustainable fisheries for <i>Dissostichus</i> spp.: managing the harvesting of stocks outside the CCAMLR area Delegation of Australia
CCAMLR-XXI/BG/3	Report on the Committee on Fisheries Sub-Committee on Fish Trade Eighth Session (Bremen, Germany, 12 to 16 February 2002) CCAMLR Observer (Germany)
CCAMLR-XXI/BG/5	Implementation of Conservation Measures in 2001/02 Secretariat
CCAMLR-XXI/BG/7	Administración Chilena de la pesquería de bacalao de profundidad (<i>Dissostichus eleginoides</i>) Delegación de Chile (Executive Summary available in English)
CCAMLR-XXI/BG/10	Report on the Expert Consultation of Regional Fisheries Management Bodies on the Harmonisation of Catch Certification (La Jolla, USA, 9 to 11 January 2002) Secretariat
CCAMLR-XXI/BG/11	Minutes of an informal meeting on the development of an electronic web-based CDS (Pascagoula, Mississippi, 20 to 23 August 2002) Secretariat
CCAMLR-XXI/BG/12	Report on CDS verification procedure Delegation of Uruguay
CCAMLR-XXI/BG/14	International Conference against Illegal, Unreported and Unregulated Fishing (Santiago de Compostela, Spain, 25 and 26 November 2002) Delegation of Spain
CCAMLR-XXI/BG/17 Rev. 1	Évaluation de la pêche illicite dans les eaux françaises adjacentes aux îles Kerguelen et Crozet pour la saison 2001/02 (1 ^{er} juillet 2001 – 30 juin 2002) Informations générales sur la zone CCAMLR 58 et la zone FAO 51 Délégation française

CCAMLR-XXI/BG/18	Estimated IUU fishing for toothfish in that portion of Australia's EEZ within Division 58.5.2 – 1 July 2001 to 30 June 2002 Delegation of Australia
CCAMLR-XXI/BG/19	CCAMLR centralised vessel monitoring system (VMS) implementation plan Delegation of Australia
CCAMLR-XXI/BG/20	The application of Port State jurisdiction The Antarctic and Southern Ocean Coalition
CCAMLR-XXI/BG/21	Observer report to CCAMLR on meetings of the Committee on Trade and Environment Special Session CCAMLR Observer (New Zealand)
CCAMLR-XXI/BG/22	Report on CDS verification procedure Delegation of Russia
CCAMLR-XXI/BG/23	Report to CCAMLR on the verification of catches reported from the high seas outside the Convention Area Republic of Seychelles
CCAMLR-XXI/BG/24	Rationale for the establishment of an electronic web-based Catch Documentation Scheme for <i>Dissostichus</i> spp. Secretariat
CCAMLR-XXI/BG/25	Implementation of the System of Inspection and other CCAMLR enforcement provisions in 2001/02 Secretariat
CCAMLR-XXI/BG/26	Implementation and operation of the Catch Documentation Scheme in 2001/02 Secretariat
CCAMLR-XXI/BG/30	A CCAMLR response to use of flags of convenience by IUU vessels in the Convention Area The Antarctic and Southern Ocean Coalition
CCAMLR-XXI/BG/31	CDS-related information from Canada
SC-CAMLR-XXI/BG/14	Summary of scientific observation programs conducted during the 2001/02 season Secretariat

REPORT OF THE MEETING OF THE CDS INFORMAL GROUP

REPORT OF THE MEETING OF THE CDS INFORMAL GROUP
(Hobart, Australia, 17 and 18 October 2002)

On 17 and 18 October 2002, discussions between States were held in Hobart regarding the operation of the Catch Documentation Scheme for *Dissostichus* spp. (CDS). Participating Parties comprised Australia, European Community, Japan, New Zealand, Seychelles, South Africa and the USA (Attachment A).

