

## CONSERVATION MEASURES

10.1 Conservations measures adopted at CCAMLR-XXIII will be published in the *Schedule of Conservation Measures in Force 2004/05*.

### Review of existing conservation measures and resolutions

10.2 The Commission noted that the following conservation measures<sup>1</sup> will lapse on 30 November 2004: 24-03 (2003), 32-09 (2003), 33-02 (2003), 33-03 (2003), 41-01 (2003), 41-02 (2003), 41-04 (2003), 41-05 (2003), 41-06 (2003), 41-07 (2003), 41-08 (2003), 41-09 (2003), 41-10 (2003), 41-11 (2003), 42-01 (2003), 42-02 (2003), 43-02 (2003), 43-03 (2003), 43-04 (2003), 52-01 (2003), 52-02 (2003) and 61-01 (2003). These measures dealt with fishery-related matters for the 2003/04 season.

10.3 Due to the requirements for the fishery for *C. gunnari* in Subarea 48.3 in the 2004/05 season (paragraph 10.84), the Commission agreed to terminate Conservation Measure 42-01 (2003) on 14 November 2004.

10.4 The Commission agreed that the following conservation measures<sup>1</sup> will remain in force in 2004/05:

#### Compliance –

10-01 (1998), 10-03 (2002), 10-07 (2003).

#### General fishery matters –

21-01 (2002), 22-01 (1986), 22-02 (1984), 22-03 (1990), 23-02 (1993), 23-03 (1991), 23-04 (2000), 23-05 (2000), 24-01 (2003), 25-01 (1996), 25-02 (2003), 25-03 (2003).

#### Fishery regulations –

31-01 (1986), 32-01 (2001), 32-02 (1998), 32-03 (1998), 32-04 (1986), 32-05 (1986), 32-06 (1985), 32-07 (1999), 32-08 (1997), 32-10 (2002), 32-11 (2002), 32-12 (1998), 32-13 (2003), 32-14 (2003), 32-15 (2003), 32-16 (2003), 32-17 (2003), 33-01 (1995), 41-03 (1999), 51-01 (2002), 51-02 (2002), 51-03 (2002).

10.5 The Commission agreed that the following resolutions will remain in force in 2004/05: 7/IX, 10/XII, 14/XIX, 15/XXII, 16/XIX, 17/XX, 18/XXI, 19/XXI and 20/XXII.

### Revised conservation measures

10.6 The Commission revised the following conservation measures<sup>1</sup>:

#### Compliance –

10-02 (2001), 10-04 (2002), 10-05 (2003), 10-06 (2002).

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<sup>1</sup> Reservations to these measures are given in the *Schedule of Conservation Measures in Force in 2003/04*.

General fishery matters –

21-02 (2002), 23-01 (2003), 23-06 (2002), 24-02 (2003).

Protected areas –

91-01 (2000), 91-02 (2000), 91-03 (2000).

### Compliance

10.7 The Commission revised the licensing and inspection obligations of Contracting Parties with regard to their flag vessels operating in the Convention Area (Conservation Measure 10-02) in accordance with the advice of SCIC (section 7 and Annex 5, paragraph 3.24). It was agreed that Contracting Parties should provide to the Secretariat additional information about licences issued, including the vessel's IMO number when issued, the name and address of the vessel's owner(s) and any beneficial owner(s) if known, and three colour photographs of the vessel. The Commission noted that the specifications for the colour photographs described the minimum standard required. The Commission also agreed that information on a number of other details of vessels should, to the extent practicable, be provided by Members. The Commission agreed that the requirement for the additional information specified in the revised measure would not enter into force until 1 August 2005. The Commission also agreed that a list of licensed vessels be placed on the CCAMLR website. Accordingly, the revised measure was adopted as Conservation Measure 10-02 (2004).

10.8 The Commission revised the requirements for the VMS (Conservation Measure 10-04) in accordance with the advice of SCIC (section 7 and Annex 5, paragraph 3.42). This major revision, which was based on text drafted by the Commission in 2003 (CCAMLR-XXII, Annex 9), implements the C-VMS.

10.9 The Commission agreed that Contracting Parties and the Secretariat will transmit VMS data and reports using secure Internet protocols SSL, DES or verified certificates obtained from the Secretariat. The Commission noted that the technical specifications closely followed those in use by NAFO.

10.10 The revised measure, which includes the technical specifications necessary for the operation of the system, was adopted as Conservation Measure 10-04 (2004). The Commission thanked all Members for their cooperation and goodwill in establishing the C-VMS.

10.11 The USA informed the Commission that although the new conservation measure required C-VMS only in the Convention Area, the USA would continue to require VMS coverage from port to port, with polling every four hours, for any imports of toothfish into the USA.

10.12 The European Community expressed its deep appreciation for the efforts made by the sponsors of the C-VMS proposal, Australia, New Zealand and the USA, and considered the adoption of this system as a major achievement of CCAMLR-XXIII. It noted that this development owed much to the successful conduct of the trial phase during the current season, for which participating Members and the Secretariat should be commended. The European Community drew the attention of the Commission to the need for Members to

implement this system to its full potential as a means to ensuring compliance and enforcement, in particular with regard to the use of VMS data for the purposes of validating catch documents for *Dissostichus* spp. It expressed the hope that CCAMLR-XXIV can review and improve the relevant provisions of Conservation Measure 10-04.

10.13 The Chilean Delegation also thanked the sponsors of the proposal and expressed the hope that its adoption would strengthen, harmonise and upgrade the application of the VMS by all Members. The C-VMS effect could be reinforced by effective listing of non-compliance vessels, port surveillance (on which matter there are useful elements in CCAMLR-XXIII/BG/28) and, in the future, the establishment of a reliable register of fishing vessels within CCAMLR.

10.14 The Commission revised the CDS (Conservation Measure 10-05) in accordance with the advice of SCIC (section 7 and Annex 5, paragraph 2.49). Accordingly, the revised measure was adopted as Conservation Measure 10-05 (2004).

10.15 The Commission adopted amendments to Conservation Measure 10-06 which clarified the procedures for establishment of the IUU Vessel List for Contracting Parties. The Commission agreed that Conservation Measure 10-07 should be amended to adopt the same procedures for establishment of the IUU Vessel List for Non-Contracting Parties, and that work should be undertaken intersessionally with a view to adopting an amended text at CCAMLR-XXIV. In the meantime, the Commission requested that Contracting Parties submit, and the Secretariat collate, information relevant for the establishment of the list under Conservation Measure 10-07 in the format set out in paragraph 6 of Conservation Measure 10-06. Accordingly, the amended measure was adopted as Conservation Measure 10-06 (2004).

