

**REPORT OF THE STANDING COMMITTEE
ON OBSERVATION AND INSPECTION (SCOI)**

REPORT OF THE STANDING COMMITTEE ON OBSERVATION AND INSPECTION (SCOI)

1.1 The meeting of the Standing Committee on Observation and Inspection (SCOI) was held from 28 to 30 October 1998 under the chairmanship of Dr W. Figaj (Poland).

1.2 In opening the meeting the Chairman welcomed the observer from Namibia.

1.3 The Provisional Agenda of SCOI was distributed to Members as an attachment to the Provisional Agenda of the Commission (CCAMLR-XVII/1). No additions or amendments were proposed and the Agenda was adopted (Appendix I). The list of papers considered by the Committee is given in Appendix II.

ILLEGAL, UNREGULATED AND UNREPORTED FISHING IN THE CONVENTION AREA

Information Provided by Members in Accordance with Articles X and XXII of the Convention

2.1 A summary of sightings of fishing vessels in the Convention Area during the 1997/98 season was submitted by the Secretariat in CCAMLR-XVII/BG/28. These sightings were reported by Members in accordance with Articles X and XXII of the Convention.

2.2 In total, there were 45 reported sightings of non-Contracting Party vessels. The Flag States and ports of registration of some vessels were identified. The Flag States involved were Seychelles, Faroe Islands and Belize. One vessel's port of registration is Port-Vila (Vanuatu). A number of vessels were not identified and were reported as 'unknown', and their activities were also referred to as 'unknown'. Most sightings were reported from within the Exclusive Economic Zones (EEZs) of France or Australia.

2.3 The Committee also noted the advice received from the Scientific Committee. The Chairman of the Scientific Committee explained that, in general, there was a downturn in the scope of illegal, unregulated and unreported fishing in the Convention Area during 1997/98. This was very clear from the evidence available for the Indian Ocean sector and from the West Atlantic sector. Reasons for the downturn are not clear and may relate to market forces, the increase in enforcement effort by CCAMLR Members and a decrease in catch rates. As a matter of fact, the analyses undertaken by WG-FSA demonstrated a decrease of catch rates in Subareas 58.6 and 58.7.

2.4 One special impact of illegal fishing was drawn to the attention of the Committee. A large amount of abandoned fishing gear was observed on fishing grounds. Illegal fishing vessels often set aside their gear in order to avoid sighting or inspection. The lost gear may have an additional impact both on fish stocks (ghost fishing) and seabird populations (entanglement, ingestions).

2.5 The Committee expressed its concern that the level of illegal, unregulated and unreported fishing reported from the Convention Area was still high.

2.6 Reports from France (CCAMLR-XVII/BG/16) and Australia (CCAMLR-XVII/BG/31 and BG/39) contain additional information on sightings of vessels illegally fishing in the Convention Area.

2.7 France reported that during the 1997/98 fishing season, 18 longliners were observed carrying out illegal fishing operations in the French EEZ around the Kerguelen Islands. The total catch taken by illegal fishing was estimated to be 5 000 tonnes. A total of 10 000 tonnes was taken in the 1997/98 season which is a great deal more than it can sustain on an annual basis. Around the Crozet Islands the number of illegal fishing vessels decreased to approximately three. This was largely attributed to overfishing of toothfish (*Dissostichus* spp.) stocks in this area in previous seasons.

2.8 Australia reported that it had arrested three vessels alleged to have been fishing illegally in its EEZ around Heard and McDonald Islands. As a result of prosecutions undertaken, two of these vessels were convicted (*Big Star*, flag – Seychelles and *Salvora*, flag – Belize). The Spanish Master of the *Big Star*, and the Spanish Master and Fishing Master of the *Salvora* were, in total, fined A\$200 000 and their vessels' catches and fishing gear were confiscated. As both vessels had been released under bond, it is expected that the bonds will be forfeited. The total value of these bonds is estimated at A\$2.1 million. Court proceedings in relation to the third vessel *Aliza Glacial* (Panama) are still underway. Australia drew the attention of the Committee to the problem of reflagging to flags of convenience, a practice which became obvious during the course of these investigations.

2.9 Chile advised the Committee that its authorities had received documentation from France related to the detention of two Chilean-flagged vessels in the Kerguelen EEZ. Although the primary responsibility for the investigation of these vessels resides with the Coastal State, Chile, as the Flag State of these vessels, has also initiated investigations with regard to alleged violations of CCAMLR measures, and possible infringements of the Chilean Navigation and Fisheries Laws.

2.10 Australia reported that the Belize-flagged vessel *Salvora*, which was sighted fishing illegally within the EEZ of Australia around Heard and McDonald Islands (Division 58.5.2), appeared to be owned by a Uruguayan company (CCAMLR-XVII/BG/31). This information was passed on intersessionally to Uruguayan authorities.

2.11 Following receipt of this information, Uruguayan authorities conducted an investigation into the vessel and informed the Committee that the company involved has regularly been changing its name and owner. It has also been using unethical methods to market its products. The detailed report of the investigation undertaken was submitted to the Committee (SCOI-98/20).

2.12 Australia thanked Uruguay for its assistance and expressed gratitude for the efforts undertaken by Uruguayan authorities to investigate this matter.

2.13 Last year Australia reported to the Committee that several vessels with links to Contracting Parties were sighted fishing illegally within its EEZ (SCOI-97/6). Argentina advised that administrative actions had been taken with respect to the following three vessels: *Magallanes I*, *Marunaka* and *Estella*. A fine together with a 15-day suspension of fishing operations was recommended for each vessel, but this may still be subject to appeal. Legal proceedings were underway and Argentina advised it will inform the Commission about results of these proceedings.

2.14 The USA commented that a permit is required for the import of all Antarctic species, including *Dissostichus* spp., into the USA (CCAMLR-XVII/BG/24). Several applications, received by the USA in 1997/98 from companies seeking to import *Dissostichus* spp., were refused. These fish were from vessels which had been convicted of illegal fishing activities by Members. Permit requests made to import catch from the vessels *Big Star* and *Antonio Lorenzo* and a permit request to bid at auction on the cargoes for *Antonio Lorenzo* and *Ercilla*, which were seized by France, were refused.