2. Discussions were based on the work undertaken by the intersessional contact group (ICG), established by SCOI, to address issues to improve the functioning of the CDS.
3. The CDS Informal Group met in Hobart and was chaired by Mr E.S. Garrett (USA). The group prioritised the issues developed by the ICG. The Agenda is attached (Attachment B).
4. Presentations were made by Mr I. Hay and Mr J. Davis (Australia) on a proposal for a centralised vessel monitoring system (VMS) (CCAMLR-XXI/BG/19), by Mr Garrett on the status of the US Patagonian Toothfish Import Control Program and by Ms K. Dawson (USA) and Mr T. Pedersen (Secretariat) on a proposal for an electronic web-based CDS for *Dissostichus* spp. (CCAMLR-XXI/18 and BG/24).
5. A summary of the conclusions and recommendations drawn from the group's discussions on the agenda items follow.

CDS Data Analysis

6. The group agreed that it was useful for the Secretariat to continue providing a summary of CDS data, and recommended that the current format be adopted as the standard for reporting. The group suggested adding a table on the location of the catch (i.e. Exclusive Economic Zone (EEZ) versus high seas) and the percentage of harvest by product type along with the standard conversion factors. The group agreed that the current conversion factors should continue to be used until additional research is available.
7. It was noted that the FAO statistical subarea or division was often missing from the *Dissostichus* catch document (DCD), although this is required by Conservation Measure 170/XX, and the group observed that this was important information. The group noted that a distinction also needed to be made on the DCD between catches originating from the high seas and elsewhere.
8. Concern was expressed about the potential for commercially confidential data to be revealed, noting that such data may be protected by national legislation. It was agreed that it was necessary to continue providing this information to the Secretariat and Members, for internal CCAMLR use; but it would only be released to the public in aggregated form, which does not reveal commercially sensitive data (see paragraph 9).

Data Access

9. The group was mindful of the confidentiality requirements in data and information transfer or release to the public. It was agreed that public release of data should only be in aggregated form. The group recommended that SCOI consider developing a standard set of CDS data which could be annually compiled by the Secretariat and published, e.g. as part of the CCAMLR *Statistical Bulletin* or placed on the CCAMLR website. It was also recommended that before agreeing on a standard set of CDS data to be released to the general public, international organisations were to be consulted in order to get their views on the type of data which could be required for their work.

Cooperation with International Organisations

10. The group recommended that cooperation between CCAMLR and international organisations with potential to assist the Commission be supported as a general principle. For instance, there could be utility in CCAMLR being represented at the meetings of the WTO/CTE, COFI, CITES and WCO. It was recognised that this list is not exhaustive. While Member countries often attend these meetings from a national perspective and can represent CCAMLR, Secretariat staff should attend the most important meetings that relate to the CDS.

11. Further, a purpose of participation by Secretariat staff could be to represent CCAMLR, for professional development, or for the opportunity to learn the different operating environments that deal with world trade.

12. It was recommended that CCAMLR Members work with WCO to develop harmonised tariff codes for *Dissostichus* spp. for fresh, frozen, and two fillet products – in sections 0302 (fresh), 0303 (frozen), 0304 (fillets – fresh and frozen) of Chapter 3 of the Harmonised System. All members of WCO would then have the possibility to adopt the same codes, thus facilitating the work of CCAMLR's CDS.

13. It was further recommended that the Commission continue to cooperate with FAO and regional fishery management organisations (RFMOs) to develop harmonisation efforts for catch documents, including for *Dissostichus* spp., taking particular note of confidentiality considerations.

Conversion Factors

14. It was recommended that SCOI again request countries to provide conversion factors, and information on whether permitted food additives are used on toothfish products to increase moisture content for food technology purposes.

15. The group agreed that conversion factors need to be employed with caution until such time as better precision can be gained, and encouraged research into approved food additives and how these affect conversion rates for processed products. Until better precision can be gained, it is recommended that the current CCAMLR conversion factors be employed (see paragraph 6).

Differences between Weights of Fish Exported and Landed

16. Given the difficulty of this issue, it was recommended that the Secretariat and inspectors continue to investigate weight differences on a case-by-case basis. It should be noted that such differences provide a potential for laundering catches, and therefore this issue is not trivial.

Multiple Transshipments

17. It was recommended that multiple transshipments at sea be prohibited until a standard procedure can be developed to prevent fraud and accurately account for catch movements.

Definitions

18. It was concluded that the definitions section needs further refinement, e.g. exporter, re-exporter, export reference number and landings relative to free trade zones.

