

**Report of the Standing Committee on
Implementation and Compliance (SCIC)**

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REPORT OF THE STANDING COMMITTEE ON IMPLEMENTATION AND COMPLIANCE (SCIC)

OPENING OF THE MEETING

1.1 The meeting of the Standing Committee on Implementation and Compliance (SCIC) was held in Hobart, Australia, from 24 to 26 October 2012. SCIC was tasked with addressing issues identified in Item 3 of the Commission's Agenda. The meeting was chaired by Ms K. Dawson-Guynn (USA).

1.2 All Members of the Commission participated, except Belgium and Sweden. Observers invited by the Commission to participate at CCAMLR-XXXI were welcomed and invited to participate in the meeting of SCIC as appropriate.

COMPLIANCE WITH CONSERVATION MEASURES IN FORCE

System of Inspection

2.1 SCIC considered the Secretariat's report on implementation of the System of Inspection and other compliance-related measures during 2011/12 (CCAMLR-XXXI/BG/21 Rev. 2).

2.2 It was noted that 59 inspectors had been designated by four Members. Seven reports had been submitted with respect to at-sea inspections. SCIC congratulated those who undertook at-sea inspections and encouraged them to pursue their efforts. All Members capable of undertaking at-sea inspections were encouraged to do so and to report their findings to the Commission. New Zealand thanked those Members whose vessels had been inspected for their cooperation with the inspections and for ensuring their safe conduct.

2.3 SCIC noted that the at-sea inspection reports highlighted three instances of non-compliance. These involved the Chilean-flagged *Antarctic Bay*, the Russian-flagged *Chio Maru No. 3* and the Korean-flagged *Hong Jin No. 701*. With respect to the *Antarctic Bay*, Chile advised that it was preparing a technical report on the infringement and was awaiting the outcomes of possible other actions before deciding whether to take the matter further.

Exploratory and krill notifications and preliminary assessments of bottom fishing

2.4 SCIC noted that following the krill fishery notification provided by Japan for the *Fukuei Maru*, the vessel had been sold to a Chinese company and renamed *Fu Rong Hai*. Japan advised that the vessel would not be replaced and the notification would not be used by Japan. Japan advised that the notification had been provided to the Secretariat on or before 1 June 2012 and the *Fukuei Maru* had been exported after that.

2.5 China advised that the notification details in respect of catch and gear would not change. China and Japan stated that there was no clear provision in Conservation Measure (CM) 21-03 that prescribes the transfer of notification to a different flag.

2.6 Concern was expressed that a change of vessel flag was not in accordance with paragraphs 1 and 3 of CM 21-03. It was noted that this was the first time that a krill notification had been transferred to a different flag than that of the Member that provided the notification.

2.7 Several Members welcomed China's reassurances but remained concerned that a krill vessel might be allowed to fish without meeting the agreed notification requirements. There was concern about the precedent this could set and that it could encourage Members to possibly 'sell' a fishery notification. Members were satisfied that on this occasion the vessel could proceed to the fishery only due to the advice of the Scientific Committee that their work was not impacted by the late notification. The USA noted that it was, in part, due to the poor quality of information contained in fishery notifications in general. It was stressed by Members that these circumstances must not be regarded as a precedent for the future transfers of fishery notifications due to changes in vessel ownership and flag.

2.8 New Zealand requested that Ukraine confirm the current flag of the *Poseydon I*. Some Members also noted that important information had not been provided with respect to a number of fishery notifications. Ukraine explained that the photos provided with the notification of the *Poseydon I*, which is now under Ukrainian flag, were made when the ship was under a previous flag with the markings of a previous flag. The vessel is currently under repair and being painted. Upon the completion of the repairs in a few days, new photos of the ship with Ukrainian markings shall be provided to the Secretariat.

2.9 Chile advised that the reason for the absence of some information for one of its vessels was that the fishing company had made the commercial decision to fish but, at the time of notification, had not identified the specific vessel that would be fishing. The vessel information had subsequently been provided.

2.10 The USA considered that provision of full information is a requirement of CMs 21-02 and 21-03 and expressed its concern that vessels of a few Members were missing essential information from their fishery notifications. The Members confirmed they would provide this information to the Secretariat and would not license these vessels to fish until they had done so.

2.11 New Zealand noted that some photographs provided for vessels in accordance with CM 10-02, paragraph 3(x) were of poor quality and that this could have implications for search and rescue in the event of an accident at sea. SCIC appealed to Members to ensure high-quality photographs were provided for their vessels.

2.12 All Members notifying exploratory bottom fisheries had submitted preliminary assessments of known and anticipated impacts of bottom fishing activities on vulnerable marine ecosystems (VMEs) in accordance with CM 22-06. SCIC noted all preliminary assessments of proposed bottom fishing had been received by the required deadlines.

Tagging program

2.13 SCIC noted advice with respect to compliance with minimum tagging rates during 2011/12 (CCAMLR-XXXI/BG/21 Rev. 2, Table 3). All vessels achieved the required minimum tagging rate. It was noted that all vessels except the South African-flagged *Koryo Maru No. 11* achieved the required tag-overlap statistic. South Africa advised that all available data had been submitted and that it had received a commitment from the *Koryo Maru No. 11* that, despite the 2011/12 problems with the large size of the fish caught, it would in future fully comply with tag-overlap requirements. In addition, the vessel achieved an overall tag overlap of about 70% for the year. South Africa undertook to monitor this and report as necessary.

