I

(Acts whose publication is obligatory)

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

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 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, (CCAMLR), and the adoption by the CCAMLR of conservation measures which become binding on the Contracting Parties.

(3) The CCAMLR has adopted certain measures for the conservation and management of fish stocks which lay down, among other things, technical rules that apply to certain fishing activities in the area covered by the Convention. The measures include stipulations concerning the use of certain types of fishing gear, the banning of certain types of equipment regarded as harmful to the environment, the reduction of the harmful effect of fishing on species such as seabirds and marine mammals and the activities of scientific observers on board fishing vessels for the purpose of collecting data. These measures are binding on the Community and should therefore be implemented.

(4) Some of the technical measures adopted by the CCAMLR have been transposed 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 [3], and 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 [4].

(5) The adoption by the CCAMLR of new conservation measures and the updating of those already in force since the above Regulations were adopted means that the latter should be amended later.

(6) In order to ensure that Community rules are clearer, the measures for the control of fishing activities and those falling within the technical field should be transposed separately. For that reason, Regulations (EEC), No 3943/90 and (EC) No 66/98 should be repealed by 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 [5], and the Community arrangements should be supplemented by this Regulation. This is without prejudice to the inclusion of certain technical measures specific to certain exploratory fisheries in the Regulations adopted by the Community annually on the fishing possibilities allocated to Community vessels and the conditions associated with them (the annual 'TACs and quotas' Regulations).

(7) The measures necessary for the implementation of this Regulation and for bringing the Annexes into line with the regular amendments to the technical measures adopted by the CCAMLR pursuant to the Convention 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 [6],

[1] Opinion delivered on 16 December 2003 (not yet published in the Official Journal).
[2] OJ L 252, 5.9.1981, p. 26.
[3] OJ L 379, 31.12.1990, p. 45.
[4] OJ L 6, 10.1.1998, p. 1. Regulation as last amended by Regulation (EC) No 2742/1999 (OJ L 341, 31.12.1999, p. 1).
[5] See page 16 of this Official Journal.
[6] OJ L 184, 17.7.1999, p. 23.

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

1. This Regulation lays down technical measures concerning the activities of Community fishing vessels which take and keep on board marine organisms taken from marine living resources in the area covered by the Convention on the Conservation of Antarctic Marine Living Resources, (Convention).

2. This Regulation shall apply without prejudice to the provisions of the Convention and shall operate in furtherance of the 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 I 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°;

(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) 'fine-scale rectangle': means an area of 0,5° latitude by 1° longitude from the northwest angle of the statistical sub-area or division. A rectangle is defined by the latitude of its most northerly limit and the longitude of its nearest 0° limit;

(e) 'new fishery': means a fishery for a species using a particular fishing method in a FAO Antarctic statistical sub-area, 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' 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.

CHAPTER II

FISHING GEAR

Article 3

Permitted fishing gear in specific fisheries

1. The fishery for *Dissostichus eleginoides* in FAO statistical sub-area 48.3 shall be conducted by vessels using longlines and pots only.

2. The fishery for *Dissostichus eleginoides* in FAO statistical division 58.5.2 shall be conducted by vessels using trawls or longlines only.

3. The fishery for *Champsocephalus gunnari* in FAO statistical sub-area 48.3 shall be conducted by vessels using trawls only. The use of bottom trawls in the directed fishery for *Champsocephalus gunnari* in that sub-area is prohibited.

4. The fishery for *Champsocephalus gunnari* in FAO statistical sub-area 58.5.2 shall be conducted by vessels using trawls only.

5. For the purpose of the fishery referred to in paragraph 4, the area open to the fishery is defined as that portion of FAO statistical division 58.5.2 that lies within the area enclosed by a line:

(a) starting at the point where the meridian of longitude 72° 15' E intersects the Australia-France Maritime Delimitation Agreement Boundary then south along the meridian to its intersection with the parallel of latitude 53° 25' S;

(b) then east along that parallel to its intersection with the meridian of longitude 74° E;

(c) then northeasterly along the geodesic to the intersection of the parallel of latitude 52°40' S and the meridian of longitude 76° E;

(d) then north along the meridian to its intersection with the parallel of latitude 52° S;

(e) then northwesterly along the geodesic to the intersection of the parallel of latitude 51° S with the meridian of longitude 74°30' E; and

(f) then southwesterly along the geodesic to the point of commencement.