## General fishery matters

### Notifications

10.16 The Commission revised the notification procedure for exploratory fisheries (Conservation Measure 21-02) in accordance with the advice of SCIC (section 7 and Annex 5, paragraph 4.16; CCAMLR-XXIII/45). The revision aligned the notification requirements with the Commission's established practice, and reinforced the requirements so that the Commission may assume full responsibility for the effective management of exploratory fisheries. Accordingly, the revised measure was adopted as Conservation Measure 21-02 (2004).

10.17 The Commission agreed that notifications for exploratory fisheries in the 2005/06 season would need to contain the information required under paragraph 4 of Conservation Measure 10-02 (2004).

10.18 The Commission examined the implication of the revision of Conservation Measure 21-02 for the notification procedure for new fisheries (Conservation Measure 21-01). It was agreed that a revision of Conservation Measure 21-01 was not required at this stage. However, the Commission noted that, in the longer term, there may be merit in consolidating the requirements for notification of new and exploratory fisheries into a single measure.

### Data reporting

10.19 The Commission noted the Secretariat's proposal to introduce a 24-hour deadline for the submission of 5-day and 10-day catch and effort reports, and to encourage vessels to provide these reports directly to the Secretariat (CCAMLR-XXIII/38, Proposal B). This proposal aimed to reduce the delay in reporting catches and thereby improve the Secretariat's ability to monitor the fisheries and forecast closures.

10.20 The Commission agreed to retain the existing deadline for 5-day catch and effort reports for exploratory fisheries (i.e. two working days), and to apply this deadline to all other fisheries reporting under the 5-day catch and effort system (Conservation Measure 23-01). The Commission also agreed that vessels may report directly to the Secretariat. Accordingly, the measure was revised and adopted as Conservation Measure 23-01 (2004).

10.21 The Commission recalled the requirements for reporting monthly catches in krill fisheries (Conservation Measure 23-06). It noted that the established practice was for all Members fishing for krill to report monthly catches using the format and deadline specified in Conservation Measure 23-03 (Monthly Catch and Effort Reporting System).

10.22 The Commission agreed that monthly catches in krill fisheries should continue to be reported using the format and deadline specified in the Monthly Catch and Effort Reporting System. Accordingly, Measure 23-06 was revised and adopted as Conservation Measure 23-06 (2004).

### Research and experiments

10.23 The Commission noted the advice of the Scientific Committee in respect of use of IWLs for seabird conservation (Conservation Measure 24-02). The Scientific Committee had endorsed the introduction of a protocol for using IWLs in new and exploratory fisheries. This advice followed the success of trials of IWLs in reducing the seabird by-catch in areas comparable to the highest risk levels in the Convention Area and in Division 58.5.1 (SC-CAMLR-XXIII, paragraph 5.16). Accordingly, the measure was revised and adopted as Conservation Measure 24-02 (2004).

10.24 In adopting this measure, the Commission noted that Ukraine had requested that ad hoc WG-IMAF review the available data on the maximum length of longlines used in the Convention Area, and advise the Scientific Committee on this matter. The Commission agreed to review Conservation Measure 24-02 in the light of new advice from the Scientific Committee in 2005.

10.25 The Commission noted that New Zealand did not intend to conduct IWL trials in Subareas 88.1 and 88.2 in the 2004/05 season (Conservation Measure 24-03). Therefore, it was agreed that this measure would lapse.

## Protected areas

10.26 The Commission endorsed the Scientific Committee's recommendation to revise the requirements for information to be included in management plans for CEMP sites (Conservation Measure 91-01, Annex 91-01/A). The revision was detailed in WG-EMM-04/19. The revised measure was adopted as Conservation Measure 91-01 (2004).

10.27 The Commission agreed to amend the background information for Cape Shirreff in Conservation Measure 91-02 (Annex 91-02/A, Appendix 2), and for the Seal Islands in Conservation Measure 91-03 (Annex 91-03/A, Appendix 2). The amendments were made to correctly reflect the extent and development of human activities in the region in the early 1800s (CCAMLR-XXIII/BG/43). The revised measures were adopted as Conservation Measure 91-02 (2004) and Conservation Measure 91-03 (2004).

## New conservation measures

### Definitions

#### Offal

10.28 The Commission agreed that 'offal' included, *inter alia*, discarded bait and discarded fish by-catch, except as specified in measures relating to the live release of skates and rays (SC-CAMLR-XXIII, Annex 5, paragraph 7.63). The discharge of offal is regulated in most fisheries, and is prohibited in some fisheries, in the Convention Area.

10.29 Spain indicated that in its view, and in order to make it possible for vessels to comply with conservation measures in relation to offal, there was a need for the Commission to agree to an accurate definition of this term.

#### Seabird by-catch

10.30 The Commission recalled last year's advice from the Scientific Committee regarding the definitions of the nature and status of birds caught, especially in relation to limits on seabird by-catch (CCAMLR-XXII, paragraph 6.17; SC-CAMLR-XXII, paragraph 5.39 and Annex 5, paragraphs 6.213 to 6.217). The Commission had agreed to a working definition of birds caught such that any bird 'caught' in a fishery should be recorded in one of the following three categories:

1. Dead not landed on board – those birds observed to be killed by direct interaction with fishing gear but not landed on the fishing vessel.
2. Dead landed on board – those birds landed on the vessel that are dead (i.e. show no muscle movement or corneal reflex).
3. Alive landed on board –
  - (a) injured
  - (b) released uninjured.

10.31 Further, the Scientific Committee had advised that whilst it may be possible to release some injured birds, the long-term survival of these individuals was likely to be substantially reduced. Therefore, birds in category 3(a) should be considered as being dead.

10.32 The Commission confirmed that all seabird by-catch limits defined in conservation measures are set in relation to the count of dead seabirds, i.e. the sum of birds in categories 1, 2 and 3(a) above.

#### Incineration ash

10.33 The Commission agreed that 'incineration ash' included, *inter alia*, all solid waste and by-products arising from incinerations. The discharge of incineration ash is prohibited in some fisheries in the Convention Area.

#### General fishery matters

##### Fishing seasons, closed areas and prohibition of fishing

10.34 The Commission agreed that the prohibition of directed fishing for *Dissostichus* spp., except in accordance with specific conservation measures, should be renewed for the 2004/05 season. Accordingly, the prohibition of directed fishing for *Dissostichus* spp. in Subarea 48.5 was maintained and Conservation Measure 32-09 (2004) was adopted.

##### By-catch limits

10.35 The Commission noted that some conservation measures, including Conservation Measures 33-02 (Limitation of by-catch in Division 58.5.2) and 33-03 (Limitation of by-catch in new and exploratory fisheries), contained by-catch move-on provisions originally based on the trawl method of fishing. The Scientific Committee had advised that the definitions currently used are not appropriate to the operations of a longline vessel, and a more appropriate definition of the path of a longline was proposed (SC-CAMLR-XXIII, paragraphs 4.191 and 4.192).

