

COUNCIL REGULATION (EC) No 1099/2007

of 18 September 2007

amending Regulation (EC) No 601/2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) Council Regulation (EC) No 601/2004 ⁽²⁾ implements certain conservation measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources, hereinafter referred to as 'CCAMLR'.

(2) At its twenty-third, twenty-fourth and twenty-fifth annual meeting in November 2004, 2005 and 2006, the CCAMLR adopted a number of amendments to the conservation measures in order to, *inter alia*, improve licensing requirements, protect the environment, enhance scientific research for *Dissostichus spp.* as well as combat illegal fishing activities.

(3) Regulation (EC) No 601/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 601/2004 is hereby amended as follows:

1. Article 3(2) shall be replaced by the following:

'2. The Member States shall transmit to the Commission, by computer transmission, within three days from the date of issue of the permit referred to in paragraph 1, the following information concerning the vessel covered by the permit:

(a) the name of the vessel concerned;

(b) type of vessel;

(c) length;

(d) vessel IMO number (if issued);

(e) where and when it was built;

(f) previous flag, if any;

(g) international Radio Call Sign;

(h) name and address of vessel's owner(s), and any beneficial owner(s), if known;

(i) colour photographs of the vessel, which shall consist of:

(i) one photograph not smaller than 12 × 7 cm showing the starboard side of the vessel, displaying its full overall length and complete structural features;

(ii) one photograph not smaller than 12 × 7 cm showing the port side of the vessel, displaying its full overall length and complete structural features;

(iii) one photograph not smaller than 12 × 7 cm showing the stern, taken directly from astern;

(j) the period for which it is authorised to fish in the Convention area, with the dates on which fishing activities start and end;

(k) the fishing area or areas;

(l) the target species;

(m) the gear used;

(n) measures taken to ensure tamper-proof operation of the satellite monitoring device installed on board.

Member States shall, to the extent practicable, also communicate to the Commission the following information relating to vessels authorised to fish in the CCAMLR area:

(a) name and address of operator, if different from vessel owner(s);

⁽¹⁾ Opinion delivered on 10 July 2007 (not yet published in the Official Journal).

⁽²⁾ OJ L 97, 1.4.2004, p. 16.

- (b) names and nationality of master, and, where relevant, of fishing master;
- (c) type of fishing method or methods;
- (d) beam (m);
- (e) gross registered tonnage;
- (f) vessel communication types and numbers (INMARSAT A, B and C numbers);
- (g) normal crew complement;
- (h) power of main engine or engines (kW);
- (i) carrying capacity (tonnes), number of fish holds and their capacity (m³);
- (j) any other information (e.g. ice classification) considered appropriate.

The Commission shall transmit such information to the CCAMLR Secretariat without delay.'

2. Article 4(3) shall be replaced by the following:

'3. Each Member State shall verify the information referred to in paragraph 2 against data received through the VMS systems operating on board Community fishing vessels flying its flag. It shall transmit the VMS data to the CCAMLR Secretariat by computer transmission within two days from the date of its receipt, in a confidential manner in accordance with the confidentiality rules established by CCAMLR.'

3. The following Article shall be inserted:

'Article 5a

Notifications of intent to participate in a krill fishery

All Contracting Parties intending to fish for krill in the Convention Area shall notify the Secretariat of their intent not less than four months in advance of the regular annual meeting of the CCAMLR, immediately prior to the season in which they intend to fish.'

4. Article 6(3) shall be replaced by the following:

'3. The flag Member State shall notify the Commission not later than four months in advance of the annual meeting of the CCAMLR of the intention of a Community fishing vessel to develop a new fishery in the Convention area. The Member State shall not initiate a new fishery pending completion of the process established by the CCAMLR for the examination of this fishery.'

The notification shall be accompanied by as much of the following information as the Member State is able to provide:

- (a) the nature of the proposed fishery, including target species, methods of fishing, the proposed region and any minimum level of catches required to develop a viable fishery;
- (b) biological information from comprehensive research/survey cruises, such as distribution, abundance, population data and information on stock identity;
- (c) details of dependent and associated species and the likelihood of such species being affected in any way at all by the proposed fishery;
- (d) information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield;
- (e) if the proposed fishery is to be undertaken using bottom trawl gear, information on the known and anticipated impacts of this gear on vulnerable marine ecosystems, including benthos and benthic communities.'