Environmental protection and mitigation measures

2.14 SCIC considered reports compiled by international scientific observers in respect of vessels' conformity with CMs 24-02, 25-02, 25-03 and 26-01 (WG-FSA-12/66 Rev. 2 and 12/70 Rev. 2). Observations during the 2011/12 season included:

- (i) There were no reports this year of the use of bait box packaging bands.
- (ii) Occasional incidents of the disposal at sea of inorganic waste were reported from observers on the *El Shaddai* and the *Koryo Maru No. 11*. Hooks were also observed in offal discarded from the *El Shaddai*, as well as the disposal of fishing gear at sea.
- (iii) Three vessels were reported to have failed to comply with all the requirements relating to the design of streamer lines. The *Sparta* and the *Koryo Maru No. 11* were reported as having streamers of less than 1 m length. The *Antarctic Chieftain's* tori pole did not meet the minimum height of 7 m. New Zealand stated that it took this matter seriously and it had issued a formal warning to the vessel operator. New Zealand added that the operator has carried out remedial work on the vessel to rectify the situation.
- (iv) It was reported that in Subarea 48.3 and Division 58.5.2, bird exclusion devices had been used on 100% of longline hauls. However, in Subareas 58.6 and 58.7 it was reported that the *El Shaddai* had not used a device during all hauls.
- (v) Members were also pleased to hear that compliance with night setting requirements remained high in 2011/12, with 100% compliance in Subareas 48.3, 58.6 and 58.7. In other subareas, vessels demonstrated full compliance with the measure for line weighting which exempted them from the night setting requirement.

2.15 South Africa reported that it had a meeting with the holders of the vessels *El Shaddai* and *Koryo Maru No. 11* regarding the issues on the reported non-compliance of their vessels in respect of CMs 25-02 and 26-01. The vessels were given stern warnings, and if similar offences be reported in future, the Department of Agriculture, Forestry and Fisheries will revoke or suspend the vessels' licences. Members welcomed this advice.

2.16 SCIC noted that there were no reported instances of non-compliance with CM 25-02 for those vessels operating in 2011/12 in Subarea 48.3. Therefore, all vessels which operated in this area in 2011/12 could be potentially eligible to be granted a licence extension to the fishing season.

Closure of fisheries

2.17 SCIC noted that in 2011/12 catch limits were exceeded on three occasions and the amount caught in excess of the limit (overrun) was <1 tonne (SSRU 5842E), 1 tonne (SSRU 5841E) and 123 tonnes (SSRUs 881B, C and G).

2.18 Members raised the question on whether the 123 tonne overrun in Subarea 88.1 indicated possible illegal activity or resulted from other factors. Some Members noted this was an over-capacity issue and could also represent a compliance issue. SCIC noted that no lines were set after the closure notice was issued.

2.19 The Secretariat advised SCIC that the fishery opened on 1 December 2011. By 11 December, 360 tonnes had been taken, representing 84% of the catch limit. In the last two days of the fishery, 200 tonnes were reported to have been caught.

2.20 The Secretariat advised SCIC that a contributing element could be the 12-hour time lag in the submission of catch data and the daily assessment of catch and effort. This is complicated by the offset between UTC and local time in the fishery, and compounded by the fact that the International Date Line passes through some SSRUs. The Secretariat noted that reports with a two-hour lag time would facilitate a more timely closure of fisheries.

2.21 SCIC agreed that the Secretariat could be tasked with analysing any future overruns and providing advice to Members in advance of future meetings of the Scientific Committee and SCIC so that the circumstances can be adequately understood.

2.22 New Zealand (CCAMLR-XXXI/BG/28 Rev. 1) and the UK (CCAMLR-XXXI/BG/30) submitted reports relating to the delayed departure of their vessels from SSRU 881C. In both instances, delayed vessel departures from the closed fishery were attributed to ice and weather conditions. In the case of these vessels, adverse weather and sea-ice conditions led to the loss of gear which the vessels were, by definition, unable to remove before closure. Subsequent investigation confirmed the vessels to be in full compliance and not responsible for any catch overrun. Vessels involved reported all gear lost.

Port inspections

2.23 SCIC noted that five Members submitted port inspection reports for 2011/12. These represented 44 inspections, of which 26 were reported to comply with the relevant conservation measures. The non-compliance reported related to unmarked inflatable buoys, absence of bottles or time–depth recorders, absence of tamper-proof seals on automatic location communicators (ALCs), and non-compliant streamer lines. It was noted that all of the incidents of non-compliance related to fishing activities outside the Convention Area.

2.24 Some Members noted with concern that port inspections were only conducted by five Contracting Parties and there appeared to be a number of Contracting Parties not fulfilling their obligations in respect of CM 10-03. SCIC requested that the Secretariat prepare an analysis for the past two years of landings by toothfish vessels and port inspection frequency and encouraged all Members to ensure full compliance with CM 10-03. SCIC requested that this information be provided annually.

VMS reporting

2.25 The Secretariat reported on the implementation of the vessel monitoring system (VMS) during the 2011/12 period. SCIC noted difficulties arising in respect of vessels' voluntary submission of VMS data to the Secretariat from outside the Convention Area. SCIC agreed that the provision of vessel details and reporting periods for vessels that voluntarily report VMS data to the Secretariat, at least 14 days prior to the commencement of VMS reporting, would assist the Secretariat in monitoring these vessels and would assist in the application of non-reporting alerts.

2.26 Chile introduced CCAMLR-XXXI/BG/32, relating to its domestic VMS and Catch Documentation Scheme for *Dissostichus* spp. (CDS) arrangements, noting the pending increase in the number of vessels involved and potential impact on the CDS. SCIC noted that this highlighted the need for developing and providing links between the VMS and CDS. France noted that the potential discrepancy between VMS and CDS data may need attention to avoid unnecessary suspicion of fraud and delays in trade.

Control of nationals

2.27 SCIC considered information submitted by Spain on the implementation of CM 10-08 during 2011/12 regarding domestic legal proceedings against the master and the ship owner of the IUU-listed vessel *Tchaw*. Spain also reported on action it is pursuing against Spanish nationals implicated in the activities of the IUU-listed vessels *Pion*, *Kuko* and the provisionally IUU-listed refrigerated cargo vessel *Baiyangdian*. Spain emphasised that it continues to take firm action against any of its nationals where there is evidence of involvement with IUU fishing.