2.15 The Committee also noted two information papers submitted by ASOC on the subject of illegal and unregulated fishing for Patagonian toothfish (*Dissostichus eleginoides*) in the Southern Ocean (CCAMLR-XVII/BG/49 and BG/50). Some delegations stressed that the status of these did not justify discussion of their content.

Current Status of International Trade of *Dissostichus* spp.

2.16 At last year's meeting of CCAMLR, Members were requested to collect and provide to the Secretariat information on matters related to the trade of *Dissostichus* spp. (CCAMLR-XVI, paragraph 8.11). In particular, Members were requested to:

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

2.17 Information on this matter has been received from Australia, Chile, Japan, the Republic of Korea and Ukraine (SCOI-98/16) and also from the USA (CCAMLR-XVII/BG/24).

2.18 All information contained in these reports was made available to the Working Group on Fish Stock Assessment (WG-FSA) for its work on the estimation of illegal catches of *Dissostichus* spp. The section of the WG-FSA report dealing with the estimation of trade in *Dissostichus* spp. was available to the Committee as SCOI-98/18.

2.19 The USA reported that, since 1 January 1998, the use of specific codes is required on all documentation accompanying the import of *D. eleginoides* into the USA (CCAMLR-XVII/BG/24). New classification codes have made it possible to accurately track and monitor the import of *D. eleginoides* into the US market.

2.20 The analyses undertaken by the USA identified an increase in the import of *Dissostichus* spp. to the US market from a number of other countries which are now implicated in illegal, unregulated and unreported fishing in the Convention Area (CCAMLR-XVII/BG/24). This increase has taken place over the past two years.

2.21 The Committee noted that currently only the USA, Japan and the Republic of Korea record separate trade statistics for *Dissostichus* spp. The European Community announced its intention to introduce a specific code for trade statistics relating to *Dissostichus* spp.

2.22 The Committee commended the USA on their approach which could be used by other Members as a model. It suggested that a harmonised tariff schedule classification be developed for both *D. eleginoides* and *D. mawsoni*. It is especially important to have a trade code for *D. mawsoni* as this species can only be found in the Convention Area. The USA commented that this should be taken up on a national level by Members in accordance with the harmonised tariff schedule.

2.23 The Committee also noted the additional information on international trade in *Dissostichus* spp. received from FAO (CCAMLR-XVII/BG/44) and ASOC (CCAMLR-XVII/BG/24).

2.24 In general, the Committee agreed that the Commission should consider the following action with regard to monitoring and tracking international trade in *Dissostichus* spp.:

- (i) introduction of new classification codes in trade statistics for *Dissostichus* spp. at a national level; and
- (ii) review of the matter at the next CCAMLR meeting.

Implementation and Effectiveness of Measures Adopted in 1997

2.25 The report of the Secretariat on the implementation of the System of Inspection and other CCAMLR enforcement provisions, including measures adopted in 1997, was given in CCAMLR-XVII/BG/28.

2.26 The reports received from Members mainly related to the implementation of Resolution 12/XVI on Vessel Monitoring Systems (VMS). These reports were received from Australia, Argentina, Chile, the Republic of Korea, the UK and Uruguay. No other reports under paragraph 2 of Resolution 12/XVI were received.

2.27 Argentina reported that it had initiated the implementation of a national satellite-based VMS. So far some 355 vessels have been fitted with the appropriate equipment (SCOI-98/13). New national legislation currently under study in the Argentine Senate, which among other things contemplates compulsory use of VMS on all Argentine vessels fishing in the Convention Area, will enable better compliance with CCAMLR measures.

2.28 The UK has initiated the installation of an automated VMS to cover its flag vessels fishing in CCAMLR waters (SCOI-98/19). The UK will further inform CCAMLR once its VMS has been fully installed.

2.29 In Australia, under domestic legislation, VMS has been mandatory on all Australian vessels licensed to fish for *Dissostichus* spp. since 1995 (SCOI-98/6). There is no evidence, either from VMS or from the two observers on board vessels, that any Australian-licensed vessel has fished in contravention of any conservation measure.

2.30 A satellite-based VMS is being introduced in Uruguay in order to fulfil the requirements of Resolution 12/XVI (SCOI-98/10). This is an experimental program which, depending on results, may be modified for the next season in order to achieve a greater degree of reliability of monitoring fishing operations carried out by the Uruguayan fishing fleet.

2.31 The Republic of Korea has made efforts towards establishing VMS (SCOI-98/15). Financial constraints, however, prevented the establishment of the system in the time required by CCAMLR. It is anticipated that the National Assembly will approve the budget required for the implementation of VMS.

2.32 Chile reported that its VMS system will be fully operational by the end of 1998 (SCOI-98/7). Priority in the system implementation is given to specially protected areas within the Chilean EEZ and also to the CCAMLR Convention Area.

2.33 The European Community has adopted a regulation which provides for the implementation of VMS. According to this regulation, the system is applicable to all Community fishing vessels greater than 20 m in length between perpendiculars or 24 m in overall length which operate on the high seas except in the Mediterranean, with effect from 30 June 1998. Consequently, all Community vessels operating, or which wish to operate, in the CCAMLR Convention Area will have an operational VMS.

2.34 Russia carried out a successful test of VMS which is based on the 'ARGOS' system. At the present time, the first Regional VMS Centre in Murmansk is in full operation and has control over 70 fishing vessels deployed in the Northeast Atlantic and the Barents Sea. Russia is also developing a VMS system specifically for Antarctic waters (SCOI-98/21).

2.35 The Committee then considered information available on the implementation of other measures adopted in 1997.

2.36 No information has yet been received from Members on the implementation of Conservation Measure 118/XVI. France suggested that each Member should be requested to submit this information to the Secretariat for collation and circulation among Members. The Committee, consequently, recommended to the Commission that such steps be taken.

2.37 During the 1997/98 season Members were required to notify the Commission of licences or permits issued to their vessels, authorising them to fish in the Convention Area (Conservation Measure 119/XVI and System of Inspection, paragraph IV.(c)). All notifications received by the Secretariat have been circulated to Members intersessionally as required. As part of its work on monitoring the implementation of Conservation Measure 119/XVI and the requirements of the System of Inspection, the Secretariat has, throughout the year, incorporated all details of licensed vessels into a database. A summary of this information was presented in CCAMLR-XVII/BG/28.