5. The following Articles shall be inserted:

'Article 7a

Special requirements for exploratory fisheries

Fishing vessels participating in exploratory fisheries shall be subject to the following additional requirements:

- (a) vessels shall be prohibited from discharging:
 - (i) oil or fuel products, or oily residues into the sea, except as permitted in Annex I to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78);

- (ii) garbage; individual; from 1 September 2007 all tags for use in an exploratory fishery shall be sourced from the Secretariat;
 - (iii) food wastes not capable of passing through a screen with openings no greater than 25 mm;
 - (iv) poultry or parts thereof (including egg shells);
 - (v) sewage within 12 nautical miles of land or ice shelves, or sewage while the ship is travelling at a speed of less than four knots; or
 - (vi) incineration ash;
 - (b) no live poultry or other living birds shall be brought into Subareas 88.1 and 88.2 and any dressed poultry not consumed shall be removed from Subareas 88.1 and 88.2;
 - (c) fishing for *Dissostichus spp.* in Subareas 88.1 and 88.2 shall be prohibited within 10 nautical miles of the coast of the Balleny Islands.
 - (d) all recaptured tagged individuals (i.e. fish caught with a previously inserted tag) shall not be re-released, even if they were at liberty for only a short period;
 - (e) all recaptured tagged individuals shall be biologically sampled (length, weight, sex, gonad stage), an electronic time-stamped photograph taken of the fish, the otoliths recovered and the tag removed;
 - (f) all relevant tag data and any data recording tag recaptures shall be reported electronically in the CCAMLR format to the CCAMLR within three months of the vessel departing these fisheries;
 - (g) all relevant tag data, any data recording tag recaptures and specimens from recaptures shall also be reported electronically in the CCAMLR format to the relevant regional tag data repository as detailed in the CCAMLR Tagging Protocol.
2. Toothfish that is tagged and released shall not be counted against the catch limits.'

Article 7b

Tagging programme

1. Each fishing vessel participating in the exploratory fisheries shall implement a tagging programme as follows:

- (a) *Dissostichus spp.* individuals shall be tagged and released in accordance with the provisions set out in the CCAMLR Tagging Program and Protocol for *Dissostichus spp.* in exploratory fisheries. Vessels shall only discontinue tagging after they have tagged 500 individuals, or leave the fishery having tagged *Dissostichus spp.* at the specified rate;
- (b) the programme shall target individuals of all sizes in order to meet the tagging requirement; only toothfish that are in good condition shall be tagged. All released individuals shall be double-tagged and releases shall cover as broad a geographical area as possible; in regions where both *Dissostichus* species occur, the tagging rate shall, to the extent possible, be in proportion to the species and size of *Dissostichus spp.* present in the catches;
- (c) all tags shall be clearly imprinted with a unique serial number and a return address so that the origin of tags can be retraced in the case of recapture of the tagged

6. Article 9(4) shall be replaced by the following:

'4. The Member States shall notify the CCAMLR, with a copy to the Commission, by computer transmission, at the latest within three days from the date of the end of each reporting period, of the catch and effort report transmitted by each fishing vessel flying their flag and registered in the Community. Each catch and effort report shall specify the reporting period of the catch concerned.'

7. Article 9(5) shall be deleted.

8. Article 13(4) shall be replaced by the following:

'4. Member States shall transmit the data referred to in paragraphs 1, 2 and 3 to the CCAMLR at the end of each calendar month, with a copy to the Commission.'

9. Article 14(4) shall be replaced by the following:

'4. At the end of each month Member States shall transmit the notification received to the CCAMLR.'

10. Article 16(1) shall be replaced by the following:

'1. Without prejudice to Article 15 of Regulation (EEC) No 2847/93, Member States shall notify the CCAMLR, by 31 July each year, of the total catches for the preceding year taken by Community fishing vessels flying their flag, broken down by vessel, with a copy to the Commission.'

11. Article 17(2) shall be replaced by the following:

'2. Member States shall aggregate the fine-scale catch and effort data by 10 × 10 nautical mile rectangle and 10-day period, and transmit these data to the CCAMLR each year by 1 March at the latest, with a copy to the Commission.'

12. Article 18(1) and (2) shall be replaced by the following:

'1. Community fishing vessels fishing for crab in FAO statistical subarea 48.3 shall transmit to the CCAMLR, by 25 September each year, data concerning fishing activities and the catches of crab taken before 31 August of that year, with a copy to the Commission.

2. The data concerning catches taken from 31 August each year shall be transmitted to the CCAMLR within two months from the date of the closure of the fishery, with a copy to the Commission.'

13. Article 19(1) shall be replaced by the following:

'1. Community fishing vessels fishing for squid (*Martialia hyadesi*) in FAO statistical subarea 48.3 shall transmit to the CCAMLR, by 25 September each year, the fine-scale catch and effort data for that fishery, with a copy to the Commission. The data shall include the number of seabirds and marine mammals caught and released or killed.'

14. The following Article shall be inserted:

'Article 26a

Report of vessel sighting

1. In the event that the master of a licensed fishing vessel sights a fishing vessel within the Convention area, the master shall, where possible, document as much information as possible on each such sighting, including:

(a) name and description of the vessel;

(b) vessel call sign;

(c) registration number and the Lloyds/IMO number of the vessel;

(d) flag state of the vessel;

(e) photographs of the vessel to support the report;

(f) any other relevant information regarding the observed activities of the sighted vessel.