Use of Observers

19. The group agreed that in the absence of an RFMO outside the Convention Area, observers should be used for all high seas areas, and be subject to the same standards as those used for the CCAMLR Convention Area.

20. The group also agreed that the use of independent scientific observers (i.e. independent of the Flag State, as occurs with observers appointed under the CCAMLR Scheme of International Scientific Observation) on vessels fishing on the high seas outside the Convention Area would improve the consistency and standard of validation of DCDs.

Verification Procedures

21. The group noted discussions and action by the Commission at CCAMLR-XX, including the adoption of Resolution 17/XX, to address the misreporting of *Dissostichus* spp. catches from inside the CCAMLR Convention Area as having been taken from Area 51. The group noted that the WG-FSA report for 2002 indicated that the problem of misreporting continued, including in other statistical areas, such as FAO Area 57. The group agreed that the majority of the catches' origins were being falsely reported.

22. It was noted that Resolution 17/XX, paragraph 2, urges States participating in the CDS to take various actions in order to verify the accuracy of DCDs specifying toothfish caught in Area 51.

23. It was noted that the Scientific Committee has been asked by the Commission to provide advice again this year on the status of toothfish populations on the high seas. Several Members expected that the advice would again reflect the lack of commercially viable populations in most areas outside the Convention Area or EEZs.

24. The group agreed that DCD validation and verification measures must be strengthened. The group agreed that, as a matter of principle, standard procedures for all types of data and validation and verification processes relating to the harvesting of *Dissostichus* spp. are needed, and should be used by every State that validates and verifies DCDs, regardless of whether the area fished is outside or inside the Convention Area. In that regard, the group agreed that accurate VMS and observer data are not only essential for validation and verification decisions about every DCD, but also for reasons of transparency and CCAMLR credibility.

Proposal for Centralised VMS

25. The group noted the proposal by Australia for a centralised VMS to be operated by the Secretariat and for data from that VMS to be integrated into CDS validation procedures. Such a system has a range of benefits, including uniformity of vessel monitoring standards, greater transparency of monitoring arrangements and more efficient reporting of vessel movements in the Convention Area, improving the credibility of the Commission.

26. The group recommended that SCOI recommend to the Commission that it adopt stronger measures to prevent such misreporting and trade in misreported catches, including:

- (i) by requiring all vessels fishing for toothfish on the high seas inside or outside the Convention Area and wishing to participate in the CDS, to carry independent scientific observers;
- (ii) by requiring those same vessels to be monitored by a centralised VMS that complies with the standards described in Conservation Measure 148/XX, operated by the Secretariat; and
- (iii) by taking WTO-consistent trade-related actions to prevent trade in toothfish, caught in an IUU manner, from entering the markets of CCAMLR Members. Such measures would aim to identify those States or companies undermining the effectiveness of CCAMLR and to take action to prevent their catches being imported into Members' markets or otherwise being traded under the CDS.

27. Japan reserved its position in regard to centralised VMS because, in Japan's view, the proposed centralised VMS seems too costly for its foreseen effectiveness. Japan also reserves its position on the use of independent scientific observers outside the Convention Area.

Verification of Catch and Landing Procedures

28. It was noted that the CDS could be significantly improved to facilitate trade and reduce opportunities for fraud if the Commission would implement a centralised VMS, web-based electronic CDS, and standardisation of all validation and verification procedures. It was recognised that other measures, such as trade sanctions, could also be used.

29. It was further noted that standardised verification of the following was needed at landing:

- (i) species landed (*D. eleginoides* or *D. mawsoni*);
- (ii) location of harvest;
- (iii) accurate weight; and
- (iv) import validation – based on observer and VMS documentation.

30. It was recommended that standardisation should occur throughout the CDS, and that the different responsibilities of the Flag and Port States should be incorporated into the CDS guide.

US Presentation on Toothfish Import Control Program

31. The utility of compliance analysis was noted, and it was agreed that it would be beneficial if other States, importers, exporters and Flag States involved in the toothfish trade would conduct an evaluation of how well the scheme is working. Japan and the European Community indicated their willingness to undertake this. An electronic based system could significantly assist in resolving problems highlighted in the compliance analysis. The group recommended that SCOI consider implementing this as the next step in resolving these issues.