Examination of Additional Measures

2.38 A number of measures which have been proposed by Members to combat illegal, unreported and unregulated fishing in the Convention Area and measures which are implemented or planned by international fisheries organisations to combat the problem of fishing by non-Contracting Parties (CCAMLR-XVII/21, 22, 23, 24, 25 and 26; CCAMLR-XVII/BG/3, BG/13, BG/30 and BG/45) were summarised by the Secretariat in SCOI-98/17. This summary was used by the Committee as a reference guide in its discussions on proposed measures.

2.39 A number of proposals were submitted by Australia, the European Community, New Zealand and the USA and examined by the Committee. Discussion of these items is summarised in the following paragraphs.

Vessel Register

2.40 A discussion took place on the possible merits of introducing a vessel register in CCAMLR. The Committee decided that, in the absence of a formal proposal, this matter would require further reflection in terms of its substance, the possible uses it might be put to and its eventual accessibility.

Applications to Nationals

2.41 New Zealand tabled a proposal to consider the application of national jurisdiction by CCAMLR Parties to their nationals and companies in respect of fisheries activities in the Convention Area. It was drafted taking into account requirements of the Antarctic Treaty System and the provisions of Article 117 of the UN Convention on the Law of the Sea (UNCLOS).

2.42 New Zealand stated that a State can apply its legislation over its own nationals in some areas (such as on the high sea), but that the application of its enforcement jurisdiction would have to occur within its territory and be subject to the usual rules of evidence. On the other hand, some Members stated that, in their view, the term ‘nationals’ in the context of Part VII of UNCLOS refers to ‘vessels’ and that therefore, only the Flag State can exercise jurisdiction over its fishing vessels on the high seas, both as a right and as a duty. Several Members stated their opinion that Flag State jurisdiction should be the principle means of controlling activities in Antarctic waters.

2.43 New Zealand raised the issue of information obtained through aerial surveillance or other means on the activities of fishing vessels in the CCAMLR Convention Area. New Zealand encouraged Contracting Parties to apply paragraphs XI to XIV of the CCAMLR System of Inspection to evidence of an alleged violation of CCAMLR conservation measures including that collected through means other than an inspection at sea under the CCAMLR System of Inspection.

Catch Certification Scheme

2.44 The Committee emphasised the urgency of monitoring trade flows and improving the Commission’s capacity to determine the source of the catch and the trade flows of *Dissostichus* spp. To this end, a catch certification scheme, which met the specific objectives of CCAMLR, was supported by many Members. The need for careful preparation of such a scheme as well as a policy for dealing with non-Contracting Parties was also noted.

2.45 The USA submitted informal drafts of two new conservation measures which were based in part on the statistical documentation scheme of the International Commission for the Conservation of Atlantic Tunas (ICCAT). These drafts took into account factors unique to CCAMLR, in particular, the fact that stocks of the *D. eleginoides* occur both inside and outside the Convention Area.

2.46 While there was general support for the basic aims of these two measures, several Members raised concerns over the applicability of the proposed catch certification scheme to catches taken outside of the Convention Area and, in particular, within the EEZs of Coastal States.

2.47 The USA submitted a revised proposal designed to take account of those concerns (CCAMLR-XVII/34). There was insufficient time to discuss this new draft, but in light of the importance of the issue the Committee forwarded it to the Commission for further consideration.

VMS on Vessels of Contracting Parties

2.48 There was support for a conservation measure to make VMS mandatory on vessels that Contracting Parties licence or permit to fish the Convention Area.

2.49 Papers were submitted by Australia and the European Community (CCAMLR-XVII/26 and CCAMLR-XVII/30 respectively). The Committee considered the European Community text which contained several new features such as additional operational requirements for the system and a provision for providing continued information in case of the system failure.

2.50 Several Members requested that the measure should contain an exemption for vessels fishing for krill similar to that in Resolution 12/XVI. Other Members argued that Flag States should control and monitor all their vessels irrespective of the type of fishing gear or the target species.

2.51 The position of the European Community is that, as a matter of principle, all CCAMLR conservation and control measures should apply to all of the fleet; installation of VMS should apply, therefore, to all of the fishing vessels operating in the Convention Area. However, without prejudice to this position the European Community recognises the view held by certain delegations that the krill stock is not under sufficient pressure, at present, to warrant installation of VMS, and can therefore accept that the krill fleet be exempted from this measure on an interim basis. Nevertheless, the European Community and some other Members stressed it shall be the responsibility of Contracting Parties which operate vessels fishing for krill and which are exempted from carrying VMS to ensure that they fish only krill and no other species in the Convention Area. This derogation for the krill fleet should be reviewed on a regular basis in the light of developments within CCAMLR. The European Community undertook to revise its proposal in order to reflect this position.

2.52 It was also noted that the level of development and implementation of VMS varies from country to country and that the proposed deadline for the introduction of VMS of 1 March 1999 is not practicable for several Members.

2.53 After minor modifications the Committee agreed that, for the time being, a new measure would retain an exemption for vessels fishing for krill and that certain priority deadlines would be considered for Members whose VMS systems require more time for their development and implementation. The Committee recommended that the Commission consider further this conservation measure for possible adoption.

Marking of Fishing Vessels and Fishing Gear

2.54 There was general support for a conservation measure to set a uniform standard of identification markings on Contracting Parties' fishing vessels in the Convention Area and on the gear they use. Two texts were submitted by Australia and the European Community.

2.55 The Committee recommended that the Commission consider further this conservation measure for possible adoption.

Licensing and Inspection Obligations of Contracting Parties

2.56 A draft conservation measure, presented by the European Community (CCAMLR-XVII/32), proposed amendments and additions to Conservation Measure 119/XVI. These included, notably, requirements for a licence to be retained on board and port inspection by Contracting Parties of their own flag vessels operating in the Convention Area.

2.57 A number of provisions of the draft measure were questioned by several Members, including the need to state the requirement for the vessel to notify its exit from and entry into any port, responsibilities of port authorities and the performance by them of some duties of CCAMLR inspectors. Most comments related to provisions of inspection of vessels by the port authorities of a Flag State.

2.58 Several Members recalled their reservations with respect to the reference to the use of VMS for monitoring vessels fishing for krill (see paragraph 2.50 above).