10.36 The Commission also recalled the Scientific Committee's advice that large numbers of vessels fishing in some areas may reduce the effectiveness of the move-on rule to limit by-catch in a fishery (SC-CAMLR-XXIII, paragraph 4.164). The Commission considered the introduction of a requirement for vessels which have triggered the move-on rule to inform the Secretariat, and for the Secretariat to immediately to communicate this information to all vessels in the area. However, the Commission recognised that such requirements would necessitate the Secretariat being staffed seven days a week during periods when fishing was conducted in the Convention Area.

10.37 In order to improve the effectiveness of the move-on provisions, the Commission agreed that Members involved in fisheries should encourage their vessels to: (i) notify all other vessels fishing in the area of the location and date of activation of a move-on rule; and (ii) observe the move-on requirement which applies to the notifying vessel.

10.38 The Commission also noted that the Scientific Committee had been unable to provide new advice on by-catch limits (SC-CAMLR-XXIII, paragraph 4.194).

10.39 The Commission agreed to apply the existing by-catch limits in Division 58.5.2 in the 2004/05 season and to revise the definition of the path of a longline in the move-on rule. Accordingly, Conservation Measure 33-02 (2004) was adopted.

10.40 The Commission also agreed to apply the existing by-catch limits for exploratory fisheries in the 2004/05 season and to revise the definition of the path of a longline. Accordingly, Conservation Measure 33-03 (2004) was adopted.

10.41 The revised definition of the path of a longline in the move-on rule was also applied to Conservation Measure 41-02 (Limit on the fishery for *Dissostichus eleginoides* in Subarea 48.3).

10.42 The Commission requested WG-FSA and the Scientific Committee to review at their next meeting, the data from the fisheries in 2004/05 and the mitigation measures that apply for limitation of by-catch in new and exploratory fisheries. It also requested that WG-FSA and the Scientific Committee advise on improvement to by-catch mitigation measures for CCAMLR fisheries.

#### Toothfish

10.43 The Commission recalled the advice of the Scientific Committee concerning exploratory fisheries in 2004/05 (paragraphs 9.11 to 9.14) and the related advice on compliance (section 8).

10.44 The Commission agreed to revise the tagging program (Annex 41-01/C) in the general measure for exploratory fisheries for *Dissostichus* spp. (Conservation Measure 41-01). Conservation Measure 41-01 (2004) was adopted.

10.45 Ukraine proposed that fishery-based research effort under the research plan for exploratory fisheries (Conservation Measure 41-01, Annex 41-01/B) be determined by the number of research sets, rather than the number of research hauls. This was proposed because weather and sea-ice conditions in high latitudes may prevent the recovery of longlines.

10.46 The Commission considered this proposal and confirmed that the number of research hauls was the correct measure for fishery-based research effort under the research plan. The Commission noted that if a research line could not be recovered, the vessel could carry on the research by setting a replacement line which conformed with the research specifications.

10.47 The Commission also noted that the Scientific Committee had considered a proposal from Ukraine (SC-CAMLR-XXIII/7) to amend a number of conservation measures that relate to exploratory fisheries for *Dissostichus* spp. (SC-CAMLR-XXIII, paragraphs 4.155 to 4.161

and Annex 5, paragraphs 5.4 to 5.10). The proposal aimed to spread fishing effort throughout the geographic and bathymetric range of the stock, as required in Conservation Measure 41-01 (paragraph 2).

10.48 The Scientific Committee had considered the Ukrainian proposal while developing its advice, and had noted that there are many issues that the Commission will need to consider in managing new and exploratory fisheries, including:

- (i) ensuring that the development of a fishery does not outpace the Scientific Committee's ability to provide assessments and advice so that the Commission can achieve its objectives;
- (ii) ensuring that activities do not prejudice future options for the Commission, including conservation and rational use;
- (iii) providing the ability for the ecosystem effects of fishing to be detected.

10.49 The Commission recalled the problems encountered by the Scientific Committee and WG-FSA in assessing a catch limit for *D. eleginoides* in Subarea 48.3 in the 2004/05 season (paragraphs 4.32 and 4.33). The Scientific Committee had been unable to recommend a specific catch limit for *D. eleginoides* in Subarea 48.3 and had expressed reservations on the higher and lower figures provided through different approaches and parameters. The Commission established a catch limit of 3 050 tonnes for Subarea 48.3, and endorsed the Scientific Committee's recommendation for subdivisions of the subarea and closure of the West Shag Rocks area subject to a research exemption limit of 10 tonnes in order to ensure the monitoring of the stock. The Commission requested that further work be undertaken by the Scientific Committee in the coming year that would contribute to overcoming the current uncertainties on the status of the stock in Subarea 48.3, and allow the Scientific Committee to provide agreed advice on long-term yield for *D. eleginoides* at CCAMLR-XXIV.

10.50 The Commission established a catch limit of 3 050 tonnes for *D. eleginoides* in Subarea 48.3 in the 2004/05 season. This catch limit was divided amongst three management areas as follows:

- Area A (West Shag Rocks): closed
- Area B (Shag Rocks): 915 tonnes (30% of the catch limit)
- Area C (South Georgia): 2 135 tonnes (70% of the catch limit).

The Commission adopted Conservation Measure 41-02 (2004).

10.51 The USA made the following statement:

'The USA is pleased that a decision on a catch limit of 3 050 tonnes for *Dissostichus eleginoides* for Subarea 48.3 was achieved by consensus. While we are willing to accept this negotiated figure, we are not convinced that this level of catch can be considered precautionary. We speak of this because it is a shared concern, and because we believe that it is not out of the ordinary to indicate concern during plenary. We view this as our obligation and in no way an injury to the principles of consensus decision-making.

The USA notes that the Scientific Committee agreed this year that the long-term annual yield in the absence of a historical fishery is 1 900 tonnes (SC-CAMLR-XXIII, paragraph 4.50). We also note that catches have exceeded this value for 17 out of the last 20 years, with the most recent catches being 5 747, 7 534 and 4 482 tonnes. Finally, we note that when setting the catch limit last year, the Commission noted that, if previous catches have been above precautionary yield levels, this will be taken into account when calculating subsequent precautionary yields (CCAMLR-XXII, paragraph 4.50). The Scientific Committee did provide guidance with respect to the application of the GYM when it noted that the probability of depletion was greater than 52% for any catch above zero; it also noted that this probability increased to 57% for 1 900 tonnes and 70% for 3 000 tonnes. This can be compared to CCAMLR-accepted criteria that the probability of depletion should be restrained to 10% or less. Thus, we feel that a precautionary catch level should be zero, but that a fishery of approximately 1 900 tonnes could be maintained for the 2004/05 season without substantially increasing the probability of depletion. This range of catch levels is still associated with a probability of depletion greater than 50% and thus we conclude that any catch above zero is not precautionary. We look forward to more data coming from this fishery in the coming year that may help set a more rational catch limit at CCAMLR-XXIV based on an agreed recommendation from the Scientific Committee.'