Electronic Web-based CDS

32. The USA and the Secretariat gave a detailed presentation to the group of a concept and model of an electronic web-based CDS (CCAMLR-XX, Annex 5, paragraphs 2.95 and 2.96). The presentation covered the financial, procedural, security, legal and other aspects of the model.

33. The main benefits of an electronic web-based CDS include:

- (i) monitoring and verification of data in real time;
- (ii) limiting access to CDS data to only that needed for the functions of each user (there can be several categories of users);
- (iii) reducing opportunities for fraudulent DCDs, missing information, unreadable data and reporting errors;
- (iv) issuing of permits in real time and providing market States with notice of movements in trade before consignments reach their territories; and
- (v) reducing time-consuming paperwork, and thus saving in administrative costs for states and fishers participating in the CDS.

34. Overall, the electronic system would significantly facilitate trade of toothfish and would significantly reduce the opportunities for fraud.

35. The group noted the overwhelming benefits of an electronic system and recommended to SCOI that a trial commence as soon as possible, with a view to the progressive implementation of such a system by CCAMLR-XXII (2003).

36. The pilot project should include all sectors that participate in the current system, i.e. Flag States, Port States, vessels, transhippers, exporting and importing countries etc. The electronic certification pilot project should mirror the current paper system, and the advice from representatives of the aforementioned sectors should be sought prior to initiation of the project.

37. The group discussed elements to consider during the development of the electronic-based CDS, including:

- (i) zero tolerance (all fields must be completed, or the generation of the DCD is blocked; and
- (ii) logic checks on entered data (DCD would only get certified if it met these tests).

OTHER MATTERS DISCUSSED

38. The group noted the need to further consider how to identify vessels, nationals and States that do not comply with CDS requirements, and what measures or sanctions should be applied in the event of such non-compliance. The group recommended that these matters be further considered by SCOI and at future meetings of the CDS Group.

39. The group noted that Australia is preparing a paper on a proposed informal intersessional dispute-settlement mechanism to augment Article XXV of the Convention.

40. The group recommended that SCOI set up an ad hoc informal CDS Group in the margins of SCOI to develop a list of issues that the pilot project should address, such as data security, data access, levels of user and State access to data and electronic evidence. Consideration should be given to the participants in the pilot project.

41. Noting the large number of useful ideas at the meeting of the CDS Group, it recommended that there should be a three-day meeting of the group in the 2002/03 intersessional period. Consideration should also be given to holding this meeting earlier than immediately prior to CCAMLR-XXII and in a more central location than Hobart.

LIST OF PARTICIPANTS

Meeting of the CDS Informal Group
(Hobart, Australia, 17 and 18 October 2002)

GARRETT, E. Spencer (Mr) – Convener	USA
BRYDEN, Grant (Mr)	New Zealand
CHEW, Roberta (Ms)	USA
CLARK, Beth (Ms)	USA
DAVIS, John (Mr)	Australia
DAWSON, Kim (Ms)	USA
DOMINGUE, Gerard (Mr)	Seychelles
GONZALES, Mike (Mr)	USA
GOTO, Satoru (Mr)	Japan
HAY, Ian (Mr)	Australia
KOPLIN, Steve (Mr)	USA
MATSUDA, Ryota (Mr)	Japan
ORITZ, Paul (Mr)	USA
PEDERSEN, Tim (Mr)	Secretariat
ROHAN, Geoff (Mr)	Australia
SABOURENKOV, Eugene (Dr)	Secretariat
SHIMIZU, Ichiro (Mr)	Japan
SLICER, Natasha (Ms)	Secretariat
VERGINE, Jean-Pierre (Mr)	European Community
WATKINS, Barry (Mr)	South Africa

AGENDA

Meeting of the CDS Informal Group
(Hobart, Australia, 17 and 18 October 2002)

1. Adoption of Agenda and nomination of rapporteurs
2. Discussion of CDS intersessional items
 - (i) CDS data analysis
 - (ii) CDS data access
 - (iii) Cooperation with international organisations
 - (iv) Conversion factors
 - (v) Differences between weights of fish exported and landed
 - (vi) Multiple transshipments
 - (vii) Definitions
 - (viii) Use of observers
3. Proposal for a centralised VMS
4. Verification procedures
5. US presentation on status of CDS Import Program
6. Proposal for an electronic web-based CDS
7. Demonstration of a prototype
8. Recommendations to SCOI
9. Adoption of the report.

