

Council Regulation (EC) No 601/2004 of 22 March 2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999

## CHAPTER IV

### CONTROL AND INSPECTION

#### SECTION 1

#### CONTROL AND INSPECTION AT SEA

##### *Article 20*

##### **Scope**

This Chapter shall apply to Community fishing vessels and fishing vessels flying the flag of another Contracting Party to the Convention.

##### *Article 21*

##### **CCAMLR inspectors designated by the Member States to carry out inspections at sea**

1 The Member States may designate CCAMLR inspectors who may be placed on board any Community fishing vessel or, by arrangement with another Contracting Party, on board a vessel of the latter, engaged in or about to be engaged in the harvesting of marine living resources or in scientific research activities related to fisheries resources in the Convention area.

2 CCAMLR inspectors shall inspect vessels flying the flag of a Contracting Party other than the Community and its Member States in the Convention area for compliance with the applicable conservation measures adopted by the CCAMLR and, in the case of Community fishing vessels, for compliance with any Community conservation or control measures relating to fisheries resources applying to those vessels.

3 CCAMLR inspectors shall be familiar with the fishing and scientific research activities to be inspected, the provisions of the Convention and the conservation measures adopted under it. The Member States shall certify the qualifications of each inspector they designate.

4 Inspectors shall be nationals of the Member State which designates them and, while carrying out inspection activities, shall be subject solely to the jurisdiction of that Member State. They shall be accorded the status of ship's officer while on board and shall be able to communicate in the language of the flag State of the vessels on which they carry out their activities.

5 Each CCAMLR inspector shall carry an identity document approved or provided by the CCAMLR and issued by the designating Member State. That document shall indicate that the inspector has been designated to carry out inspections in accordance with the CCAMLR observation and inspection system.

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6 Member States shall transmit the names of the inspectors they designate, with a copy to the Commission, to the CCAMLR Secretariat within 14 days of their designation.

7 Member States shall cooperate with each other and with the Commission in the application of the system.

8 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

### *Article 22*

#### **Determining the activities that may be subject to inspection**

Research activities and the harvesting of marine living resources in the Convention area may be subject to inspection. Those activities shall be presumed where a CCAMLR inspector finds that the activities of a fishing vessel meet one or more of the following four criteria and there is no information to the contrary:

- (a) fishing gear is in use, has recently been in use or is ready to be used, including:
  - (i) nets, lines or pots are in the water;
  - (ii) trawl nets and doors are rigged;
  - (iii) baited hooks, baited pots or traps or thawed bait are ready for use;
  - (iv) logbook indicates recent fishing or fishing commencing;
- (b) fish which occur in the Convention area are being processed or have recently been processed, including:
  - (i) fresh fish or fish waste are stowed on board;
  - (ii) fish are being frozen;
  - (iii) operational or product information is available in this respect;
- (c) fishing gear from the vessel is in the water, including:
  - (i) fishing gear bears the vessel's markings;
  - (ii) fishing gear matching that on board the vessel;
  - (iii) the logbook indicates that gear is in the water;
- (d) fish (or their products) which occur in the Convention area are stowed on board.

### *Article 23*

#### **Marking of vessels carrying inspectors**

1 Vessels carrying CCAMLR inspectors shall fly a special flag or pennant approved by the CCAMLR to indicate that the inspectors on board are carrying out inspection duties in accordance with the CCAMLR inspection system.

2 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

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## Article 24

### Inspection procedures at sea

1 Any Community vessel present in the Convention area for the purpose of harvesting or conducting scientific research on marine living resources shall, when given the appropriate signal in the International Code of Signals by a vessel carrying a CCAMLR inspector, in accordance with Article 23, stop or take other such actions as necessary to facilitate the safe and prompt transfer of the inspector to the vessel, except where the vessel is actively engaged in harvesting operations, in which case it shall do so as soon as practicable.

2 The master of the vessel shall permit the inspector, who may be accompanied by assistants, to board the vessel. On boarding a vessel, an inspector shall present the document referred to in Article 21(5). Inspectors shall be provided appropriate assistance by the master of the vessel in carrying out their duties, including access as necessary to communications equipment.

3 The inspection shall be carried out so that the vessel is subject to the minimum interference and inconvenience. Inquiries shall be limited to the ascertainment of facts in relation to compliance with the CCAMLR conservation measures applicable to the flag State concerned.

4 Inspectors shall have the authority to inspect catches, nets and other fishing gear as well as harvesting and scientific research activities, and shall have access to records and reports of catch and location data insofar as necessary to carry out their functions. Inspectors may take photographs and/or video footage as necessary to document any alleged breach of CCAMLR conservation measures in force.

5 CCAMLR inspectors shall affix an identification mark approved by the CCAMLR to any net or other fishing gear which appears to have been used in breach of the CCAMLR conservation measures in force. They shall record this fact in the report referred to in Article 25(3) and (4).

6 If a vessel refuses to stop or otherwise facilitate transfer of an inspector, or if the master or crew of a vessel interferes with the authorised activities of an inspector, the inspector involved shall prepare a detailed report, including a full description of all the circumstances, and provide the report to the designating State to be transmitted in accordance with the relevant provisions of Article 25.

Interference with an inspector or failure to comply with reasonable requests made by an inspector in the performance of his duties shall be treated by the flag Member State as if the inspector were an inspector of that Member State.

The flag Member State shall report on actions taken under this paragraph in accordance with Article 26.

7 Before leaving the vessel that has been inspected, the CCAMLR inspector shall give the master of that vessel a copy of the completed inspection report referred to in Article 25.