10.52 Australia made the following statement:

'Australia notes the ongoing discussion in the Scientific Committee, and the Scientific Committee's inability to provide clear advice on a suitable catch limit for some assessed fisheries in the CCAMLR Area.

Australia believes that the fundamental objectives of the Commission can only be met by advice based on the best available scientific information, and advice which obviously and transparently takes into account the decision rules adopted by the Commission and the principles behind CCAMLR's precautionary approach to its fisheries. Indeed, these approaches are required in CCAMLR to protect the ecological integrity of the Antarctic ecosystems and ensure the long-term viability of the fisheries in CCAMLR waters.

Australia urges those Parties with expertise in the methods which the CCAMLR Scientific Committee uses to evaluate fish stocks and establish advice on the state of the fishery, to work diligently and together, so that the work of the Scientific Committee can proceed along agreed guidelines, and so that the Commission can receive clear advice in the future.

Australia further urges the scientists attending the next meeting of the WG-FSA Subgroup on Assessment Methods to make significant progress in evaluating methods used in *Dissostichus* spp. assessments.

Australia believes that the intellectual capital which exists in the Scientific Committee is unsurpassed.

Australia believes that the Commission should expect that the Scientific Committee will have made significant progress in this area by CCAMLR-XXIV.

Mr Chair, in the absence of clear and coherent scientific advice, the Commission may be exposed to capricious decision-making processes which undermine the basic doctrines of our Convention.

Mr Chair, I urge all Parties to work hard to address these issues between the close of this meeting and CCAMLR-XXIV.'

10.53 In response, the UK indicated that it could largely concur with the generality of the views expressed by Australia but that it did not share the views of the USA. It made the following observations:

- (i) The figures quoted by the USA (long-term yield, probability of depletion and references to recent catches) are derived from the calculations made by the Scientific Committee in its base-case scenario. However, there was unanimous agreement in the Scientific Committee that 'the status of the spawning stock is unlikely to be as low as that indicated by the base-case scenario' (SC-CAMLR-XXIII, paragraph 4.57). Furthermore, the Scientific Committee had agreed unanimously that 'the base-case scenario needs to be urgently reviewed as it is unlikely that the current parameter set is the one that should be used in the future' (SC-CAMLR-XXIII, paragraph 4.55). In consequence, the statement by the USA is contrary to the unanimous conclusions of the Scientific Committee.
- (ii) CCAMLR has set catch limits for Subarea 48.3 based on the precautionary lower 95% confidence interval of the estimate of current biomass from the UK's mark-recapture program, projected forwards using the standard CCAMLR GYM implementing the CCAMLR decision rules over a period of 35 years into the future. The catch limit now adopted is wholly consistent with established CCAMLR methodology and objectives, and fully precautionary.
- (iii) The UK indicated that it was pleased that CCAMLR has decided on a division of the catch limit between the areas of Shag Rocks and South Georgia, and a closure of the area to the west of the Shag Rocks which has a lower biomass than other areas of Subarea 48.3. This would ensure that effort is not concentrated in any one area of Subarea 48.3. In the view of the UK these management actions will ensure that CCAMLR continues to achieve its long-term management objectives for the toothfish stock in Subarea 48.3.

10.54 Argentina concurred with the general principles expressed by Australia and in particular for Subarea 48.3 with the views expressed by the USA.

10.55 The Commission noted the extension to the fishing season recommended by the Scientific Committee for Subarea 48.6 (SC-CAMLR-XXIII, paragraph 4.139).

10.56 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 48.6 in 2004/05 would be limited to Japanese, Korean and New Zealand flagged vessels using longlines only, and that no more than one vessel per country shall fish at any one time. The Commission also agreed that daylight setting, subject to compliance with Conservation Measure 24-02 and an incidental catch limit of three seabirds per vessel, would be allowed in Subarea 48.6. Accordingly, Conservation Measure 41-04 (2004) was adopted.

10.57 The Commission noted the increase in exploratory fishing proposals for coastal Antarctica in Divisions 58.4.1 and 58.4.2. It also noted:

- (i) the advice from the Scientific Committee recommending:
  - (a) the restriction of fishing in coastal Antarctic waters in these divisions to depths greater than 550 m to protect benthic communities (paragraph 9.11);
  - (b) the application of the approach of alternate open and closed SSRU areas in Conservation Measure 41-11 for Divisions 58.4.1 and 58.4.2;
- (ii) the options for managing exploratory fishing in these divisions provided in CCAMLR-XXIII/42 and the discussion provided by the Scientific Committee on the options described in SC-CAMLR-XXIII/7 (SC-CAMLR-XXIII, paragraphs 4.155 to 4.161);
- (iii) those options are different to the approaches currently used for exploratory fishing in these divisions;
- (iv) there is no specific advice from the Scientific Committee on these options.

10.58 The Commission agreed that the approach for SSRUs in Division 58.4.1 would be applied to Division 58.4.2, including the catch limits for SSRUs and the opening and closing of alternate SSRUs.

10.59 In order to assess the options put forward by Ukraine (CCAMLR-XXIII/42), the Commission requested the Scientific Committee and WG-FSA:

- (i) to review the options and information provided in that paper and SC-CAMLR-XXIII/7. This will be based on the submission of historical data, analyses and publications that contributed to the understanding presented in those papers;
- (ii) based on the submission of new data from the exploratory fishery and any other data or analyses, provide advice on future management options that will contribute to the orderly and precautionary development of the exploratory fisheries in these divisions and the acquisition of data that will contribute as quickly as possible to the development of management procedures, including assessments, for these areas.

10.60 In order to facilitate this process, the Commission agreed, for the 2004/05 season only, that the catch limits in each open SSRU in Division 58.4.2 be increased to 260 tonnes.

10.61 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.2 in 2004/05 would be limited to one Chilean, two Korean, two New Zealand, two Spanish and one Ukrainian flagged vessels using longlines only. The Commission also agreed that daylight setting, subject to compliance with Conservation Measure 24-02 and an incidental catch limit of three seabirds per vessel, would be allowed in this division. Accordingly, Conservation Measure 41-05 (2004) was adopted.

10.62 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.1 in 2004/05 would be limited to two Chilean, two Korean, two New Zealand, two Spanish and one Ukrainian flagged vessels using longlines only. The Commission also agreed that daylight setting, subject to compliance with Conservation Measure 24-02 and an incidental catch limit of three seabirds per vessel, would be allowed in this division. Accordingly, Conservation Measure 41-11 (2004) was adopted.

10.63 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.3a in 2004/05 would be limited to Australian, Korean and Spanish flagged vessels using longlines only, and that no more than one vessel per country shall fish at any one time. The Commission also agreed that daylight setting, subject to compliance with Conservation Measure 24-02 and an incidental catch limit of three seabirds per vessel, would be allowed in this division. Accordingly, Conservation Measure 41-06 (2004) was adopted.