**LIST OF INTERSESSIONAL TASKS IDENTIFIED
BY THE CDS INFORMAL GROUP**

1. Definitions

Exporter, re-exporter, importer, export reference number, landing relative to free trade zones. Incorporate into CDS Guide.

2. The development of validation and verification standards

- (i) for uniform data sources; and
- (ii) for all aspects of harvesting *Dissostichus* spp., i.e. standardised verification of the following:
 - (a) species landed;
 - (b) location of harvest;
 - (c) accurate weight; and
 - (d) import validation based on observer and/or VMS documentation.

3. Responsibilities of the Flag and Port State should be incorporated into the CDS guide.

4. Continue consideration of how to identify vessels, nationals and States that do not comply with CDS requirements and consider what measures should be applied.

PROPOSED AMENDMENTS TO CONSERVATION MEASURE 147/XIX

New title: Port Inspections of Vessels Carrying Toothfish

1. Contracting Parties shall undertake inspection of ~~those~~ **all** fishing vessels ~~that intend to land or tranship~~ **carrying** *Dissostichus* spp. ~~at which enter~~ their ports. The inspection shall be for the purpose of determining that **if the vessel carried out harvesting activities in the Convention Area, these activities were carried out in accordance with CCAMLR conservation measures, and that if it intends to land or tranship *Dissostichus* spp.** the catch to be unloaded or transhipped is accompanied by ~~the a~~ **a** *Dissostichus* catch document required by Conservation Measure 170/XX, **and** that the catch agrees with the information recorded on the document. ~~and if the vessels carried out harvesting activities in the Convention Area, that these activities were carried out in accordance with CCAMLR Conservation Measures.~~
2. Unchanged
3. Unchanged
4. Contracting Parties shall promptly **provide advise** the Secretariat ~~of~~ **with a report on the outcome of each inspection conducted under this conservation measure, in respect of** any vessels denied port access or permission to land or tranship *Dissostichus* spp., the Secretariat shall promptly convey such reports to all Contracting Parties.

**DRAFTS OF PROPOSED CONSERVATION MEASURES
AND RESOLUTIONS**

CONSERVATION MEASURE ----/--
Scheme to Promote Compliance by Contracting Party Vessels
with CCAMLR Conservation Measures

1. At each annual meeting, the Commission will identify those Contracting Parties whose vessels have engaged in fishing operations in the Convention Area in a manner which has diminished the effectiveness of CCAMLR conservation measures in force. This identification will be based, *inter alia*, on reports relating to the application of Conservation Measure 147/XIX, trade information obtained on the basis of the implementation of Conservation Measure 170/XX and other relevant national or international verifiable trade statistics, on the CCAMLR list of IUU vessels as well as any other relevant information obtained in ports and from the fishing grounds.
2. For the purposes of this conservation measure, the Contracting Parties are considered as having carried out fishing activities that have diminished the effectiveness of the conservation measures adopted by the Commission if:
 - (a) the Parties do not ensure compliance by their vessels with the Conservation Measures adopted by the Commission and in force, in respect of the fisheries in which they participate that are placed under the competence of CCAMLR;
 - (b) their vessels are repeatedly included on the CCAMLR list of IUU vessels (NB – this criterion relies on the adoption of the European Community proposed measure establishing the IUU list).
3. The Commission shall request the Contracting Parties identified pursuant to paragraph 1 to take all necessary measures to avoid diminishing of the effectiveness of the CCAMLR conservation and management measures resulting from their vessels' activities, and to advise the Commission of actions taken in that regard.
4. The Commission shall review, at subsequent annual meetings, as appropriate, actions taken by those Contracting Parties identified pursuant to paragraph 1 to which requests have been made pursuant to paragraph 3.
5. The Commission shall annually review information accrued under paragraphs 1 to 4 to decide the appropriate measures to be taken so as to address these issues with those identified Contracting Parties. Such measures could include, but are not limited to, those measures set out in paragraph 68 of the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

