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

COUNCIL REGULATION (EC) No 601/2004

of 22 March 2004

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

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) The Convention on the conservation of Antarctic marine living resources, (Convention), was approved by the Community by Council Decision 81/691/EEC[(2)], and entered into force in the Community on 21 May 1982.

(2) The Convention provides a framework for regional cooperation in the conservation and management of Antarctic marine living resources through the establishment of a Commission for the conservation and management of Antarctic marine living resources, hereinafter (CCAMLR), and the adoption by the CCAMLR of conservation measures which become binding on the Contracting Parties.

(3) The Community, as a Contracting Party to the Convention, should ensure that the conservation measures adopted by the CCAMLR are applied to Community fishing vessels.

(4) The measures concerned include numerous rules and provisions for the control of fishing activities in the Convention area which must be incorporated in Community law as special provisions within the meaning of Article 1(3) of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy[(3)], and supplementing the provisions thereof.

(5) Some of those special provisions have been transposed into Community law by Council Regulation (EEC) No 3943/90 of 19 December 1990 on the application of the system of observation and inspection established under Article XXIV of the Convention on the conservation of Antarctic marine living resources[(4)], by Council Regulation (EC) No 66/98 of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic[(5)], and by Council Regulation (EC) No

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EC) No 601/2004. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

1721/1999 of 29 July 1999 laying down certain control measures in respect of vessels flying the flag of non-Contracting Parties to the Convention on the conservation of Antarctic marine living resources[(6)].

(6) With a view to implementing the new conservation measures adopted by the CCAMLR, those Regulations should be repealed and replaced by a single Regulation bringing together the special provisions for the control of fishing activities arising from the Community's obligations as a Contracting Party to the Convention.

(7) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(7)],

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

1 This Regulation lays down general rules and conditions for the application by the Community of:

a control measures applicable to fishing vessels flying the flag of a Contracting Party to the Convention for the conservation of Antarctic marine living resources, (Convention), operating in the Convention area in waters located beyond the limits of national jurisdictions;

b a system to promote compliance by vessels flying the flag of a non-Contracting Party to the Convention with conservation measures laid down by the Commission for the conservation of Antarctic marine living resources, (CCAMLR).

2 This Regulation shall apply without prejudice to the provisions of the Convention and shall operate in furtherance of its objectives and principles and the provisions of the final act of the conference at which it was adopted.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘Convention area’: means the area of application of the Convention as defined in Article 1 thereof;

(b) ‘Antarctic convergence’: means a line joining the following points along parallels of latitude and meridians of longitude: 50 °S, 0° — 50 °S, 30 °E — 45 °S, 30 °E — 45 °S, 80 °E — 55 °S, 80 °E — 55 °S, 150 °E — 60 °S, 150 °E — 60 °S, 50 °W — 50 °S, 50 °W — 50 °S, 0°;

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(c) 'Community fishing vessel': means a fishing vessel flying the flag of a Community Member State and registered in the Community which takes and keeps on board marine organisms taken from marine living resources in the Convention area;

(d) 'VMS system': means a satellite-based vessel monitoring system installed on board Community fishing vessels in accordance with Article 3 of Regulation (EEC) No 2847/93;

(e) 'new fishery': means a fishery for a species using a particular fishing method in a FAO Antarctic statistical subarea, for which:

(i) information on distribution, abundance, population, potential yield and stock identity from comprehensive research/surveys or exploratory fishing have never been submitted to the CCAMLR; or

(ii) catch and effort data have never been submitted to the CCAMLR; or

(iii) catch and effort data from the two most recent seasons in which fishing took place have never been submitted to the CCAMLR;

(f) 'exploratory fishery': means a fishery that was previously classified as a 'new fishery' as defined in paragraph (e). An exploratory fishery shall continue to be classified as such until sufficient information is available:

(i) to evaluate the distribution, abundance and population of the target species, leading to an estimate of the fishery's potential yield;

(ii) to review the fishery's potential impacts on dependent and related species, and

(iii) to allow the CCAMLR's Scientific Committee to formulate and provide advice on appropriate harvest catch levels, as well as on effort levels and fishing gear where appropriate;

(g) 'CCAMLR inspector': an inspector designated by a Contracting Party to the Convention to implementing the control system referred to in Article 1(1);

(h) 'CCAMLR system of inspection': means the document bearing that name, adopted by the CCAMLR, concerning the control and inspection at sea of vessels flying the flag of a Contracting Party to the Convention;

(i) 'non-Contracting Party vessel': means a fishing vessel which flies the flag of a non-Contracting Party to the Convention and which has been sighted engaging in fishing activities in the Convention area;

(j) 'Contracting Party': means a contracting party to the Convention;

(k) 'Contracting Party vessel': means a fishing vessel which flies the flag of a Contracting Party to the Convention;

(l) 'sighting': means any sighting of a vessel flying the flag of a non-Contracting Party to the Convention by a vessel flying the flag of a Contracting Party to the Convention and operating in the Convention area, or by an aircraft registered in a Contracting Party to the Convention, and overflying the Convention area, or by a CCAMLR inspector;

(m) 'IUU activities' means illegal, unregulated and unreported fishing activities in the Convention area;

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(n) 'IUU vessel': means any vessel engaged in illegal, unregulated and unreported fishing activities in the Convention area.

CHAPTER II

ACCESS TO FISHING ACTIVITIES IN THE CONVENTION AREA

Article 3

Special fishing permit

1 Only Community fishing vessels holding a special fishing permit issued by their flag Member State in accordance with Regulation (EC) No 1627/94[8] shall be authorised, in accordance with the conditions laid down in the permit, to fish, retain on board, tranship and land fishery resources from the Convention area.

[F1 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);
b names and nationality of master, and, where relevant, of fishing master;
c type of fishing method or methods;

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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 (m^3);
j any other information (e.g. ice classification) considered appropriate.

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

3 The information transmitted to the Commission by the Member States shall include the internal fleet register number as provided for in Article 1 of Commission Regulation (EC) No 2090/98 of 30 September 1998 concerning the fishing vessel register of the Community[9], together with details of the home port and the names of the owner or charterer of the vessel, and shall be accompanied by the notification that the master of the vessel has been informed of the measures in force for the area or areas where the vessel will be fishing in the Convention area.

4 Paragraphs 1, 2 and 3 shall apply subject to the special provisions provided for in Articles 5, 6, 7 and 8.

5 Member States shall not issue a special fishing permit to vessels intending to engage in longline fisheries in the Convention area that do not comply with the provisions of Article 8(3), second subparagraph, of Council Regulation (EC) No 600/2004 of 22 March 2004 laying down certain technical measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources[10].

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

Textual Amendments

F1 Substituted by 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.

Article 4

General rules of conduct

1 The special fishing permit referred to in Article 3, or an authenticated copy thereof, shall be carried on board fishing vessels and shall be available at all times for inspection by a CCAMLR inspector.

2 Each Member State shall ensure that all Community fishing vessels flying its flag notify it of their entry to and exit from all ports, their entry to and exit from the Convention area and their movements between FAO statistical subareas and divisions.

[F1 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.**]**