10.64 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Division 58.4.3b in 2004/05 would be limited to Australian, Chilean, Japanese, Korean and Spanish flagged vessels using longlines only, and no more than one vessel per country shall fish at any one time. The Commission also agreed that daylight setting, subject to compliance with Conservation Measure 24-02 and an incidental catch limit of three seabirds per vessel, would be allowed in this division. Accordingly, Conservation Measure 41-07 (2004) was adopted.

10.65 The Commission endorsed the Scientific Committee's advice on the trawl and longline fishery for *D. eleginoides* in Division 58.5.2 in the 2004/05 season (paragraph 4.37). The advice included a catch limit of 2 787 tonnes which was applicable west of 79°20'E. In addition, the fishing season for the trawl fishery was defined as the period from 1 December 2004 to 30 November 2005, while the season for longlining was defined as the period from 1 May to 31 August 2005. In addition, the season for longline fishing operations may be extended to 14 September 2005 for any vessel which had demonstrated full compliance with Conservation Measure 25-02 in the 2003/04 season (see SC-CAMLR-XXIII, Annex 5, Table 7.12). Accordingly, Conservation Measure 41-08 (2004) was adopted.

10.66 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 88.1 in 2004/05 would be limited to two Argentine, one Australian, five New Zealand, one Norwegian, two Russian, two South African, two Spanish, one Ukrainian, one UK and four Uruguayan flagged vessels using longlines only. The Commission agreed that daylight setting, subject to compliance with Conservation Measure 24-02 and an incidental catch limit of three seabirds per vessel, would be allowed in this subarea. The Commission agreed to also prohibit the discharge of incineration ash in this fishery.

10.67 The Commission noted that the Scientific Committee had been unable to provide new advice of catch limits for any of the exploratory fisheries (paragraph 9.6). However, it also noted that a specific recommendation was made by the Scientific Committee regarding the retention of the catch limits in Subarea 88.1 east of 170°E (SC-CAMLR-XXIII, paragraph 4.167). Therefore, the Commission agreed to retain the existing catch limits for *Dissostichus* spp. for the fishery. The Commission adopted Conservation Measure 41-09 (2004).

10.68 Ukraine made the following statement:

‘The Delegation of Ukraine is compelled to express its concern regarding the adoption of Conservation Measure 41-09, as well as other measures on new and exploratory fisheries. Unfortunately, levels of catch limit for many high-latitude Antarctic areas are not the result of assessments, but rather of speculative inferences. The Ukrainian proposals regarding the subdivision of catch limit between individual research units that were presented for consideration of the Working Group on Fish Stock Assessment and the Scientific Committee were not adequately discussed. There were no specific decisions in that respect. If the models of catch limit assessment used by the Working Group do not allow determination of catch limit, it is necessary to use alternative models, or possibly to enlist the services of alternative groups of scientists. The current approaches will throw us into the depth of uncertainty. Despite years of work, the number of measures, in which the uncertainty in respect of stock is quite high, is not being reduced but is growing. The Ukrainian Delegation believes that this does not assist in attempting to achieve the objectives of the Convention, namely the conservation and rational use of Antarctic marine living resources.’

10.69 The Chair of the Scientific Committee noted that the Scientific Committee had considered the proposal by Ukraine in paragraphs 4.155 to 4.161 of its report (SC-CAMLR-XXIII), and in paragraphs 5.4 to 5.10 of the report of WG-FSA (SC-CAMLR-XXIII, Annex 5). Furthermore, some of the issues raised by the Ukrainian paper were not within the remit of either WG-FSA or the Scientific Committee.

10.70 The Commission requested WG-FSA and the Scientific Committee to review the information from Subarea 88.1 and the distribution of catch limits in each SSRU. This review should include data obtained in the 2004/05 season and in previous seasons.

10.71 The Commission agreed that the exploratory fishery for *Dissostichus* spp. in Subarea 88.2 in 2004/05 would be limited to two Argentine, five New Zealand, one Norwegian and two Russian flagged vessels using longlines only. The Commission agreed that daylight setting, subject to compliance with Conservation Measure 24-02 and an incidental catch limit of three seabirds per vessel, would be allowed in this subarea. The Commission agreed to also prohibit the discharge of incineration ash in this fishery.

10.72 The Commission noted that the Scientific Committee had been unable to provide new advice on catch limits in Subarea 88.2 (paragraph 9.6). Therefore, the Commission agreed to retain the existing catch limits for *Dissostichus* spp. for the fishery, and to retain the closure in the area north of 65°S (Conservation Measure 32-15). The Commission adopted Conservation Measure 41-10 (2004).

10.73 The Commission renewed its concern at the large number of fishing vessels which would be allowed to operate in exploratory fisheries in the 2004/05 season. In many fisheries, this number exceeded the number which might have been expected for their orderly development. The Commission reiterated its need for urgent advice from the Scientific Committee on ways of developing exploratory fisheries at a rate which would ensure the sustainability of the stocks of *Dissostichus* spp. and the collection of data for the development of long-term assessments (CCAMLR-XXII, paragraph 10.63).

10.74 New Zealand made the following statement:

‘Mr Chair, the Commission has now adopted those conservation measures setting limits on CCAMLR’s exploratory fisheries in Statistical Subarea 88.1 and Divisions 58.4.1 and 58.4.2. *Inter alia* these conservation measures provide for the participation of one vessel flagged to Ukraine.

Ukraine has notified the vessel *Simeiz* for these exploratory fisheries, a fact that has caused considerable concern to many Members of the Commission. This is because as a result of the inspections and investigations undertaken by New Zealand, France, the UK and the European Community which have been presented to the Commission, Members are now only too well aware that the *Simeiz*, which was until recently the *Florens-I*, remains under the control of interests involved in directing a large proportion of the IUU fishing in the Southern Ocean. In its most recent statement to the Commission regarding the *Simeiz* on Tuesday this week Ukraine has not denied this.

We have joined consensus today but New Zealand wishes to record in the report of the meeting its strong opposition to participation by the vessel *Simeiz* in CCAMLR’s exploratory fisheries. Furthermore, should Ukraine proceed to licence this vessel for these fisheries we believe it will be putting the credibility of the Commission in peril. This is because the Commission will be perceived to have acquiesced in authorising access into CCAMLR’s most sensitive fisheries of a vessel which it could not help but know is controlled by IUU fishing interests, the same interests who have wreaked havoc on the toothfish stock and the seabird populations of the Southern Ocean.

Mr Chair, New Zealand would therefore appeal to Ukraine not to license the vessel *Simeiz*. Instead, if Ukraine wishes to take up the opportunity provided by the Commission for it to participate in the exploratory fisheries in Subarea 88.1 and Divisions 58.4.1 and 58.4.2, it should substitute a vessel which is not of concern to the Commission.