2.59 Several Members raised concern at the failure of the draft conservation measure to address the issue of reflagging and noted the need for redrafting the draft measure to reflect some of the concepts contained in the FAO Compliance Agreement.

2.60 South Africa stated that a similar measure already applies in a practical sense to South African vessels and it has no intention to deviate from this position. However, in terms of the 1980 Statement by the Chairman of the Conference on the Conservation of Antarctic Marine Living Resources, South Africa reserves its position in relation to waters adjacent to the Prince Edward Islands.

2.61 The Committee recommended that the Commission consider further this conservation measure for possible adoption.

Cooperation between Contracting Parties

2.62 A number of clarifications and editorial changes were suggested to the conservation measure drafted by the European Community (SCOI-98/33). This measure includes a provision for cooperation among Contracting Parties to enable preliminary inspection of a vessel of one Contracting Party when it enters the port of another.

2.63 Certain views were expressed that the delicate balance provided by UNCLOS between Flag State and Port State jurisdiction should be carefully preserved.

2.64 The Committee recommended that the Commission consider further this conservation measure for possible adoption.

Application of VMS in Areas Adjacent to the Convention Area

2.65 Several Members highlighted the need to monitor vessels fishing for *D. eleginoides* in areas adjacent to the Convention Area and the potential for VMS to assist in this.

2.66 A draft resolution was presented by Australia taking into account Resolution 10/XII on harvesting stocks occurring both within and outside the Convention Area which was supported by those Members. On the other hand, other Members considered that the Commission had no mandate for regulating outside the Convention Area.

2.67 Several Members recalled their reservation in respect to the use of VMS for monitoring vessels fishing for krill (see paragraph 2.50 above), taking into account that krill fishing also occurs outside the Convention Area, e.g. in FAO Statistical Division 41.3.2.

Amendment to Conservation Measure 118/XVI

2.68 The potential benefits of requiring VMS on non-Contracting Party vessels sighted engaged in fishing activities in the Convention Area, which sought to land or tranship catch in Contracting Parties' ports, were discussed.

2.69 An amendment to Conservation Measure 118/XVI was proposed by Australia. The amendment prohibits landing and transshipment from a non-Contracting Party vessel in all Contracting Party ports unless it is fitted with VMS. Australia noted that it had prepared a revised draft and submitted it to the Commission.

2.70 Some Members highlighted the need to maintain the onus on the vessel (rather than the Contracting Party) to establish the origins of their catch, in line with the requirements of Conservation Measure 118/XVI.

OPERATION OF THE SYSTEM OF INSPECTION AND COMPLIANCE WITH CONSERVATION MEASURES

Implementation of Conservation Measures in the 1997/98 Season

3.1 Members' activities on the implementation of conservation measures in the 1997/98 season were summarised by the Secretariat in the following two papers:

- (i) a report on the implementation of the System of Inspection and other enforcement-related decisions and provisions of the Convention (CCAMLR-XVII/BG/28); and
- (ii) a report on the implementation of conservation measures dealing with the management of fisheries, the CCAMLR reporting system, notification of scientific research surveys and notification of new and exploratory fisheries (CCAMLR-XVII/BG/4 Rev. 1).

3.2 In the past, Members have informed the Commission that they had in place the legislative and administrative procedures required to give effect to conservation measures annually. Further comments on this matter were received from Australia, Norway, USA and South Africa.

3.3 The USA advised that the conservation measures adopted at CCAMLR-XVI had become part of their federal register and were in effect (SCOI-98/12). Norway also advised that they had issued stricter regulations for Norwegian vessels fishing in the Convention Area (SCOI-98/5).

3.4 South Africa informed the Committee that, as of 1 September, their new Marine Living Resources Act, 1998, came into effect which allows for the relevant conservation measures to be applied to their vessels (CCAMLR-XVII/BG/29). The recently received report from Australia also contained information on the use of national legislation to give effect to CCAMLR conservation measures in the 1997/98 season (CCAMLR-XVII/BG/38).

Inspections Undertaken in the 1997/98 Season

3.5 As required, Members provided the Committee with information about the actual number of inspectors deployed at sea, the duration of their trips and areas covered. This information is essential for assessing the level of inspection of activities in the Convention Area. In 1997/98, inspectors were deployed by Australia, the UK and Ukraine.

3.6 In the 1997/98 season, three inspections were reported to the Secretariat. All inspections were carried out in Subarea 48.3 by CCAMLR inspectors designated by the UK. The three vessels inspected were *Isla Sofia* (Chile), *Arctic Fox 1* (South Africa) and *Koryo Maru 11* (South Africa).

3.7 Summary details of the inspections carried out in the 1997/98 season were submitted by the Secretariat in CCAMLR-XVII/BG/28. Inspectors reported that certain provisions of Conservation Measures 63/XV, 'Regulation of the Use and Disposal of Plastic Packaging

Bands on Fishing Vessels' and/or 29/XVI, 'Minimisation of the Incidental Mortality of Seabirds in the Course of Longline Fishing or Longline Fishing Research in the Convention Area' had not been fully complied with by the vessels inspected.

3.8 The Committee noted that details of non-compliance with Conservation Measure 63/XV reported by inspectors, were similar on all three vessels and related to the use of plastic packaging bands, although they were all cut and stored for disposal at home ports. One vessel had not fully complied with Conservation Measure 29/XVI.

3.9 The Chairman of the Scientific Committee advised that information available from scientific observers on longline vessels showed a large improvement in compliance with Conservation Measures 29/XVI. In general, the rate of by-catch of seabirds in regulated longline fisheries has dropped. The compliance with some provisions of the measures (line weighting and offal discharge provisions), however, still remains of concern. The Scientific Committee felt that if the provision of weighting lines is complied with in full, this alone would further dramatically reduce by-catch of seabirds. In particular, it relates to longliners with 'autoline' equipment. It was noted that full compliance with an appropriate line weighting regime might enable vessels to have much greater flexibility in the streamer line design and possibly become exempt from night setting requirements. The Chairman of the Scientific Committee indicated that further experimental work, for instance under Conservation Measure 64/XII, on underwater setting of longlines might usefully be undertaken so that measures aimed at reducing seabird by-catch in longline fisheries can continue to be developed.