CONSERVATION MEASURE ----/--
Scheme to Establish a List of Vessels Presumed to have carried out
Illegal, Unregulated and Unreported (IUU) Fishing Activities
in the CCAMLR Convention Area

1. For the purposes of this scheme, fishing vessels flying the flag of a Contracting Party for which evidence is made available to CCAMLR that they:

- (a) engaged in fishing activities in the CCAMLR Convention Area without a licence issued in accordance with Conservation Measure 119/XX, or in violation of the conditions under which such licence would have been issued in relation to authorised areas, species and time periods; or
- (b) did not record or did not declare their catches made in the CCAMLR Convention Area in accordance with the reporting system applicable to the fisheries they engaged in, or made false declarations; or
- (c) fished during closed fishing periods or in closed areas in contravention of CCAMLR conservation measures; or
- (d) used prohibited gear in contravention of applicable CCAMLR conservation measures; or
- (e) transhipped or participated in joint fishing operations with vessels included in the IUU list; or
- (f) fished in waters in the CCAMLR Convention Area under the national jurisdiction of a Coastal State, without authorisation and/or infringed its laws and regulations, without prejudice to the sovereign rights of Coastal States to take measures against such vessels; or
- (g) engaged in fishing activities contrary to any other CCAMLR conservation and management measures in a manner that undermines the attainment of the objectives of the Convention;

as well vessels flying the flag of a non-Contracting Party that, in accordance with Conservation Measure 118/XX have been:

- (a) sighted while engaging in fishing activities in the CCAMLR Convention Area;
- (b) denied landing or transhipment in accordance with CCAMLR Conservation Measure 147/XIX;
- (c) engaged in transhipment activities involving a sighted non-Contracting Party vessel inside or outside the CCAMLR Convention Area;

are presumed to have carried out illegal, unregulated and unreported fishing activities in the CCAMLR Convention Area.

2. Contracting Parties which obtain evidence suggesting that a vessel could be presumed to have carried out illegal, unregulated and unreported fishing activities in the CCAMLR Convention Area in accordance with the criteria established in paragraph 1 shall immediately communicate the relevant information and evidence to the Commission in accordance with Article XXI of the Convention. The Secretariat shall transmit this information within one business day of receipt to all Contracting Parties, and as soon as possible to the Flag State of the vessels concerned, if the latter flies the flag of a non-Contracting Party.

3. Upon receipt of the information transmitted by the Secretariat in accordance with paragraph 3, Contracting Parties will closely monitor the vessel concerned in order to determine its activities and possible changes of name, flag and/or registered owner.
4. The Executive Secretary shall, before 30 April of each year, draw up a draft list of vessels that, on the basis of the information compiled in accordance with paragraph 3 and of any other information and evidence that the Secretariat might have obtained and verified in relation thereto, might be presumed to have carried out illegal, unregulated and unreported fishing activities in the CCAMLR Convention Area during the previous season.
5. Contracting Parties and non-Contracting Parties whose vessels are included in the draft list established by the Secretariat will transmit before 30 June to CCAMLR, their comments, as appropriate, including evidence showing that the vessels listed have neither engaged in fishing activities in contravention of CCAMLR conservation and management measures nor had the possibility of being engaged in fishing activities in the Convention Area.
6. On the basis of the information received pursuant to paragraph 6, the Executive Secretary shall draw up a provisional list of IUU vessels, which he will transmit before 31 July to the Contracting Parties and to the non-Contracting Parties concerned together with all the evidence provided.
7. Contracting Parties and non-Contracting Parties concerned may at any time submit to the Executive Secretary any additional information, which might be relevant for the establishment of the IUU list. The Executive Secretary shall circulate the information at the latest 30 days before the annual meeting to the Contracting Parties and to the non-Contracting Parties concerned together with all the evidence provided.
8. The Standing Committee on Observation and Inspection (SCOI) shall examine, each year, the provisional list as well as the information referred to in paragraph 8.
9. SCOI shall recommend that the Commission should remove vessels from the provisional list if the Flag State proves that:
 - (a) the vessel did not take part in IUU fishing activities described in paragraph 1; or
 - (b) it has taken effective action in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity; or
 - (c) the vessel has changed 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; or
 - (d) the Flag State has taken measures to ensure the granting of the right to the vessel to fly its flag will not result in IUU fishing.