At ATCM-XXVII in Cape Town this year the Head of the Delegation of Ukraine, Mr Vasyl Kremen, Minister of Education and Science, gave a commitment that the circumstances regarding the vessels *Simeiz* and *Mellas* would be thoroughly investigated and reported to this meeting of the Commission. Ukraine has submitted a document (CCAMLR-XXIII/BG/34) which in our view hardly fulfils this commitment. This document contains serious inconsistencies and contradictions with statements Ukraine had previously made to the Commission via Commission circulars. Nor does it address important facts presented by Members of the Commission about the vessels. New Zealand does not therefore regard the matter as closed in the context of the Antarctic Treaty Consultative Meeting. Thank you.’

10.75 South Africa made the following statement:

‘Mr Chair, at ATCM-XXVII in Cape Town the Ukrainian Minister committed and assured Antarctic Treaty Parties to fully investigate the matters pertaining to the vessels *Simeiz* and *Mellas*. The South African Delegation would like to thank the Ukrainian Delegation for the information supplied to Members and its document CCAMLR-XXIII/BG/34 in an attempt to honour its commitment in Cape Town.

However, as our delegation indicated in the Standing Committee on Implementation and Compliance, it is essential that the action of the Members of this Commission complements the objectives of CCAMLR. It is the opinion of the South African Delegation that the inaction of the Ukrainian Delegation to effectively deal with the proposed vessel *Simeiz* is unacceptable. We have in bilateral discussions with Ukrainian Delegation representatives, urged them to consider withdrawing the vessel *Simeiz* and proposing a replacement vessel for the exploratory fisheries for which they have notified this Commission. We shared with them our experience with the vessel *Viola*, which was previously Uruguayan-flagged and has subsequently been reflagged to South Africa. The South African fisheries authorities took the decision to allow the reflagging of the vessel on condition that she may not be issued a permit to target toothfish. She was effectively completely removed from the toothfish fishery and she is now strictly controlled under the South African flag. Mr Chair, we are merely illustrating that no Member of this Commission is immune to the situation that the Ukrainian Delegation finds itself in.

It is not our intention to blow our own trumpet here Mr Chair, but we feel that a decision of this nature by the Ukrainian Delegation would have been most welcome by our delegation. We had hoped that the Ukrainian Delegation, in the spirit of cooperation which underpins the successes of this Commission, would have considered our suggestions and that they would have acted in a manner consistent with CCAMLR's objectives. Our delegation therefore remains disappointed that we were unable to get closure on an issue which has plagued us in both CCAMLR and the ATCM during the past year.'

10.76 Norway made the following statement:

'Mr Chair, my delegation would also like to make a statement for the record at this stage of our proceedings related to the Ukrainian-flagged vessel *Simeiz*. In preparing for this meeting I read through my notes from the last meeting of the ATCM in Cape Town. It is thus clear to me that the question of Ukrainian-flagged fishing vessels that we discussed so extensively in Cape Town has two sides – a legal part and a political part.

During this meeting we have received a report from the Delegation of Ukraine and additional information has been provided by other Members about the sequence of events. We have also had a comprehensive discussion during this session and the Delegation of Ukraine has given assurances that Ukraine, after this session, will look into its own domestic legislation. Ukraine has also said that it is open to future cooperation with CCAMLR partners.

The Norwegian Delegation appreciates these steps. We also hope that Ukraine could bear in mind the Norwegian national practice. As we have stated earlier during this meeting, *Eva-1* and *Florens-1* could never fly a Norwegian flag, irrespective of future ownership and changes of flag. Those two fishing vessels are black-listed in perpetuity in Norway due to previous IUU fishing. It is then the view of this Norwegian Delegation that those two vessels in question should not be allowed to participate in future new and exploratory fisheries in CCAMLR.

At the same time we realise, Mr Chair, that in CCAMLR we must follow the conservation measures in force. The discussion in front of us, reached by consensus, is a result of CCAMLR's regulations for the time being.

This is the legal part.

But the possible use of the vessel *Simeiz* in the coming fishing season also has a political side to it.

In the view of the Norwegian Delegation it would be of a high political cost for Ukraine if the vessel *Simeiz* – known to all of us as an earlier IUU vessel – is given licence by Ukrainian authorities to fish in Subarea 88.1 and Divisions 58.4.1 and 58.4.2. Such a decision would also weaken the credibility of CCAMLR and our joint efforts to combat IUU fishing.

I would therefore appeal to the Ukrainian delegation to take this political message back to their capital and look for possibilities to replace the *Simeiz* with another Ukrainian-flagged vessel.

It would not be in the interest of any of us, Mr Chair, if this delicate question develops into a drawn-out process which we will be confronted with again at the ATCM in Stockholm next year. I thank you, Mr Chair.'

10.77 The European Community concurred with the delegations that had taken the floor previously as to the various matters of deep concern raised by the notification of the *Simeiz* for participation in exploratory fisheries in the Convention Area. It further concurred with the previous speakers that the appropriate action to take in order to move this issue forward is to refrain from granting a licence to this vessel for as long as its links with operators and interests known to be actively involved in illegal fishing in the Convention Area are not severed. The European Community appealed to Ukraine to consider taking such action.

10.78 France made the following statement:

'France joins the declaration of South Africa in regard to the inaction of Ukraine on behalf of the vessel *Simeiz*.

If Ukraine is unwilling to demonstrate its compliance, the best sign it could give would be not to grant a licence for exploratory fisheries to this vessel. We are waiting for facts and concrete proofs.'

10.79 The UK made the following statement:

'The UK concurred with the views of other delegations which had spoken on this matter. The UK reminded the meeting that it had earlier in the year expressed its serious concerns over the events that had taken place at CCAMLR-XXII regarding the vessels *Florens-1* and *Eva-1* – subsequently to become the Ukrainian-flagged *Simeiz* and *Mellas*.

The UK had listened very carefully to the statement delivered to ATCM-XXVII by the Ukrainian Minister of Education and Science. We had taken great encouragement

from that statement. It had expressed adequate assurances, provided apologies for what had transpired, and indicated that the previous events surrounding the *Mellas* and *Simeiz* would be fully investigated.

However, the UK does not believe that the steps Ukraine had taken since ATCM-XXVII adequately reflect the assurances delivered at ministerial level. Given this situation, the UK agreed with the views of New Zealand, South Africa and Norway that Ukraine should take steps to now withdraw the *Simeiz* from the exploratory fishery in Subarea 88.1.

If such action was not taken then the view of the UK was that the matter was likely to move forward to the forthcoming deliberations of the Antarctic Treaty Parties at ATCM-XXVIII in Sweden. The Consultative Parties' decision in relation to the application by Ukraine for Consultative status had been taken on the basis of the assurances delivered by Ukraine. The Consultative Parties would rightly wish to view whether such assurances had been met.'

10.80 Australia supported the interventions made by the previous speakers, in particular Norway. Australia further noted the progress that Ukraine had made towards meeting the commitments that it made at ATCM-XXVII in Cape Town and hoped that Ukraine would continue to work within the spirit of these commitments.