Transshipments

2.28 SCIC considered information relating to transshipment reports during 2011/12. SCIC noted that a Korean vessel had failed to provide 14 transshipment reports in accordance with CM 10-09, paragraph 2. The Republic of Korea advised SCIC that this had been a genuine oversight, that there had been no intention of not complying with reporting requirement and undertook to ensure that this would not happen again. SCIC encouraged Korea to comply with the reporting requirements.

COMPLIANCE EVALUATION PROCEDURE

3.1 SCIC considered the development of a conservation measure provided by Australia as the Convener for the Development of a Compliance Evaluation Procedure (CCAMLR-XXXI/29). Australia noted that the draft conservation measure incorporated the comments received from a number of Members at CCAMLR-XXX and in the intersessional period.

3.2 Several Members thanked Australia for its work on this initiative over several meetings and welcomed the draft conservation measure that had been submitted. The conservation measure was regarded by many Members as a useful tool to assess the effectiveness of conservation measures. Some Members thought highly of the proposed conservation measure, stressing that compliance with conservation measures is essential to achieving the objective of CCAMLR. Some concerns were expressed with respect to the number of conservation measures that would be used as assessment criteria, the potential workload for the Secretariat, and the time lag between the assessment and consideration by the Commission. Members agreed that these issues could be satisfactorily accommodated in the drafting of the measure which was referred for adoption by the Commission.

3.3 It was noted that conservation measures included in the CCAMLR Compliance Evaluation Procedure report template were selected on the basis of their suitability for the procedure, not preventing other CCAMLR bodies to propose the inclusion of other conservation measures.

Proposals for new and revised measures

3.4 The EU proposed amendments to CM 51-06 (CCAMLR-XXXI/32). The proposal, based on the recommendations of WG-EMM, would extend the scheme of scientific observation in krill fisheries by two years, increase the scheme's coverage to 80% of vessels and change the sampling frequency. Members welcomed the proposal and requested the advice of the Scientific Committee to assist in the further consideration of this revised measure.

3.5 The EU proposed amendments to CM 21-03 (CCAMLR-XXXI/33) and CM 23-06 (CCAMLR-XXXI/34). These amendments would introduce the assessment of uncertainty and variability in the estimation of green weight in the notifications of intent to participate in krill fisheries (CM 21-03) or catches in krill fisheries (CM 23-06). Members welcomed the proposal and requested the advice of the Scientific Committee to assist in the further consideration of these revised measures.

3.6 The USA proposed revisions to CM 10-05 (CCAMLR-XXXI/38). These revisions would remove ambiguities, conform the language in the conservation measure to the current electronic system, and reflect the practical operation of the CDS.

3.7 Many Members welcomed the proposal. A number of suggestions were made about the proposed amendments, including the use of the container number, bills of lading, retention of the role of the vessel masters, more accurate and efficient use of time-stamping of transactions, and clarity with respect to shipments that are in transit. Some Members were concerned that the proposed amendments could be interpreted as creating additional obligations with respect to vessels operating solely within a Member's EEZ.

3.8 The USA and the EU proposed revisions to CM 10-03 (CCAMLR-XXXI/39). These revisions would strengthen the port inspection scheme by extending the scheme beyond vessels carrying *Dissostichus* spp., and harmonising its obligations with those in CMs 10-06 and 10-07.

3.9 Many Members supported this proposal which would strengthen port inspections and prevent IUU operators from landing their product in Members' ports. Some Members expressed concern about extending the species covered.

3.10 The EU proposed the adoption of a new conservation measure (CCAMLR-XXXI/31) that would add to the suite of measures used to combat IUU fishing in the Convention Area by introducing the capacity to take trade-related action against CCAMLR Contracting Parties and non-Contracting Parties (NCPs) failing to comply with CCAMLR conservation measures.

3.11 The EU made the following statement:

'The EU recalls that this proposal has already been tabled at CCAMLR-XXV, XXVI, XXVII, XXVIII, XXIX and XXX.

The EU stated that the market-related measure will be an essential tool in the fight against IUU. Once again this year we witness a situation in which some vessels already included in the CCAMLR IUU list, have been continuously sighted in the CAMLR Convention Area, proving that these vessels and their operators enjoy landing facilities and open markets for imports.

The EU indicated that it was evident that there is a need to keep on improving and strengthening the CCAMLR rules destined to combat IUU fisheries, in particular vis-à-vis the Flag States which may be hosting these vessels, and therefore do not cooperate with CCAMLR in order to ensure the rational use and conservation of the Antarctic living marine resources. The market-related measure proposed by the EU will establish the criteria and procedures for market-related measures in a transparent and non-discriminatory way, in conformity with the WTO, and, more importantly, as a measure of last resort.

The EU expressed concerns about the fact that some of the delegations opposing the EU proposal this year did not raise any disagreement when the same proposal was also tabled for adoption at previous meetings of CCAMLR and enquired about the reasons for the change of their position.

The EU also noted that some of the CCAMLR Members which expressed concerns as to this proposal are currently bound by this measure in other fora like the International Commission for the Conservation of the Atlantic Tuna (ICCAT) where market-related measures have been successfully applied in the fight against IUU fishing.

The EU added that, in this regard, the adoption of market-related measures is even more justified in CCAMLR, which is more than an RFMO and an organisation with the main objective of conservation of marine living resources. IUU fishery is a great threat to the Antarctic marine living resources and CCAMLR should take every effort to combat it.

The EU underlined that it has been working with a number of delegations over the past year to convince them of the merits of this proposal and its legality and regrets that these contacts have borne no fruit.’