3.10 The Committee recommended that the Commission should remind Members of the necessity to ensure full compliance with all provisions of Conservation Measure 63/XV (the use of plastic packaging bands) and 29/XVI (in particular, line weighting and offal discharge requirements).

3.11 In the past two seasons, the Secretariat has received several requests from a Flag State of inspected vessels for originals of Inspection Reports which it required in order to proceed with investigations of alleged infringements. The Secretariat used to keep originals of Inspection Reports in its files, but since it had to provide originals to the Flag States in these cases, it now holds only copies of the original reports.

3.12 The Committee noted that if it continued to be a requirement for the Secretariat to provide original reports to Flag States, the Committee may consider, in the future, an option of publishing Inspection Report Forms in four copies instead of three.

Actions of Flag States in Respect of Inspections Undertaken

3.13 In accordance with paragraph XII of the System of Inspection, Flag States are required to report annually in writing to the Commission the results of prosecutions and sanctions imposed with respect to activities of vessels reported by inspectors as being in contravention of CCAMLR conservation measures. If a prosecution has not been completed, a progress report should be made. When a prosecution has not been launched, or has been unsuccessful, the report shall contain an explanation.

3.14 Reports of Flag States on inspections undertaken were received from Chile and South Africa (CCAMLR-XVII/BG/19 and BG/40).

3.15 South Africa informed the Committee that letters of sanction had been forwarded to the operators of *Koryo Maru 11* and *Arctic Fox*, indicating that technically they were in violation of their South African permit conditions with respect to the implementation of CCAMLR conservation measures. The letters indicated the possibility of permits being withdrawn if the

vessels failed to rectify the problems. South Africa also gave details of other sanctions imposed on the *Koryo Maru 11* with regard to dumping offal (Conservation Measure 29/XVI) and also on the *Alida Glacial* (possession of longlines without the necessary South African permit).

3.16 Chile informed the Committee that they had also taken action against its vessel *Isla Sofia*, which had been implicated in the violation of certain provisions of Conservation Measures 63/XV and 29/XVI, and also supplied detailed information on progress made in prosecuting vessels since 1992. This information indicated that, in some cases, judicial procedures required in accordance with Chilean law, could take several years. Three more cases were reported as finalised with absolute sentences imposed.

3.17 Chile also advised the Committee that although it had amended fisheries laws in order to take into account requirements of the Chilean court in prosecuting fishing vessels alleged in violations of CCAMLR conservation measures, in the future the navigation law would also need amendments to empower the authorities to take action through administrative procedures.

3.18 The Committee expressed its appreciation for the clear and important information provided by South Africa and Chile on sanctions imposed and legal proceedings undertaken in relation to infringements of CCAMLR conservation measures.

Improvements to the System of Inspection

3.19 The Secretariat reported to the Committee the following work undertaken in 1997/98:

- (i) updates to the *Inspectors Manual* were issued twice during the 1997/98 season; in December 1997 and May 1998;
- (ii) Members were informed of any additions to or deletions from the List of Vessels of Members Intending to Harvest Marine Living Resources;
- (iii) Members were reminded twice during the year of current requirements for the implementation of the System of Inspection and also on the Commission's decisions regarding the enforcement of the system;
- (iv) as part of its work on processing information received from Members on renaming, changing registration and reflagging vessels, the Secretariat maintains a registry of vessels; and
- (v) provisions were made for information on fishing vessels to be placed on a secure page of the CCAMLR website which deals with matters related to SCOI (CCAMLR-XVI, paragraph 8.24). A detailed description of the CCAMLR website is given in CCAMLR-XVII/BG/23.

3.20 Australia and several other Members expressed the need to have a summary of all vessels licensed or permitted by Members to fish in the Convention Area placed on a public domain page of the CCAMLR website. This would allow access of this information at any time by Contracting Parties and also by non-Contracting Parties. It was felt that public access to this information would facilitate activities of non-Contracting Parties who sought to support the effectiveness of CCAMLR conservation measures. The Committee recommended to the Commission that the list of vessels licensed to fish by CCAMLR Members in accordance with Conservation Measure 119/XVI be placed on the CCAMLR website and restricted to Contracting Parties. The Committee agreed to review the question of wider availability of some parts of the vessel registry list.

3.21 The Committee found very useful a schedule, prepared by the Secretariat, on information to be submitted by Members in accordance with the System of Inspection (SCOI-98/4). Members were requested to use the schedule as a guide to ensure the timely submission of the required information to the Secretariat.

3.22 At its 1997 meeting, the Committee agreed that Members continue discussions on a bilateral basis, the interpretation of paragraph III(b) of the System of Inspection (CCAMLR-XVI, Annex 5, paragraphs 1.54 to 1.56). No reports on the subject were received and the Committee encouraged Members to continue discussions during the 1998/99 intersessional period.

OPERATION OF THE SCHEME OF INTERNATIONAL SCIENTIFIC OBSERVATION

Observations Undertaken in the 1997/98 Season

4.1 The Secretariat was informed that international scientific observers undertook a total of 21 observation programs on 14 longline vessels and one program on one trawl vessel. National scientific observers undertook eight observation programs on three longline vessels and five programs on three trawl vessels.

4.2 The Committee noted the paper submitted by the UK which summarised information on scientific observers deployed and scientific programs undertaken in the 1997/98 season (SCOI-98/11).

Improvements to the Scheme

4.3 During the year, cooperation between the Secretariat and technical coordinators of national observer programs resulted in an improvement in the timely submission and the quality of the data logbooks. Despite this, some reports from observers were still submitted late.

4.4 The Chairman of the Scientific Committee advised that the requirement to submit the reports of scientific observers one month after returning to port should be strictly enforced. The Committee endorsed this view.

4.5 A schedule of information required to be provided by Members in accordance with the amended texts of the Scheme was prepared and circulated to Members in January 1998 (COMM CIRC 98/1). The updated schedule was submitted to the Committee in SCOI-98/4. Members were requested to use the schedule as a guide to ensure the timely submission of the required information to the Secretariat.

4.6 A training workshop for scientific observers was organised by Chile in March 1998 (SCOI-98/8). Scientific observers from Chile and Uruguay participated. The Committee congratulated Chile on this important initiative and noted its plans to convene the workshop again next year.