10. Following the examination referred to in paragraph 9, SCOI shall submit to the Commission for approval, a draft list of the vessels identified as carrying out IUU fishing activities in the CCAMLR Convention Area. This list will be established in accordance with the format referred to in the annex [format to be established], with vessels organised by Flag State.
11. On approval the list referred to in paragraph 10, the Commission shall request Contracting Parties and non-Contracting Parties whose vessels appear on the IUU list to take all the necessary measures to eliminate these IUU fishing activities, including if necessary, the withdrawal of the registration or of the fishing licences of these vessels, and to inform the Commission of the measures taken in this respect.
12. Contacting Parties shall take all the necessary measures, under their applicable legislation, in order that:
 - (a) the issuance of a license to vessels appearing on the IUU list to fish in the Convention Area is prohibited;
 - (b) the issuance of a license to a vessel included on the IUU list to fish in waters under their fisheries jurisdiction is prohibited;
 - (c) fishing vessels, mother-ships and cargo vessels flying their flag do not participate in any transshipment or joint fishing operations with vessels registered on the IUU list;
 - (d) vessels appearing on the IUU list that enter ports voluntarily are not authorised to land or tranship therein;
 - (e) the chartering of a vessel included on the IUU list is prohibited;
 - (f) granting of their flag to vessels appearing on the IUU list is refused, except if the vessel has changed owner; and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account all relevant facts, the Flag State determines that granting the vessel its flag will not result in IUU fishing;
 - (g) imports of fish from vessels included in the IUU list are prohibited;
 - (h) importers, transporters and other sectors concerned, are encouraged to refrain from negotiating and from transshipping of fish caught by vessels appearing in the IUU list; and
 - (i) any appropriate information is collected and exchanged with other Contracting Parties or cooperating non-Contracting Parties, entities or fishing entities with the aim of searching, controlling and preventing false import/export certificates regarding fish from vessels appearing in the IUU list.
13. The Executive Secretary will take any necessary measures to assure publicity of the IUU list approved by CCAMLR pursuant to paragraph 11, through electronic means, by

placing it on the CCAMLR website. The Executive Secretary will transmit the IUU list to other Regional Fisheries Organisations for the purposes of enhanced cooperation between CCAMLR and those organisations.

14. Without prejudice to the rights of Flag States and Coastal States to take proper action consistent with international law, Contracting Parties should not take any unilateral trade measures or other sanctions against vessels included in the draft IUU list, pursuant to paragraph 5, or which have already been removed from the provisional list, pursuant to paragraph 9, on the grounds that such vessels are involved in IUU fishing activities.

Proposed amendment to Conservation Measure 118/XX to establish a cross-reference with the new measure on the establishment of a list of IUU vessels

Paragraph 2b of Conservation Measure 118/XX would be modified as follows :

2. Information regarding such sightings or denials of landings or transshipments shall be transmitted immediately to the Commission in accordance with Article XXII of the Convention. The Secretariat shall transmit this information to all Contracting Parties, within one business day of receiving this information, and to the Flag State of the sighted vessels as soon as possible. **The Secretariat shall include such vessels in the draft list of vessels established pursuant to paragraph 5 of Conservation Measure ___/XXI.**

Proposed amendments to Conservation Measure 148/XX

Paragraph 5 of Conservation Measure 148/XX would read as follows :

5. For the purpose of this measure, VMS means a system where, *inter alia*:
 - (i) through the installation of satellite-tracking devices on board its fishing vessels, the Flag State receives automatic transmission of certain information. This information includes the fishing vessel identification, location, date and time, and is collected by the Flag State at least every four hours to enable it to monitor effectively its flag vessels;
 - (ii) performance standards provide, as a minimum, that the VMS:
 - (a) is tamper proof, i.e. the operation of the VMS unit cannot be interrupted nor transmitted positions falsified;
 - (b) is fully automatic and operational at all times regardless of environmental conditions;
 - (c) provides real-time data;

- (d) provides the geographical position of the vessel, with a position error of less than 500 m with a confidence interval of 99%, the format being determined by the Flag State; and
- (e) in addition to regular messages, provides special messages when the vessel enters or leaves the Convention Area and when it moves between one CCAMLR area, subarea or division within the Convention Area.