3.12 A number of Members expressed support for this initiative as an important addition to the tools used to combat IUU fishing. These Members noted that the proposal was identified in the Performance Review and considered that it was within the competence of CCAMLR to implement such a measure. These Members supported the proposed measure and considered that the measure is designed to provide the Commission and its Members with the flexibility to tailor implementation of the measure on a case-by-case basis in order to take into account relevant international trade obligations.

3.13 While agreeing with the objective of combating IUU fishing, a number of other Members disagreed with this method for achieving it. These Members noted that the proposal has been considered by the Commission on a number of occasions previously and that there had been no substantive change to the proposal despite the concerns raised. It was the opinion of these Members that such a measure could be discriminatory and not compatible with international trade law, including under the World Trade Organization (WTO). Some Members sought clarification of the method to be adopted and received no response on this.

3.14 The EU noted that it appeared that the positions of some Members were inconsistent as trade-related action had been supported within other fisheries regimes. Members with specific concerns were urged to make constructive suggestions to the EU on improving the proposal.

3.15 Argentina made the following statement:

‘Argentina agrees with the EU on the importance given to fight IUU fishing within the Convention Area. However, it understands that this proposal is not the right way to do it.

Argentina indicated that, while this proposal had been under consideration along a number of meetings, this does not mean that new arguments have been presented.

Argentina reiterated its position that the proposed measures represent an unfair restriction on trade and an arbitrary and unjustifiable discrimination under the rules of the WTO. It also recalled its exhaustive presentations supported by the presence of relevant experts (CCAMLR-XXVII and CCAMLR-XXVIII) detailing the reasons why it cannot support this proposal.

Argentina noted the fact that these arguments have not been challenged to date and recalled that other measures, such as CM 10-08, are an appropriate tool to act against IUU fishing.

Argentina noted that it is enough to read the Performance Review of some RFMOs to realise that they should not be an example to be followed by CCAMLR.

Argentina indicated that actions taken in the context of an RFMO whose objectives are the optimisation of economic benefits should not be transferred to the context of the Antarctic Treaty System.

Moreover, Argentina indicated that trade-related measures entail an appropriation of the resources, a fact that will undermine the ATS and CCAMLR legitimacy. The Performance Review Panel of CCAMLR in 2008 recognised the differences between this organisation and the RFMOs and recommended to maintain these differences. Adopting the proposed trade-related measures would be a large step against this recommendation.'

3.16 Brazil expressed its full support to the concerns raised by Argentina.

3.17 South Africa made the following statement:

'South Africa has suffered tremendously from IUU fishing. A case in point is the decimation of the Patagonian toothfish fishery around the Prince Edward Island in the 1990s which is well described in the CCAMLR documents. It is precisely because of that fact that South Africa would welcome measures that are meant to combat IUU fishing. South Africa supports all CCAMLR efforts that are in line with international law which are aimed at combating IUU fishing. A recent example is CM 10-08. We are encouraged by reports in CCAMLR-XXXI that some Members are investigating and discouraging nationals that are suspected of being involved in IUU fishing. However, market-related measures as proposed by the EU Delegation are not acceptable. We fully support the position outlined by the Delegation of Argentina, both in CCAMLR-XXXI and other previous CCAMLR meetings with regards to market-related measures. We also wish to reject the notion that South Africa is inconsistent by supporting market-related measures in other organisations and rejecting them at CCAMLR.'

3.18 Uruguay made the following statement:

'Uruguay reiterates its position of deep commitment with the objective of conservation of living resources and the fight against illegal fishing. We appreciate the work done over the years by the EU but share the statement of Argentina, Brazil and South Africa.'

3.19 Namibia made the following statement:

'Namibia fully supports the position of both Argentina and South Africa with regard to the proposed EU trade-related measures. Namibia is of the view that these measures could result in destabilising the economies of the developing world. Namibia also sees no need for the EU to base its argument on the measures adopted by ICCAT, as the two organisations have different mandates and membership. If the EU is willing to have the same ICCAT measures adopted by CCAMLR, then Namibia suggests that the EU table those ICCAT measures at the CCAMLR meeting, so that the CCAMLR Contracting Parties could apply their mind and make their own informed decision.'

3.20 Some Members noted that future consideration of the proposed measure would be aided by specific examples of the trade-related action that could be considered.

3.21 The USA welcomed the EU's market measures proposal once again and noted that market-related measures would be a useful tool for CCAMLR in addressing IUU fishing and promoting compliance with CCAMLR conservation measures.

3.22 The USA welcomed the fact that the proposed resolution insists that action by CCAMLR must be consistent with international obligations, and expressed the view that it is designed so that subsequent trade-related measures will be applied consistent with international trade obligations. The USA expressed its strong support for the approach of the proposal, in particular that it ensures due process prior to a determination that a Party is not fulfilling its obligations or a non-Contracting Party is undermining CCAMLR measures, that there are opportunities for identified Parties and non-Contracting Parties to respond to identifications and to rectify their actions, and that this measure is designed to provide the Commission and its Members with the necessary flexibility to tailor implementation of the measure on a case-by-case basis in order to take into account relevant international trade obligations.

3.23 The USA also expressed the view that it would be very disappointing if CCAMLR was unable to adopt the proposal at CCAMLR-XXXI.

3.24 The EU expressed its profound disappointment about the lack of progress during CCAMLR-XXXI on this measure.

3.25 Recalling the discussion in the previous meeting of the Commission (CCAMLR-XXX, paragraph 12.55), the Secretariat presented a new conservation measure (CCAMLR-XXXI/15) that would consolidate closely related measures. In developing the proposed measure, the Secretariat took account of comments received from Members intersessionally. The new measure would consolidate CMs 32-02 to 32-08 and 32-10 to 32-17 (it was proposed to omit CM 32-09 which relates to Patagonian toothfish and is subject to annual revision). The consolidated measure would address fishing directed at specific taxa, include by-catch issues, update the relevant statistical areas, and include existing reservations with respect to adjacent islands and areas subject to national jurisdiction.