8 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

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## Article 25

### Inspection report

1 Inspections at sea carried out in accordance with Article 24 shall be the subject of an inspection report in the form approved by the CCAMLR drawn up as follows:

- a CCAMLR inspectors shall report on any alleged breach of the conservation measures in force. Inspectors shall allow the master of the vessel being inspected to comment, on the inspection report form, about any aspect of the inspection;
- b inspectors shall sign the inspection report form. The master of the inspected vessel shall be invited to sign the inspection report form to acknowledge receipt of the report.

2 The CCAMLR inspector shall provide a copy of the inspection form together with photographs and video footage to the designating Member State not later than 15 days from the date of his return to port.

3 The designating Member State shall transmit a copy of the inspection form not later than 15 days from the date of its receipt, together with two copies of photographs and video footage to the CCAMLR.

The Member State shall also transmit one copy of the report together with copies of photographs and video footage to the Commission no later than seven days from the date of its receipt together with any supplementary report or information transmitted subsequently to the CCAMLR regarding the inspection report.

4 Any Member State which receives an inspection report or any supplementary reports or information, including reports under Article 24(6), concerning a vessel flying its flag shall transmit a copy to the CCAMLR and shall also transmit a copy to the Commission without delay, enclosing a copy of any comments and/or observations it may have transmitted to the CCAMLR following receipt of such reports or information.

5 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

## Article 26

### Infringement procedure

1 Where, as a result of inspection activities carried out in accordance with the CCAMLR inspection system, there is evidence of breach of the measures adopted under the Convention, the flag Member State shall ensure that appropriate measures are taken against the natural or legal persons responsible for the breach of the measures adopted under the Convention in accordance with Article 25 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy<sup>(1)</sup>.

2 The flag Member State shall, within 14 days from the date of the laying of charges or the initiation of proceedings relating to a prosecution, inform the CCAMLR and the Commission, and keep them informed of the progress of the proceedings and their outcome.

3 The flag Member State shall at least once a year report in writing to the CCAMLR, on the outcome of the proceedings as referred to in paragraph 1 and the penalties imposed. If the proceedings have not been completed, a progress report shall be made. When proceedings have

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not been launched, or have been unsuccessful, the report shall contain an explanation. The flag Member State shall transmit a copy of the report to the Commission.

4 Penalties provided for by flag Member States in respect of infringements of CCAMLR conservation measures shall be sufficiently severe as to effectively ensure compliance with those measures and to discourage infringements, and shall seek to deprive offenders of any economic benefit accruing from their illegal activities.

5 The flag Member State shall ensure that any of its vessels which have been found to have contravened a CCAMLR conservation measure do not carry out fishing operations within the Convention area until they have complied with the penalties imposed.

6 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

*F1* Article 26a

**[<sup>F1</sup>Report of vessel sighting]**

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**Textual Amendments**

**F1** Deleted by [Council Regulation \(EC\) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations \(EEC\) No 2847/93, \(EC\) No 1936/2001 and \(EC\) No 601/2004 and repealing Regulations \(EC\) No 1093/94 and \(EC\) No 1447/1999.](#)

SECTION 2

**CONTROL AND INSPECTION IN PORT**

*Article 27*

**Control and inspection in port**

1 Member States shall undertake inspection of all fishing vessels carrying *Dissostichus* spp. which enter their ports.

The inspections shall seek to establish that:

- a the catch to be landed or transshipped:
  - (i) is accompanied by the catch document for *Dissostichus* required under Council Regulation (EC) No 1035/2001 of 22 May 2001 establishing a catch documentation scheme for *Dissostichus* spp.<sup>(2)</sup>; and
  - (ii) it corresponds to the information contained in the document;
- b where the vessel has engaged in harvesting activities in the Convention area, that they are in compliance with the CCAMLR conservation measures.

2 To facilitate the inspections, the Member States shall require the vessels concerned to provide advance notice of their entry into port and to declare in writing that they have not

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engaged in or supported illegal, unregulated and unreported fishing activities in the Convention area. Entry into port shall be refused, save in emergencies, to vessels which fail to declare that they have not taken part in illegal, unregulated and unreported fishing activities or which fail to make a declaration.

In the case of vessels authorised to enter port, the competent authorities in the port Member State shall carry out their inspections as rapidly as possible and at the latest within 48 hours following entry into port.

Inspections shall impose no undue burdens on the vessel or its crew, and shall be guided by the relevant provisions of the CCAMLR system of inspection.

3 Where there is evidence that the vessel has fished in breach of the CCAMLR conservation measures, the competent authorities in the port Member State shall not authorise the landing or transhipment of the catch.

The port Member State shall notify the flag State of its findings and cooperate with it in carrying out an investigation into the alleged breach and, where appropriate, applying the penalties provided for under national law.

4 Member States shall notify the CCAMLR at the earliest opportunity of any vessel referred to in paragraph 1 to which access to port or authorisation to land or tranship *Dissostichus* spp. has been refused. The Member States shall simultaneously transmit a copy of that information to the Commission.

5 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 37(2).

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- (1) [OJ L 358, 31.12.2002, p. 59.](#)
- (2) [OJ L 145, 31.05.2001, p. 1.](#) Regulation as amended by Regulation (EC) No 669/2003 ([OJ L 97, 15.4.2003, p. 1.](#)).

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**Changes and effects yet to be applied to :**

- Regulation revoked by [S.I. 2020/1542 Sch. Pt. 1](#)