4.7 Last year, the Commission asked Members to consider intersessionally the extent to which it would be appropriate for scientific observers to collect information on vessels fishing in the Convention Area in contravention of CCAMLR conservation measures (CCAMLR-XVI, paragraph 8.20).

4.8 The Committee has already discussed a proposal prepared by Australia on the matter and submitted in CCAMLR-XVII/24 (paragraphs 2.38 and 2.39).

4.9 The Committee also took into account advice received from the Scientific Committee. In particular, the Scientific Committee was requested to examine to what extent the collection of such information might compromise the other duties of the scientific observers.

4.10 The Chairman of the Scientific Committee advised that any decision with regard to the involvement of scientific observers in collecting information on other fishing vessels should take into account the following:

- (i) issues of compliance with conservation measures are the responsibility of the Flag State;
- (ii) there is a risk of compromising scientific observers on board the vessel by duties which could be interpreted by its crew as being enforcement duties;
- (iii) reporting observations of other vessels, if conducted, should be done by observers after the completion of their observation programs, as part of summary cruise reports; and
- (iv) such reports should contain only factual information and no interpretation of it should be made.

4.11 The Committee felt that the independence and integrity of scientific observers should not be compromised and endorsed the operational mechanism outlined in parts (iii) and (iv) of paragraph 4.10. With respect to the requirement of recording factual information, Japan gave an example from the report of WG-FSA (SC-CAMLR-XVII, Annex 5) where a report mentioned a 'Japanese-designed trawler', a definition which does not exist.

4.12 During the intersessional period a number of Members wrote to the Secretariat and submitted papers on the subject of the implementation of the Scheme in the Subarea 48.3. The following papers relate to this matter: CCAMLR-XVII/15 (Spain), CCAMLR-XVII/16 (Chile), CCAMLR-XVII/17 (Argentina) and CCAMLR-XVII/27 (UK).

4.13 In relation to the imposition of a UK designated or approved scientific observer on board vessels fishing in Subarea 48.3, Argentina stated the following:

'Such action by the UK constitutes a violation of the multilateral scientific observation scheme established by CCAMLR. Argentina reiterates the terms of its Note contained in CCAMLR-XVII/17 and rejects the views expressed in the UK Note contained in CCAMLR-XVII/27, while it reserved its right to further comment on the latter.

The UK is not a Coastal State in the area of the Convention. Since the exceptions allowed for in the 1980 Chairman's Statement¹ are not applicable to waters adjacent to the South Georgia and the South Sandwich Islands, measures taken by the UK in respect of those waters are unilateral and therefore illegal. The imposition of a UK-designated observer is indeed inconsistent with the CCAMLR multilateral scheme of scientific observation which is fully applicable in that area. The implementation of this scheme is fundamentally bilateral but this component is lost when the relationship between the two states concerned turns into a contract of compulsion.

Argentina recalls its position reflected in the CCAMLR-XVI report, according to which only the multilateral regime of the Convention is to be applied in Subareas 48.3 and 48.4, and that the Convention and its conservation measures

¹ 1980 Statement by the Chairman of the Conference on the Conservation of Antarctic Marine Living Resources.

are not to be utilised for purposes other than those strictly established as objectives of the multilateral regime. The UK requirements in relation to observers of its designation or approval in Subarea 48.3, undermine the Scheme of International Scientific Observation and are contrary to the request made by the Commission at its Fifteenth Meeting in the sense that Argentina and the UK continue their discussions in order to resolve their differences in a spirit of cooperation.’

4.14 Russia posed a question to the UK regarding the rationale for calculating costs of observers. Russia was of the opinion that an effective competition should be maintained between various companies providing observers and that Flag States should be able to choose the most cost-effective option.

4.15 The statement of the UK is summarised as follows:

The UK indicated that the deployment of scientific observers on board vessels in Subarea 48.3 was part of its wider scheme to ensure the effective management of fish stocks in the waters of South Georgia, in line with CCAMLR objectives. Since 1993, when the 200 n mile zone around South Georgia and the South Sandwich Islands (SGSSI) had been introduced, the UK’s policies in support of the conservation of marine living resources had achieved success. All commercial and exploratory fisheries in South Georgia waters were being maintained in line with CCAMLR catch limits. Illegal fishing had not been observed since early 1996, whilst unregulated fishing was at a zero or very low threshold. These results were evident from Tables 5, 6 and 8 of the WG-FSA report (SC-CAMLR-XVII, Annex 5).

The rationale for the deployment of observers during 1998 had been to enhance the quality and consistency of observers’ reports, recognising that the data provided by such reports was vital to the management of the fishery. The reports in previous years showed variable, sometimes poor, quality of observation and data collection. The success of the CCAMLR Scheme of International Scientific Observation in 1998 had been clearly recognised by the Scientific Committee and WG-FSA, which had commented on the improved quality of reports and data in 1998.

In relation to concerns raised by Chile, Spain and Argentina, the UK indicated that, on costs, there was no agreement within CCAMLR on what such costs should be. The costs of UK-designated observers reflected real costs; no revenue had accrued to the UK from observer placements. Furthermore, the question of costs was a commercial consideration to be addressed by fishing companies when applying for licences. The costs were small compared with the overall potential revenues from the fishery and had not apparently deterred fishing vessels from participation in 1998.

On the nationality of observers, the UK indicated that it supported the multilateral nature of the CCAMLR Scheme of International Scientific Observation. But the UK also reiterated its right to decide on the manner of the implementation of the scheme in the waters adjacent to South Georgia and the South Sandwich Islands in line with the understandings of paragraphs 4 and 5 of the 1980 Chairman’s Statement. That right would be retained.

In conclusion, the UK drew the attention of the Committee to its Note of 15 October 1998, circulated to Parties under Comm Circ 98/82, which indicated that no action taken by the UK in respect of observers in 1998 had been inconsistent with CCAMLR conservation measures or its Scheme of International Scientific Observation, and that all observer placements had been held under the necessary bilateral arrangements.