2. The master shall forward a report containing the information referred to in paragraph 1 to his Flag State as soon as possible. The Flag State shall submit to the CCAMLR Secretariat any such reports if the sighted vessel is engaged in IUU activities according to CCAMLR standards.'

15. Article 28(1) shall be replaced by the following:

'1. For the purposes of this section, a Contracting Party vessel may be presumed to have carried out IUU activities that have undermined the effectiveness of the CCAMLR conservation measures where it has:

(a) engaged in fishing activities in the Convention area without the special fishing permit referred to in Article 3 or, in the case of a vessel which is not a Community fishing vessel, a licence issued in accordance with the relevant CCAMLR conservation measures, or in violation of the conditions of such permit or licence;

(b) failed to record or to declare its catches made in the Convention area in accordance with the reporting system applicable to the fisheries engaged in, or made false declarations;

(c) fished during closed fishing periods or in closed areas in contravention of CCAMLR conservation measures;

(d) used prohibited gear in contravention of applicable CCAMLR conservation measures;

- (e) transhipped or participated in joint fishing operations with, supported or re-supplied vessels appearing on the CCAMLR IUU vessel list;
- (f) failed to provide a valid catch document for *Dissostichus* spp. when required under the provisions of Regulation (EC) No 1035/2001;
- (g) engaged in fishing activities contrary to any other CCAMLR conservation measures in a manner that undermines the attainment of the objectives of the Convention as set out in Article XXII of the Convention; or
- (h) engaged in fishing activities in waters adjacent to islands within the Convention area over which the existence of State sovereignty is recognised by all Contracting Parties in a manner that undermines the attainment of the objectives of the CCAMLR conservation measures.'
16. Article 30(1) and (2) shall be replaced by the following:
- '1. Member States shall take all necessary measures in accordance with national and Community law, in order that:
- (a) no special fishing permit, as referred to in Article 3, is issued to Community fishing vessels appearing on the IUU vessel list to fish in the Convention area;
- (b) no licence or special fishing permit is issued to vessels appearing on the IUU vessel list to fish in waters under their sovereignty or jurisdiction;
- (c) their flag is not granted to vessels appearing on the IUU vessel list;
- (d) vessels appearing on the IUU list should be denied access to ports unless for the purpose of enforcement action or for reasons of force majeure or for rendering assistance to vessels or persons on those vessels in danger or distress. Vessels allowed entry to port are to be inspected in accordance with Article 27;
- (e) where port access is granted to such vessels:
- (i) documentation and other information, including Dissostichus Catch Documents where relevant are examined, with a view to verifying the area in which the catch was taken; and where the origin cannot be adequately verified, the catch is detained or any landing or transhipment of the catch is refused; and
- (ii) where possible,
- in the event that the catch is found to have been taken in contravention with CCAMLR conservation measures, the catch is confiscated,
- all support to such vessels, including non-emergency refuelling, resupplying and repairs is prohibited;
- (f) importers, transporters, and other sectors concerned are encouraged to refrain from dealing with and from transhipping fish caught by vessels on the IUU vessel list.
2. The following activities shall be prohibited:
- (a) by derogation from Article 11 of Regulation (EEC) No 2847/93, for Community fishing vessels, support vessels, refuelling vessels, mother-ships and cargo vessels to participate in any way in transhipment or joint fishing operations with, support or re-supply vessels appearing on the IUU vessel list;
- (b) to charter vessels appearing on the IUU vessel list;
- (c) to import, export or re-export *Dissostichus* spp. from vessels appearing on the IUU vessel list.'

17. Article 31 shall be replaced by the following:

Article 31

Scheme to promote compliance by nationals with CCAMLR conservation measures

1. Without prejudice to the primacy of the responsibility of the Flag State, Member States shall take appropriate measures, subject to and in accordance with their applicable laws and regulations, to:

- (a) verify if any natural or legal persons subject to their jurisdiction are engaged in IUU activities as described in Article 28;
- (b) take appropriate action in response to any verified activities referred to in point(a); and

(c) cooperate for the purpose of implementing the measures and actions referred to in point(a). To this end, relevant agencies of Member States may cooperate to implement CCAMLR conservation measures and seek cooperation by industries within their jurisdiction.

2. Member States shall submit reports to the CCAMLR Secretariat and the Contracting Parties and Non-Contracting Parties cooperating with CCAMLR, for the purpose of implementing the Catch Documentation Scheme for *Dissostichus spp.*, on the actions and measures taken in accordance with paragraph 1, in a timely fashion, with a copy to the Commission, in order to assist with the implementation of this conservation measure.'

Article 2

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 September 2007.

For the Council
The President
R. PEREIRA