3.26 Members supported the consolidation of these measures and noted that simplifying the requirements would minimise potential confusion.

3.27 In response to concerns raised by the Scientific Committee, France and the EU proposed amendments to CM 33-03 to address the issue of skate by-catch experienced in the exploratory fishery in Division 58.4.3a. The proposal was intended to clarify the circumstances under which skates can be returned to the water and improve knowledge of skate abundance in this division. It was proposed that fish returned to the water must be in good condition, the numbers recorded and the Secretariat advised.

3.28 The UK proposed amendments to CM 25-02 to clarify that vessels should implement systems to ensure the removal of all fish hooks from offal prior to discharge.

VESSEL MONITORING SYSTEM

4.1 The Secretariat presented the results of its review into the performance of the VMS (CCAMLR-XXXI/13 Rev. 1). The review had been endorsed at CCAMLR-XXX with a view to examining the system's cost-effectiveness and its ability to assist fisheries management.

4.2 Two key issues drove the Secretariat's evaluation of CCAMLR's VMS: support for the VMS software beyond 2014; and the broader issue of modernising the IT environment, including the Commission's future functional requirements of the system.

4.3 Members considered that both aspects should be taken together and some Members identified a number of additional desirable features that should be provided by CCAMLR's VMS, including integration with the CDS and catch and effort reporting and greater alert functionality.

4.4 It was noted that a detailed functional specification should be developed and a sound procurement process put in place. The USA proposed that work be carried forward intersessionally by an informal technical and operational advisory working group. The group should also provide recommendations for additional enhancements beyond upgrading the software utilised by the Secretariat. A number of Members expressed interest in being involved.

4.5 Some Members supported the process that the Secretariat proposed for replacing the CCAMLR VMS. This is based on utilising the 'minimum criteria matrix' which allows for the transparent assessment of potential vendors.

4.6 SCIC recommended that the Secretariat be tasked with leading intersessional work and that this be initiated by a COMM CIRC inviting Members to be involved and to nominate relevant experts. It was noted that at this stage the costs of an enhanced VMS are not known. The UK suggested that the new system should not be funded through special funds, which had been established for specific purposes not covered by the regular budget. It was therefore agreed that the Standing Committee on Administration and Finance (SCAF) should be advised that this process will be under way and may result in a request at CCAMLR-XXXII for the identification of a suitable funding mechanism.

SAFETY OF FISHING VESSELS

5.1 ASOC introduced CCAMLR-XXXI/BG/13 which presented a range of measures that could be taken relating to vessel safety.

5.2 Members expressed general support for these sentiments. Argentina noted that action must be taken to improve safety as, in terms of biomass, human casualties currently are larger than seabird mortality. The UK emphasised the importance of adequate ice-strengthening of vessels, especially in areas subject to increasing sea-ice cover. Australia noted that improved safety provisions for fishing vessels are also important for the safety of Members conducting at-sea inspections. Australia also noted that ASOC's reference to the *Antarctic Chieftain* suffering a cracked hull was incorrect.

5.3 The Republic of Korea and Russia provided information to SCIC on the handling of the incidents involving the *Jung Woo No. 2* and the *Sparta*. They also responded to questions relating to the subsequent investigations into the incidents. Some Members enquired whether the master and crew of the *Jung Woo No. 2* will be on vessels in 2012/13. Korea advised that the ex-master of the *Jung Woo No. 2* is on board the *Sun Star*, which replaced the *Jung Woo No. 2*, as a deckhand and two crew members are on board the *Sun Star*. The other four Korean

crew members were not on any vessel owned by the owner of the *Sun Star*. All foreign crew members returned to their home countries. Members welcomed the additional information that was provided.

5.4 The EU proposed that the reference in the Resolution 34/XXX, paragraph 1, encouraging Members to consider ratifying the 1993 Torremolinos Protocol be updated to reflect the 2012 Cape Town Agreement on the implementation of the protocol.

IUU FISHING IN THE CONVENTION AREA

Current level of IUU fishing

6.1 France advised SCIC on IUU fishing in Area 58 (CCAMLR-XXXI/BG/35). France continued to use satellite data and at-sea surveillance, including in close cooperation with Australia. No IUU fishing was observed in the French EEZs around Iles Crozet and Kerguelen in 2011/12 although suspected IUU fishing gear was reported by licensed vessels. France reported sightings of the *Pion* in international waters. The refrigerated cargo vessel *Baiyangdian* and the fishing vessel *Wutaishan Ahui 44* were observed in Division 58.4.1. The *Huang He 22* and the *Huiquan* were sighted in Subarea 58.6 and both vessels appeared to have been fishing.

6.2 Australia reported to SCIC on patrol activities in the Heard Island and McDonald Islands (HIMI) EEZ and confirmed the presence of the *Baiyangdian* and the *Wutaishan Ahui 44* in Division 58.4.1. Australia advised that it estimated the IUU catch within the HIMI EEZ was between 0 and 50 tonnes.

6.3 Some Members welcomed the joint efforts by France and Australia, as well as other Members, to undertake patrols in the Southern Ocean. They noted this work is important because it contributes to addressing CCAMLR's priority of dealing with IUU fishing.

6.4 The Secretariat provided a report on the current status of IUU fishing in the Convention Area (CCAMLR-XXXI/17 Rev. 4).

6.5 Three vessels were reported to have engaged in IUU fishing activity in the Convention Area during 2011/12. Two of these vessels are on the NCP-IUU Vessel List. These are the *Huiquan* and the *Huang He 22* which had been sighted by France and Australia. A third vessel, the *Baiyangdian*, was also sighted and was proposed for the NCP-IUU Vessel List.