4.16 The statement of Chile is summarised as follows:

Chile explained the rationale behind the Note addressed by the Director of its Foreign Ministry's Division for the Environment; and its own comments on the documents where Argentina, Spain and the UK stated their respective positions. From the Chilean perspective, the multilateral nature of the scheme and its contribution to the dissemination and the shared value of Antarctic science should never be compromised. In such context, the support by Argentina and Spain for these basic assumptions was greatly appreciated and acknowledgment in the UK reply of the essential components of the Scheme of International Scientific Observation offered the possibility of an agreement which all the Parties could seek interessionally, on the assumption that foresight and early consultation would help to prevent the occurrence of undesirable distortions in the application of the Scheme. Some of the matters concerning the scope and relevance of the 1980 Chairman's Statement raised by Argentina and the UK in their exchanges were of a political and legal nature and could be referred by the Parties to the dispute settlement provisions of the Convention. Nevertheless, with regard to the understandings of paragraphs 4 and 5 of the 1980 Chairman's Statement, harmonisation of measures being applied in all maritime spaces within CCAMLR's area of application was a subject being pursued by Chile in the framework of the agenda item on compliance with the Convention.

4.17 The statement of Spain is summarised as follows:

Spain explained that the reason behind the letter included in CCAMLR-XVII/15 was the concern about the possible confusion between the CCAMLR Scheme of International Scientific Observation and the imposition of other observers and observer fees outside the framework of the Commission. Spain reiterated its firm commitment to the multilateral character of the scheme under which the designation of international observers on board vessels fishing in the Convention Area is the result of an agreement between the Flag State and the State of nationality of the observer.

Some ambiguities in official communications from the UK gave rise to doubts as to whether CCAMLR observers could be designated by a State other than the Flag State, in conjunction with the State of nationality of the observer.

Furthermore, Spain worried that the CCAMLR Scheme of International Scientific Observation could then be used for commercial and lucrative purposes instead of scientific, by substantially modifying the fees usually charged until now.

In this context, Spain – setting aside the issues related to the 1980 Chairman's Statement raised by Argentina and the UK – welcomed the recognition by the UK of the multilateral nature of the Scheme of International Scientific Observation, including the acceptance of the rules of designation of the observer by agreement between the Flag State and the State of nationality of the observer.

4.18 In response to the statement of the UK, Argentina objected to the view expressed and reiterated its position in the sense that only the multilateral regime is applicable in Subareas 48.3 and 48.4.

ADVICE TO SCAF

5.1 There were no financial matters discussed by the Committee which would require consideration by SCAF.

OTHER BUSINESS

6.1 The Committee pointed out to the Commission that the issues now being dealt with within its agenda had grown considerably. In the opinion of the Committee it was now timely for the Commission to re-examine the Terms of Reference of the Committee which had been adopted in 1987 at CCAMLR-VI (*Basic Documents*, Part 8).

6.2 The Committee recommended that the Secretariat be requested by the Commission to examine intersessionally whether improvements could be made to Members' reporting obligations, including the *Reports of Members' Activities* and *Reports on Assessment and Avoidance of Incidental Mortality* to reduce the number of reports, duplication between reports and improve the timing of the reports' deadlines.

6.3 Australia tabled CCAMLR-XVII/35 which stressed the need for the Commission to adopt urgently an action plan that would establish a comprehensive approach for the elimination of illegal, unreported and unregulated fishing for *Dissostichus* spp. within the Convention Area.

6.4 The Committee noted the proposal and agreed to refer the paper to the Commission for consideration.

6.5 At the end of the Committee's deliberations, the Chairman and the Committee as a whole, welcomed the observer from Mauritius, who joined the meeting at this stage.

ELECTION OF THE CHAIRMAN OF SCOI

7.1 Australia proposed that Dr Figaj be re-elected to serve as Chairman of the Committee until the end of the Committee meeting in the year 2000. The proposal was seconded by the USA and Dr Figaj was re-elected as Chairman. The Committee congratulated and thanked him for the work he had done over the previous years.

ADOPTION OF THE REPORT

8.1 The report of the meeting was adopted.

AGENDA

Standing Committee on Observation and Inspection (SCOI)
(Hobart, Australia, 27 to 30 October 1998)

1. Opening of Meeting
2. Illegal, Unreported and Unregulated Fishing in the Convention Area
 - (i) Information Provided by Members in Accordance with Articles X and XXII of the Convention and the System of Inspection
 - (ii) Current Status of International Trade of *Dissostichus* spp.
 - (iii) Implementation and Effectiveness of Measures Adopted in 1997
 - (iv) Examination of Additional Measures
3. Operation of the System of Inspection and Compliance with Conservation Measures
 - (i) Implementation of Conservation Measures in the 1997/98 Season
 - (ii) Inspections Undertaken in the 1997/98 Season
 - (iii) Actions of Flag States in Respect of Inspections Undertaken
 - (iv) Improvements to the System of Inspection
4. Operation of the Scheme of International Scientific Observation
 - (i) Observations Undertaken in 1997/98 Season
 - (ii) Improvements to the Scheme
5. Advice to SCAF
6. Other Business
7. Election of Chairman
8. Adoption of the Report
9. Close of Meeting

LIST OF DOCUMENTS

Standing Committee on Observation and Inspection (SCOI)
(Hobart, Australia, 27 to 30 October 1998)

SCOI-98/1	Provisional Agenda
SCOI-98/2	List of Documents
SCOI-98/3	Reports of inspection Secretariat
SCOI-98/4	Provision of information in accordance with the System of Inspection and the Scheme of International Scientific Observation Secretariat
SCOI-98/5	New Norwegian regulations for fishing in the CCAMLR area Delegation of Norway
SCOI-98/6	Report on the use of automatic satellite-linked vessel monitoring system Delegation of Australia
SCOI-98/7	Automatic vessel monitoring system on board fishing and research vessels Delegation of Chile
SCOI-98/8	CCAMLR scientific observers: an account of a training experience Delegation of Chile
SCOI-98/9	Assessment of illegal longline fishing in French waters adjacent to the Kerguelen Islands (Division 58.5.1) during the 1997/98 season (1 July 1997–30 June 1998): estimate of removals of toothfish – observations on the Crozet Islands (Subarea 58.6) – impact on the environment Delegation of France
SCOI-98/10	Implementation of VMS during the 1998/99 Season Delegation of Uruguay
SCOI-98/11	Deployment of UK-designated CCAMLR inspectors and observers during the 1997/98 fishing season Delegation of the United Kingdom
SCOI-98/12	The US regulatory notice on the implementation of conservation and management measures adopted at CCAMLR-XVI Delegation of the USA
SCOI-98/13	Informe sobre medidas adoptadas por la republica Argentina en relación con el monitoreo satelital de buques Delegación de Argentina