5a. Contracting parties shall not issue licences under Conservation Measure 119/XX to their flag vessels unless the VMS complies with paragraph 5 in its entirety.

Rest: unchanged

**RESOLUTION --/XXI
Flags of Non-Compliance**

The Commission,

Particularly Concerned that some Flag States, particularly non-Contracting Parties do not comply with their obligations regarding jurisdiction and control according to international law with respect to fishing vessels entitled to fly their flag in the Convention Area, and that as a result these vessels are not under the effective control of such non-Contracting Parties;

Aware that the lack of effective control ~~encourages~~ facilitates such vessels to fish in the Convention Area in ways that undermine CCAMLR's conservation measures, leading to IUU catches of fish and incidental mortality of seabirds;

Considering therefore such vessels to be flying flags of non-compliance with CCAMLR (FONC vessels);

Noting especially that the FAO Agreement to Promote Compliance and the International Plan of Action on IUU urges States to take such measures to ensure that the activities of nationals, industry and other entities operating within their jurisdiction do not contribute to the activities of fishing vessels flying flags of non-compliance in undermining the effectiveness of CCAMLR's conservation measures;

Urges all Contracting Parties and non-Contracting Parties cooperating with CCAMLR to:

1. without prejudice to the primacy of the responsibility of the Flag State, to take measures or otherwise cooperate to ensure, to the greatest extent possible, that the nationals and industry subject to their jurisdiction do not support or engage in IUU fishing, including on board FONC vessels in the CCAMLR Area;
2. develop ways to ensure that the export of fishing vessels from their State to FONC is ~~discouraged~~ prohibited; and
3. ~~strengthen port controls related to~~ prohibit the landing and transshipment of fish products from FONC vessels.

**TERMS OF REFERENCE AND ORGANISATION OF WORK
OF THE STANDING COMMITTEE ON IMPLEMENTATION
AND COMPLIANCE (SCIC)**

The Standing Committee on Implementation and Compliance (SCIC) was established by the Commission with the following terms of reference.

1. The Committee shall be tasked with providing the Commission with information, advice and recommendations necessary to give effect to Articles X, XXI, XXII and XXIV of the Convention.
2. The Committee shall:
 - (i) review and assess Contracting Parties' implementation of, and compliance with, conservation and management measures adopted by the Commission;
 - (ii) review and assess, as appropriate, the implementation of, and compliance with, conservation and management measures by those non-Contracting Parties which have agreed to apply such measures;
 - (iii) provide technical advice and recommendations on means to promote the effective implementation of, and compliance with, conservation and management measures;
 - (iv) review and analyse information pertaining to activities of Contracting Parties and non-Contracting Parties which undermine the objectives of the Convention, including in particular illegal, unregulated and unreported (IUU) fishing, and recommend actions to be taken by the Commission to prevent, deter and eliminate such activities;
 - (v) review the operation of, and recommend priorities of and improvements to, the System of Inspection and, in association with the Scientific Committee, as appropriate, the Scheme of International Scientific Observation;
 - (vi) exchange information with the Scientific Committee and its subsidiary bodies as well as the Standing Committee on Administration and Finance (SCAF), as appropriate, on matters of relevance for the exercise of their respective functions;
 - (vii) provide the Commission with recommendations on appropriate interaction with other fisheries or conservation management, technical or scientific organisations on matters of relevance to the effective implementation of, and compliance with, conservation and management measures;
 - (viii) perform such other functions consistent with its terms of reference as the Commission might decide; and

- (ix) prepare a report on its activities and recommendations, as well as an agenda for its next meeting, for consideration by the Commission.

3. Organisation

- (i) SCIC may establish working groups to address technical or other specific issues.
- (ii) SCIC may propose terms of reference and agendas, and determine meeting frequency for such working groups.
- (iii) Working groups will be supported by conveners/chairs, rapporteurs and the Secretariat, as appropriate.
- (iv) Working groups will ordinarily meet preceding the annual meeting of the Commission, but may meet intersessionally if so required.
- (v) Any funding for such an intersessional meeting of a working group shall be decided by the Commission.