6.6 Six vessels, reported to be associated with IUU fishing, were sighted outside the Convention Area in 2011/12 (CCAMLR-XXXI/17 Rev. 4, Table 1). Four of the identified vessels were reported to be using gillnets and one, the *Huang He 22*, was reported to be using longlines. The *Baiyangdian*, a refrigerated cargo vessel, was sighted being towed by the *Huang He 22*.

6.7 Six port visits were reported for three IUU vessels, although SCIC recognised that these figures may understate the port visits because the automatic identification system (AIS) might not present the full picture.

6.8 Some of the vessels sighted have a history of involvement with transshipment, and strong circumstantial evidence was provided that the *Baiyangdian* had been engaged in supporting IUU fishing-related activities in the Convention Area.

6.9 SCIC noted that the sightings in Division 58.4.1 suggest that *Dissostichus mawsoni* was being targeted. Given that there has previously been only one sighting in Subarea 58.6, it may be indicative of a new pattern emerging.

6.10 A Member asked the Secretariat if contact was made with the Flag States of vessels suspected of IUU fishing activity. The Secretariat advised SCIC that in accordance with CMs 10-05 and 10-07 and the Policy to Enhance Cooperation with NCPs, the Secretariat writes to NCPs regularly but rarely receives a response. Spain advised SCIC that it had sought to obtain from Tanzania and Honduras the names of any Spanish nationals on board vessels flagged in those countries so that it might pursue action against them. The EU advised that on the basis of its contacts with Tanzanian authorities, Tanzania advised of the deregistration of the *Baiyangdian* from its vessel register. This information was circulated in COMM CIRC 12/105.

6.11 ASOC introduced CCAMLR-XXXI/BG/16 which identified further action with regard to measures that Members could take. These include further efforts in cooperation with NCPs; compliance with CM 10-08; develop mechanisms to ensure that Contracting Party vessels which have committed serious infringements are listed on the CCAMLR CP-IUU Vessel List; strengthen CCAMLR's Port State measures and apply them to all vessels operating in the Convention Area; provide financial and technical support to developing Contracting Parties which commit themselves to implementing new Port State controls; ratification of the FAO Port State Measures Agreement. Russia supported further Port State measures and the EU noted that ASOC might like to include trade-related measures in its recommendations.

6.12 New Zealand thanked ASOC for the paper and noted with appreciation that significant work had already been undertaken by Australia in strengthening port inspections amongst the Parties to the Regional Plan of Action to Promote Responsible Fishing Practices Including Combatting IUU Fishing in the Region (RPOA), including, with respect to Singapore and Malaysia. New Zealand encouraged Australia to continue the good work in this regard.

IUU VESSEL LISTS

7.1 SCIC considered the Provisional CP-IUU Vessel List (CCAMLR-XXXI/17 Rev. 4, Appendix I). The Provisional List included the *Chio Maru No. 3* and the *Hong Jin No. 701*.

7.2 New Zealand reported on the boarding and inspection of the *Chio Maru No. 3*. It welcomed the cooperation of the master in allowing inspection of the entire vessel and its records. As a result of the inspection, including noting the presence and operation of machinery for the disposal of offal at sea, New Zealand reported the possible failure to comply with CMs 10-01 and 26-01.

7.3 New Zealand also reported on the boarding and inspection of the *Hong Jin No. 701*. Again, full cooperation with the inspection was received. As a result of the inspection, New Zealand reported possible failure to comply with CMs 10-01 and 10-02.

7.4 Russia advised that as a result of its investigation of the incident involving the *Chio Maru No. 3* it had taken a number of actions to prevent a recurrence, including decommissioning of the offal grinding machinery. It further advised that the vessel would not be permitted to fish in the Convention Area in 2012/13. Russia noted that this incident of non-compliance did not constitute IUU fishing and requested that the vessel not be included on the Proposed CP-IUU Vessel List.

7.5 Some Members noted with concern the seriousness of non-compliance with respect to measures designed to avoid seabird mortality. Australia also noted that the non-marking of buoys was a common practice among IUU operators.

7.6 SCIC welcomed the investigation by Russia, the sanctions imposed, the assurance that the vessel would not enter the fishery in 2012/13, and the assurance that the vessel would fully comply in future. The *Chio Maru No. 3* was subsequently not included in the Proposed CP-IUU Vessel List to be forwarded to the Commission.

7.7 The Republic of Korea advised that with respect to the *Hong Jin No. 701* it had undertaken a thorough investigation. It concluded that all the required documentation was in place and that the correct marking of fishing gear was subsequently completed. It reported that the failure to provide the licence documentation had been as a result of miscommunication between the inspectors and the vessel's master as to what was being requested. The necessary documentation had been in place at the time and was subsequently forwarded to the Secretariat. Korea was of the view that this issue was not intentional and did not undermine the conservation objectives of CCAMLR and therefore the vessel should not be included on the Proposed CP-IUU Vessel List. The *Hong Jin No. 701* was subsequently not included in the Proposed CP-IUU Vessel List to be forwarded to the Commission.

7.8 Some Members welcomed Korea's advice but considered that non-compliance still represented another incident involving a vessel previously implicated in non-compliance. Korea requested the Secretariat to clarify if the *Hong Jin No. 701* lines in 2010/11 were non-compliant. The Secretariat advised that the *Hong Jin No. 701* line weighting was compliant.

7.9 Several Members expressed concern about the repeated evidence of non-compliance with conservation measures, as this represents undermining of the objectives of CCAMLR and the conservation measures for which considerable effort had been invested. While welcoming action taken by Members to respond to the issues raised by specific inspections, serious concerns were expressed about the apparent persistent non-compliance with conservation measures by some vessels. The Republic of Korea, in particular, was urged to take steps to ensure that its vessels not be identified as non-compliant again.