SCOI-98/14	Awareness of CCAMLR conservation measures and use of information booklet on seabird by-catch on longliners in Subarea 48.3, 58.6 and 58.7 during the 1997/98 season Delegation of the United Kingdom
SCOI-98/15	Progress of Korea's implementation of CCAMLR Resolution 12/XVI Delegation of the Republic of Korea
SCOI-98/16	Summary of information on <i>Dissostichus</i> spp. trade Secretariat
SCOI-98/17	Summary of proposed measures to combat illegal, unreported and unregulated fishing in the Convention Area Secretariat
SCOI-98/18	Extract from the report of WG-FSA on unreported catches of <i>Dissostichus</i> spp. Secretariat
SCOI-98/19	Automated satellite-linked vessel monitoring system (VMS) Delegation of the United Kingdom
SCOI-98/20	Provision of information regarding CCAMLR-XVII/BG/31 and CCAMLR-XVII/BG/39 Delegation of Uruguay
Other Documents	
CCAMLR-XVII/15	Letter from Spain to the UK concerning the implementation of the CCAMLR Scheme of International Scientific Observation (Previously distributed in Spanish and English as Comm Circ 98/12) Delegation of Spain
CCAMLR-XVII/16	Letter from Chile concerning the implementation of the CCAMLR Scheme of International Scientific Observation (Previously distributed in Spanish and English as Comm Circ 98/33) Delegation of Chile
CCAMLR-XVII/17	Note from Argentina concerning the implementation of the CCAMLR Scheme of International Scientific Observation (Previously distributed in Spanish and English as Comm Circ 98/63) Delegation of Argentina
CCAMLR-XVII/21	Further measures to combat illegal, unreported and unregulated fishing in the Convention Area: measures to enhance compliance with CCAMLR requirements Delegation of New Zealand
CCAMLR-XVII/22	Requirement for Flag Vessels of Contracting Parties fishing or undertaking research in the Convention Area to be marked in accordance with the 'FAO Standard Specifications and Guidelines for Marking and Identification of Fishing Vessels' Delegations of Australia and New Zealand
CCAMLR-XVII/23	Further measures to combat illegal, unreported and unregulated fishing in the Convention Area: reports by scientific observers Delegations of Australia and New Zealand

CCAMLR-XVII/24	The implementation of an action plan to ensure the effectiveness of the conservation measures for <i>Dissostichus</i> spp. Delegation of Australia
CCAMLR-XVII/25	Further measures to combat illegal, unreported and unregulated fishing in the Convention Area: establishment of a CCAMLR vessel register Delegation of Australia
CCAMLR-XVII/26	Further measures to combat illegal, unreported and unregulated fishing in the Convention Area: use of satellite-linked vessel monitoring system Delegation of Australia
CCAMLR-XVII/27	Note from the UK concerning the implementation of the CCAMLR Scheme of International Scientific Observation (previously distributed as Comm Circ 98/82) Delegation of United Kingdom
CCAMLR-XVII/30	Draft Conservation Measure A/XVII Delegation of the European Community
CCAMLR-XVII/31	Draft Conservation Measure B/XVII Delegation of the European Community
CCAMLR-XVII/32	Conservation Measure 119/XVII Delegation of the European Community
CCAMLR-XVII/33	Conservation Measure XXX/XVII Delegation of the European Community
CCAMLR-XVII/34	Catch Certification Scheme for <i>Dissostichus</i> spp.: Draft Conservation Measures Delegation of the USA
CCAMLR-XVII/35	Action policy to combat illegal, unreported and unregulated fishing for <i>Dissostichus</i> spp. Delegation of Australia
CCAMLR-XVII/BG/3	Multilateral fisheries conservation and management arrangements: the use of trade measures Secretariat
CCAMLR-XVII/BG/12	The international trade in Patagonian toothfish: international involvement, concerns and recommendations Submitted by ASOC
CCAMLR-XVII/BG/13	Further measures to combat illegal, unreported and unregulated fishing in the Convention Area Delegation of Australia
CCAMLR-XVII/BG/19	Report on inspection and implementation of sanctions – 1997/98 Delegation of South Africa
CCAMLR-XVII/BG/23	CCAMLR website Secretariat

- CCAMLR-XVII/BG/24 United States report on trade in *Dissostichus*
Delegation of the USA
- CCAMLR-XVII/BG/29 South African legislation addressing the requirements of CCAMLR
conservation measures
Delegation of South Africa
- CCAMLR-XVII/BG/30 Correspondence with the International Coalition of Fisheries
Associations
Secretariat
- CCAMLR-XVII/BG/31 Illegal fishing within Australia's EEZ around Heard Island including
fishing in breach of CCAMLR conservation measures
Delegation of Australia
- CCAMLR-XVII/BG/38 Implementation and effectiveness of measures adopted in 1997 to
combat illegal, unregulated and unreported fishing in the Convention
Area
Delegation of Australia
- CCAMLR-XVII/BG/39 Update on prosecutions against vessels for alleged illegal fishing in
Australia's EEZ around the Territory of Heard Island and McDonald
Islands
Delegation of Australia
- CCAMLR-XVII/BG/40 Informe sobre procesos judiciales sustanciados en Chile por
infracciones a medidas de conservacion de la CCRVMA
(1992 a septiembre de 1998)
Delegación de Chile
- CCAMLR-XVII/BG/42 Summary of scientific observations conducted during the 1997/98
season in accordance with the Scheme of International Scientific
Observation and national observer programs
Secretariat
- CCAMLR-XVII/BG/45 Response to CCAMLR from the Forum Fisheries Agency (FFA) –
illegal, unreported and unregulated fishing
Secretariat
- CCAMLR-XVII/BG/49 ISOFISH Occasional Report No. 1
Submitted by ASOC
- CCAMLR-XVII/BG/50 ISOFISH Occasional Report No. 3
Submitted by ASOC
- CCAMLR-XVII/BG/53 Korean position on proposed conservation measure AAA/XVII
(CCAMLR-XVII/26)
Delegation of the Republic of Korea