10.81 Argentina made the following statement:

'Argentina shares the views expressed by Australia. Members should fulfil their obligations derived from the instruments of the Antarctic Treaty System to which they are Parties and should be encouraged to observe the spirit of cooperation prevailing in those instruments. However, this should not be construed as imposing conditions or having punitive connotations with respect to a Member.'

10.82 Ukraine made the following statement:

'Ukraine expressed regret that there still remain concerns in the work of CCAMLR-XXIII with respect to the Ukrainian vessel *Simeiz*. This concern mainly pertains to the ambiguities around the concept of beneficial ownership that for the first time has been raised and discussed at the present annual session of CCAMLR.

The attempts to apply, regarding *Simeiz*, just the "common understanding" of the meaning of "beneficial ownership" that has not yet found its sufficient legal clarification within the framework of international law, and CCAMLR in particular, are contradictory to conservation measures in force. *De facto*, there is not even a definition of this term that has been noted by the Commission at CCAMLR-XXIII.

Ukraine stressed that conservation measures in force do not provide any justifiable legal ground to refuse the *Simeiz* participation in the new and exploratory fishery, for neither Ukraine as Flag State, nor the vessel *Simeiz* itself have violated any norm of international law and CCAMLR regulations in particular during the period since Ukraine has exercised jurisdiction over *Simeiz* and during the previous fishery season 2003/04 in the Convention Area.

Ukraine noted that what is even more disappointing is that for the first time the approach to refuse a vessel to participate in the abovementioned fishery, which is solely based on the alleged beneficial ownership of that vessel and not on the basis of conservation measures in force, was introduced with regard to a Ukrainian-flagged vessel exclusively.

Ukraine once again addressed the Members of the Commission to approve the list of the companies involved in IUU fishing. Such a list once adopted will provide undisputable grounds to refuse the permission issuance for exploratory fishery by national fishing companies.

With regard to Foros Fishing Company and the *Simeiz*, the Ukrainian Delegation has proposed to New Zealand and South Africa to exercise strengthened control over this vessel's activities within the CCAMLR Area by providing, on request by the interested party, the VMS data and catch information in order to ensure operative control over this. Although this proposal has, to our regret, been rejected it still remains valid.

Besides, Ukraine drew to the attention of the Commission that upon the provisions of Ukrainian Governmental Decree #963 of 28 July 2004 the Foros Company would be obliged to provide additional necessary information including crews' qualification certificates.

Ukraine noted that respective information that would be provided by Foros to the Ukrainian authorities responsible for fishery regulation will be taken into consideration during the decision-making process on the issuance or refusal to issue permission to the vessel *Simeiz* for fishery.

Ukraine stressed again that it had fulfilled its voluntary commitment to fully examine all the circumstances in connection with the position of the Ukrainian Delegation at CCAMLR-XXII and the registration of vessels *Simeiz* and *Mellas* to fly the Ukrainian flag.

The Ukrainian Delegation informed that the matter of beneficial ownership would be additionally studied in Ukraine and expressed hopes that an adequate solution in relation to fishing companies will be found. This solution shall bear in mind the concerns that have been expressed by some Members at CCAMLR-XXIII.

In this respect, Ukraine once again strongly urged the Commission to adopt a black list of companies in respect to which vessel owners shall avoid having business contacts.

Again, Ukraine reiterates that to date there are no legal grounds to refuse the *Simeiz* the right to conduct exploratory and new fishery in the CCAMLR Area.

Nevertheless, taking into account the concern of some Members on the alleged links between the company Foros and certain international operators, the competent authorities of Ukraine will pay due attention to the activities of the vessel *Simeiz* and examine additional abovementioned information about Foros.

Should the competent Ukrainian authorities make a decision to replace the notified vessel *Simeiz* for another vessel, it is Ukraine's understanding that the respective

provisions of Conservation Measure 21-02 (2004) namely paragraph 2(vii) on the date of the notification of a vessel for exploratory fishery (that such a notification be made three months prior to the beginning of the fishing season) shall not be applicable to such a newly notified vessel of Ukraine.’

### Icefish

10.83 The Commission endorsed the Scientific Committee’s advice on the trawl fishery for *C. gunnari* in Subarea 48.3 in the 2004/05 season (paragraph 4.42) which included a catch limit of 3 574 tonnes. It was also agreed to retain other elements of this measure which allowed limited fishing during the spawning period (1 March to 31 May), set a limit to the total number of seabirds that may be accidentally caught during fishing, and defined requirements for fishery-based research during the spawning season. The catch limit during the spawning period remained set at 25% of the annual limit.

10.84 In addition, the Commission noted that a UK-flagged vessel was planning to take part in the trawl fishery for *C. gunnari* in Subarea 48.3 at the earliest possible opportunity after the end of the Commission meeting. To allow this activity to proceed, the Commission agreed to change the timing of the 2004/05 fishing season in this fishery. The 2004/05 season would begin on 15 November 2004 and end on 14 November 2005. To facilitate this change, the Commission agreed that Conservation Measure 42-01 (2003), which is currently in force for the 2003/04 season, would terminate on 14 November 2004. Accordingly, Conservation Measure 42-01 (2004) was adopted.

10.85 The Commission noted the UK’s notification for an exploratory bottom trawl fishery for *C. gunnari* in Subarea 48.3 (CCAMLR-XXIII/16) which had been submitted in accordance with Conservation Measure 21-02. The objective of the notification was to explore whether the combination of pelagic trawling by night and bottom trawling by day is able to successfully target icefish while minimising: (i) the incidental mortality of seabirds, (ii) the by-catch of other fish species, and (iii) the impact on the benthos.

10.86 The Commission noted the deliberations of the Scientific Committee regarding the exploratory bottom trawl fishery (SC-CAMLR-XXIII, paragraphs 4.127 to 4.134).

10.87 Some Members expressed concern regarding the proposed resumption of bottom trawling in Subarea 48.3 and the potential impacts on benthic organisms.

10.88 The UK noted the following points with respect to the proposed exploratory fishery:

- (i) that the bottom trawl fishery would be part of an existing fishery for *C. gunnari* in Subarea 48.3 which has been assessed by WG-FSA and a catch limit recommended by the Scientific Committee;
- (ii) that the primary reason for the fishery is to investigate the use of heavy fishing gear in the fishery, similar to that used in Division 58.5.2, that effectively avoids catches of seabirds;
- (iii) that the level of effort in the proposed fishery is very low, as is the expected catch (400 tonnes);

- (iv) that fishing is restricted geographically to avoid known areas of high abundance of benthos;
- (v) that two scientific observers, one appointed in accordance with the CCAMLR Scheme of International Scientific Observation would be present on board the vessel;
- (vi) that data on catch, by-catch, incidental mortality and interaction with the seabed would be collected and submitted to the Secretariat for consideration by the Scientific Committee and its working groups at next year's meetings.