7.10 Some Members expressed gratitude to New Zealand and other Members that undertake at-sea and port inspections, which are crucially important to ensure compliance with CCAMLR conservation measures. Member non-compliance with conservation measures undermines the objectives of the Convention and is of great concern. In particular, the USA expressed concern that the compliance with seabird by-catch mitigation requirements in CMs 25-02 and 26-01 was very poor on vessels of several Members, and that it viewed all of these violations as serious non-compliance. The USA further noted that the work of CCAMLR over many years has achieved near-zero seabird by-catch and is under threat due to non-compliance. It inquired as to what action South Africa had taken to sanction the *El Shaddai*, which had many instances of non-compliance, and the *Koryo Maru No. 11*. With

regard to the *Chio Maru No. 3*, the USA noted that it considered this non-compliance to be very serious, and welcomed Russia's actions taken in response to the violation, including its removal of the vessel from the fishery for the coming season.

7.11 SCIC considered the Provisional NCP-IUU Vessel List (CCAMLR-XXXI/17 Rev. 4, Appendix I). One vessel, the refrigerated cargo vessel *Baiyangdian*, was included on the Provisional NCP-IUU Vessel List.

7.12 Some Members noted concern about whether the evidence that would be used to justify including the *Baiyangdian* on the NCP-IUU Vessel List was sufficient under CM 10-07, paragraph 9. It was noted that the evidence relating to the *Baiyangdian*, while circumstantial, was very strong and that CCAMLR should be concerned about these types of vessels operating in the Convention Area. The Secretariat informed SCIC upon request that a similar level of information was considered for the inclusion of the *Koosha 4* in the NCP-IUU Vessel List in 2011.

7.13 Some Members indicated that they required more time to consider what the appropriate level of evidence would be in order to list the vessel. However, it was decided to include the vessel *Baiyangdian* on the Proposed NCP-IUU Vessel List to be forwarded to the Commission for approval.

7.14 SCIC considered COMM CIRCs 11/123 and 12/133 that outlined Togo's request to remove the *Tchaw* from the NCP-IUU Vessel List. SCIC considered the information provided and was not satisfied that it met the requirements of CM 10-07, paragraph 18. The Secretariat undertook to circulate to Members a draft letter to be sent to Togo.

CATCH DOCUMENTATION SCHEME (CDS)

Implementation and operation of the CDS

8.1 The Secretariat reported on the implementation and operation of the CDS during 2011/12 (CCAMLR-XXXI/BG/22 Rev. 1). It was noted that 21 countries may be involved in the toothfish trade but are not cooperating with CCAMLR by participating in the CDS – these are Antigua and Barbuda, Belize, Colombia, Democratic People's Republic of Korea, Dominican Republic, Ecuador, Honduras, Islamic Republic of Iran, Malaysia, Mexico, Mongolia, Nigeria, Panama, Philippines, Singapore, St Kitts and Nevis, Tanzania, Thailand, Trinidad and Tobago, United Arab Emirates and Viet Nam.

8.2 With respect to Malaysia, it was recalled that at CCAMLR-XXX Members had expressed concern about the use of Malaysia's ports by IUU vessels. It was noted that the Commission Chair had written to the ATCM Secretariat regarding Malaysia and no response had been received. The Secretariat reported that its correspondence with Malaysia had also received no response.

Singapore's status as a cooperating NCP

8.3 The Secretariat reported on the request from Singapore for the reinstatement of its status as an NCP cooperating with CCAMLR by participating in the CDS (CCAMLR-XXXI/05). The representative of Singapore presented a submission in support of this request (CCAMLR-XXXI/BG/07). Singapore outlined its commitment to fighting IUU fishing and to the RPOA and the port inspections that had been undertaken in 2011/12. SCIC was advised that Singapore is reviewing all of its relevant legislation and that by 2014 it would have in place legislation and resources to fully participate in the CDS. In the meantime, a number of interim measures have been put in place to deny port entry to IUU-listed vessels. In response to a question regarding whether Singapore would be able to fully implement the CDS pending completion of its legislative review, Singapore responded that it could implement the CDS as it had done before its status was revoked.

8.4 Members thanked Singapore for its advice, welcoming the review of its legislation and its determination to fully participate in the CDS. Singapore was asked to keep the Commission informed of progress with its review of legislation.

8.5 The EU noted that the IUU-listed vessel *Ray* had visited a port in Singapore in March 2012 (CCAMLR-XXXI/17 Rev. 4) and asked Singapore to explain this. Singapore advised SCIC that Singaporean authorities had no record of this vessel requesting entry to port and that Singapore would follow up the matter and report back to the Commission.

8.6 Many Members acknowledged the efforts of Singapore to enhance its ability to deter IUU fishing. The USA expressed its appreciation for the efforts made by Singapore but was of the view that it would be premature to reinstate Singapore's status before the new legislation was in place. Accordingly, there was no consensus and Singapore's status will remain unchanged.

8.7 In accordance with CM 10-05, Annex C, the Secretariat wrote to non-Contracting Parties possibly involved in the harvest or trade of toothfish and invited their cooperation with CCAMLR by voluntarily participating in the CDS and to consider acceding to CCAMLR. Only the Philippines, Singapore and Thailand replied. Thailand appointed a CDS contact officer and was given limited access to the CDS data to monitor importation of toothfish into that country. The CCAMLR website lists those countries that have failed to respond to the Secretariat's correspondence.

8.8 The Secretariat reported that NCP correspondence sent on behalf of the Commission could be better targeted and requested the assistance of Members to provide the details of appropriate NCP authorities.

8.9 Australia noted that four of the 21 non-Cooperating States are part of the RPOA and recommended that the members of RPOA be invited to observe the next Commission meeting.

8.10 China advised that it has communicated with the Hong Kong Special Administrative Region (HKSAR) with a view to participating in the CDS. The HKSAR Government is now assessing the requirements and will respond to the Central Government of China before

CCAMLR-XXXII. Meanwhile, the HKSAR Government will continue to monitor the toothfish trade going through the HKSAR. Members thanked China for the information and asked for regular updates on the participation of HKSAR in the CDS.