10.89 Norway noted the modest nature of the proposal, and the likely small impact on the South Georgia shelf, but expressed concern that expansion of bottom trawling in Subarea 48.3 might lead to much greater impacts in the future.

10.90 The UK assured Members that it has no intention of expanding bottom trawl fishing for *C. gunnari* in Subarea 48.3, unless:

- significant reduction of seabird by-catch is demonstrated; and
- areas of low benthic impact are identified.

10.91 Some Members considered that the problem of seabird by-catch in the pelagic trawl fishery was not of sufficient concern to warrant the proposed exploratory fishery using bottom trawls as a potential mitigation method, due to the possible impacts on the benthos. These Members noted that:

- (i) the proposal was put forward as a potential mitigation measure for reducing seabird by-catch associated with pelagic trawls;
- (ii) in the 2002/03 season some of the seabird by-catch in this fishery had been associated with a small proportion of sets when delays in retrieving the trawl gear allowed a disproportionately large number of seabirds to be taken (SC-CAMLR-XXII, Annex 5, paragraph 6.238);
- (iii) a rich benthic community, dominated by sponges and corals, had been documented to exist in some parts of the South Georgia shelf during a recent scientific survey (SC-CAMLR-XXIII, Annex 5, paragraph 5.32);
- (iv) while it was likely that the benthic biota would be disturbed by bottom trawling, it was not certain that use of this gear would achieve the desired reduction in seabird by-catch;
- (v) methods to reduce seabird by-catch should concentrate on the problems associated with retrieving pelagic trawls.

10.92 Following consideration of Members' comments, the UK agreed to withdraw the exploratory bottom trawl fishery proposal for this year. In doing so, the UK stressed that it did not share the view of some delegations that bottom trawling is necessarily a damaging fishing method and noted that the planned exploratory fishing in Subarea 48.3 was based on the operation of the bottom trawl fishery for *C. gunnari* in Division 58.5.2, including the use of a bottom trawl of the same design as that currently used in that fishery. The UK is of the

view that the use and impacts of bottom trawls should be assessed on a case-by-case basis and take into account issues such as the distribution, biomass and biodiversity of benthic organisms.

10.93 The Commission agreed that the issue of mitigation of seabird mortality in trawl fisheries in Subarea 48.3 should be addressed in a similar way to that applied to longline fisheries. There are two issues that need to be addressed as a matter of urgency. Firstly, effective mitigation methods for trawl fisheries need to be developed. Secondly, the Commission requested that the Scientific Committee undertake a thorough review of the impacts and mitigation of seabird by-catch in trawl fisheries at its next meeting, including an analysis of, and advice on, overall levels of by-catch of seabirds that might be considered reasonable for the trawl fishery for icefish in Subarea 48.3 in light of the size and status of populations of species that might be impacted by trawl fishing operations in Subarea 48.3.

10.94 The Commission endorsed the Scientific Committee's advice on the trawl fishery for *C. gunnari* on the Heard Island Plateau part of Division 58.5.2 in the 2004/05 season (paragraph 4.43). This advice included setting the catch limit for *C. gunnari* at 1 864 tonnes. Accordingly, Conservation Measure 42-02 (2004) was adopted.

#### Crab

10.95 The Commission endorsed the advice of the Scientific Committee regarding the crab fishery in Subarea 48.3 in the 2004/05 season. Accordingly, Conservation Measures 52-01 (2004) and 52-02 (2004) were adopted.

#### Squid

10.96 The Commission agreed that the existing management regime for the exploratory jig fishery for *M. hyadesi* in Subarea 48.3 be maintained for the 2004/05 fishing season. Accordingly, Conservation Measure 61-02 (2004) was adopted.

#### New resolutions

10.97 The Commission noted the successful implementation of the trial E-CDS in 2004, and urged Contracting Parties and non-Contracting Parties cooperating in the CDS to adopt the E-CDS as a matter of priority. Accordingly, Resolution 21/XXIII on the E-CDS was adopted.

10.98 The Commission noted that together with the potential impact of IUU fishing for toothfish within the Convention Area, the greatest current threat to species and populations of seabirds breeding in the Convention Area is mortality in longline fisheries in waters outside the Convention Area. Recalling repeated and relatively unsuccessful attempts to communicate these concerns to RFMOs, the Commission adopted Resolution 22/XXIII on international actions to reduce the incidental mortality of seabirds arising from fishing. The resolution suggests actions to reduce the incidental mortality of Convention Area seabirds in fisheries.

10.99 The Commission recalled the safety concerns regarding fishing vessels operating in high latitudes and the adoption in 2003 of Resolution 20/XXII on ice-strengthening standards in high-latitude fisheries. With the desire to further ensure the safety of fishing crews and CCAMLR scientific observers, the Commission adopted Resolution 23/XXIII on safety on board vessels fishing in the Convention Area. This resolution urges Members to take particular measures to promote the safety of all those on board vessels fishing in the Convention Area.

10.100 The Commission recognised that there may be merit in consolidating the elements of Resolutions 20/XXII and 23/XXIII into a single resolution, or measure. Members were asked to consider this matter during the intersessional period.

#### Environmental protection

10.101 The Commission considered the Secretariat's proposal to consolidate the environmental protection-related provisions of the fishery measures within a single conservation measure. This proposal was initiated following Resolution 1 (2004) adopted at ATCM-XXVII, and the Secretariat considered that there may be benefit in consolidating such provisions insofar as these relate directly to the potential environmental consequences of fishing activities (CCAMLR-XXIII/33).

10.102 The Commission was supportive of this proposal. However, the Commission agreed that further consideration was needed in relation to harmonising the environmental requirements in CCAMLR fisheries with the requirements of MARPOL and the Madrid Protocol. The Secretariat was tasked with further developing this concept during the intersessional period.

#### General

10.103 Australia advised the Commission that any fishing or fisheries research activities in that part of Divisions 58.4.3a, 58.4.3b and 58.5.2 that constitutes the Australian EEZ around the Australian Territory of Heard Island and McDonald Islands must have the prior approval of Australian authorities. The Australian EEZ extends up to 200 n miles from the Territory. Australia regards unauthorised fishing in its waters as a serious matter that undermines efforts to ensure fishing occurs only on an ecologically sustainable basis. Australia seeks the assistance of other CCAMLR Members in ensuring their nationals and vessels are aware of the limits of the Australian EEZ and the need for prior permission to fish there. Australia has implemented strict controls to ensure that fishing in its EEZ occurs only on a sustainable basis. These controls include a limit on the number of fishing concessions issued. Presently, fishing concessions are fully subscribed and no further concessions are available in 2004/05. Australia has legislation to provide for large penalties for illegal fishing in Australia's EEZ, including the immediate forfeiture of foreign vessels found engaged in such activities. Any enquiries about fishing in the Australian EEZ should be made initially to the Australian Fisheries Management Authority.'