8.11 The Secretariat reported that under the CDS in 2012 it had received 611 landing documents, 2002 export documents and 205 re-export documents. The Secretariat also reported on undocumented landings.

8.12 The Secretariat reported that during 2012 it detected no fraudulent documents.

8.13 The Secretariat reported on the implications of modernisation of the IT environment and the migration of the e-CDS database to a new SQL Server 2008 platform that allows the data to be integrated with the CCAMLR website.

8.14 SCIC noted that changes in web technologies over the last 10 years have meant that the e-CDS environment is significantly out-of-date and is no longer readily supported. SCIC noted that work proposed for 2013 will integrate the e-CDS with the Secretariat's IT and data management. The Secretariat advised SCIC that work had been completed and trials were in place for the CDS reporting and query function requested by the USA in 2011 (CCAMLR-XXX/27).

8.15 SCIC considered a report submitted by the UK, South Africa, Australia and the Secretariat (CCAMLR-XXXI/BG/37) which outlined the African Capacity Building Workshop in 2012. The workshop had 56 participants from 15 African countries. South Africa was thanked for hosting the workshop which had made an important contribution to improving understanding and acceptance of CCAMLR and had forged strong links between other organisations and CCAMLR. Members noted that the workshop, which had been supported by the CDS Fund, had achieved its objectives, and agreed the recommendations of the report.

ADVICE FROM THE SCIENTIFIC COMMITTEE

9.1 The Chair of the Scientific Committee (Dr C. Jones, USA) presented the Committee's preliminary advice on topics relevant to the work of SCIC. SCIC expressed its appreciation to Dr Jones for his very informative and comprehensive report. SCIC considered this report and made particular note of the advice relating to:

(i) Green weight of krill

The Scientific Committee noted that there is still considerable uncertainty in the estimation of krill catches that can be improved by changes to the C1 form to require information to identify the particular methodology used for the estimation of catches. The Scientific Committee considered that an additional table is not required in CM 21-03.

(ii) Amendments to CM 51-06

The Scientific Committee recommended that the current level of scientific observer coverage in the krill fishery should be extended to 2014 and that the

requirement to observe 20% of hauls each day be removed from CM 51-06. The Scientific Committee noted that the level of observer coverage in 2011/12 exceeded the requirements of the conservation measure, that this level of observation had provided extensive scientific data and recommended that it be maintained, although not be made mandatory.

(iii) Reporting on toothfish catches

The Scientific Committee recommended that five-day catch reporting is no longer necessary in those exploratory fisheries where daily reporting is required.

(iv) Tag-overlap statistic

The Scientific Committee noted that the tag-overlap statistic had not been met by the *Koryo Maru No. 11* in Division 58.4.3.

(v) Change of fishing gear after notification

The Scientific Committee recommended that changes to fishing gear should only be permitted where it was part of a controlled experiment endorsed by the Scientific Committee, otherwise it would compromise the value of the data collected during research.

(vi) Evaluation of vessel performance in exploratory fisheries

The Scientific Committee noted that this matter had been referred to SCIC by the Working Group on Fish Stock Assessment (WG-FSA) as it may be linked with a range of compliance with measures. The Scientific Committee recommended that an assessment framework be developed in intersessional collaboration between SCIC and the Scientific Committee to develop metrics of vessel suitability to conduct research.

(vii) IUU in the Convention Area

The Scientific Committee considered that the information currently provided to the Secretariat is insufficient to provide effort-corrected sightings-based estimates of IUU catches such that it is not possible to distinguish between changes in trends in fishing activity or changes in surveillance effort. The Scientific Committee recommended that the Secretariat be tasked with utilising available data to estimate IUU catches, including preparing a map of historical IUU activities.

(viii) By-catch issues

The Scientific Committee noted that the level of by-catch of skates in Division 58.4.3a was almost equal to the toothfish catch. It also noted that all of the skates caught were considered to be dead and that the catch rate and level of mortality was higher than expected. It recommended the development of region-specific skate by-catch mitigation measures including 'move-on' rules and identification of specific zones where high level by-catch is a particular problem.

(ix) Overcapacity issues

The Scientific Committee noted that overcapacity is a particular problem in areas with small catch limits. The Scientific Committee recommended consideration of measures, such as tagging all fish in situations during periods of overruns, and the possibility of overruns being counted against future catch limits.

(x) Anomalous CPUE data

The Scientific Committee advised that it could find no scientific explanation for the anomalous CPUE data reported by three Korean vessels. The Scientific Committee considered that all data from these vessels in the years in which anomalous CPUE data were reported would be marked as not suitable for analysis. In addition, all data from these vessels will be reviewed by the Republic of Korea and the Secretariat and the results will be presented to WG-SAM in 2013. The Scientific Committee considered that it is up to SCIC to consider whether there is a compliance issue.

(xi) Reflagging of notified krill vessels

The Scientific Committee noted that the transfer of a vessel and its intended catch to another Member after notification could impinge on the ability of the Scientific Committee to interpret the data. However, there would be no scientific concerns where the proposed area to be fished, fishing methods used and notified catch were not changed.

9.2 The advice from the Chair of the Scientific Committee was taken into account in SCIC's consideration of the relevant agenda items.

ELECTION OF THE CHAIR

10.1 The USA proposed Mr O. Urrutia (Chile) as the next Chair of SCIC. The nomination was accepted and Members congratulated Mr Urrutia on his election.

10.2 Members thanked Ms K. Dawson-Guynn (USA) for her valuable contribution to CCAMLR through highly skilled chairing of the complex discussions within SCIC over many years. Members also thanked Mr J. Jansen (UK) for his excellent work in the role as Vice-Chair over the last two years.

10.3 There were no nominations for Vice-Chair of SCIC and Members resolved to revisit the issue at the start of the SCIC meeting in 2013.