6. The fishery for crab in FAO statistical sub-area 48.3 shall be conducted by vessels using pots only.

Article 4

Mesh sizes

1. No trawl, Danish seine or similar net, any part of which is composed of meshes of a size smaller than the minimum mesh sizes laid down in Annex I, shall be used when engaging in directed fishing for the species or groups of species below:

(a) *Champsocephalus gunnari*

(b) *Dissostichus eleginoides*

(c) *Gobionotothen gibberifrons*

(d) *Lepidonotothen squamifrons*

(e) *Notothenia rossii*

(f) *Notothenia kempi*.

2. The use of any means or device which would obstruct or diminish the size of the meshes is prohibited.

Article 5

Control of mesh sizes

For the nets referred to in Article 4, the minimum mesh size provided for in Annex I shall be determined in accordance with the rules laid down in Annex II.

Article 6

Crab fisheries in FAO statistical sub-area 48.3

1. The crab fishery shall be limited to sexually mature male crabs — all female and undersized male crabs caught shall be released unharmed. In the case of *Paralomis spinosissima* and *Paralomis formosa*, males with a minimum carapace width of 94 mm and 90 mm, respectively, may be retained in the catch.

2. Crabs processed at sea shall be frozen as crab sections so that the size of the crabs can be determined later from the sections.

Article 7

Use and disposal of plastic packaging bands on Community fishing vessels

1. The use by Community fishing vessels of plastic packaging bands to secure bait boxes is prohibited.

The use of other packaging bands for other purposes on fishing vessels which do not use on-board incinerators (closed systems) is prohibited.

2. Any packaging bands, once removed from packages, shall be cut so that they do not form a continuous loop and burned at the earliest opportunity in the on-board incinerator.

3. All plastic residue shall be stored on board a vessel until reaching port and in no case discarded at sea.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 20(2).

Article 8

Incidental mortality of seabirds in the course of longline fishing

1. Longline fishing operations shall be conducted in such a way that the baited hooks sink as soon as possible after they are put in the water. For vessels using the Spanish method of longline fishing, weights shall be released before line tension occurs; weights of at least 8,5 kg mass shall be used, spaced at intervals of no more than 40 m, or weights of at least 6 kg mass shall be used, spaced at intervals of no more than 20 m. Only thawed bait shall be used.

2. Without prejudice to paragraph 7, longlines shall be set at night only (i.e. during the hours of darkness between the times of nautical twilight).

Where possible, the setting of lines shall be completed at least three hours before sunrise.

During longline fishing at night, only the minimum ship's lights necessary for safety shall be used.

3. Without prejudice to paragraph 8, the discharging of offal overside is prohibited while longlines are being set. The discharging of offal during the haul shall be avoided as far as possible. Where discharging during the haul is unavoidable it shall take place only on the opposite side of the vessel to where longlines are set or hauled. Prior to discharging, fish hooks should be removed from offal and fish heads.

Vessels shall be so configured that they dispose of on-board offal processing facilities or adequate capacity to retain offal on board, or the ability to discharge offal on the opposite side of the vessel to that where longlines are hauled.

4. Every effort shall be made to ensure that sea birds captured alive during longlining are released alive and that where possible hooks are removed without jeopardising the life of the bird.

5. A streamer line designed to discourage sea birds from settling on baits during deployment of longlines shall be towed. A detailed description of the streamer line and its method of deployment is given in Annex III. Details of the construction relating to the number and placement of swivels may be varied so long as the effective sea surface covered by the streamers is no less than that covered by the model shown in Annex III. Details of the device dragged in the water in order to create tension in the line may also be varied.

6. Other variations in the design of streamer lines may be tested on vessels carrying two observers, at least one appointed in accordance with the CCAMLR Scheme of International Scientific Observation, providing that the conditions laid down in paragraphs 1 to 5 and paragraph 7 are met.

7. The prohibition to set longlines at day provided for in paragraph 2 shall not apply to fishing in FAO statistical subareas 48.6 south of 60° S, 88.1, 88.2 and division 58.4.2 provided the following conditions are fulfilled:

(a) on the issue of the licence for this fishery, the vessel concerned can demonstrate to the competent authorities:

(i) its ability to comply fully with either of the exploratory protocols for the setting of longlines set out in Annex IV. Member States shall report to the CCAMLR on the results of technical controls carried out to this end on each licensed vessel;

(ii) the arrangements made to ensure the presence of the scientific observers it is required to carry on board in accordance with Article 14(2);

(b) the vessel concerned demonstrates a consistent minimum line sink rate of 0,3 m/s during its fishing operations;

(c) the vessel concerned does not catch more that two seabirds. Any vessel catching a total of three seabirds shall immediately revert to night setting.

8. By derogation to paragraph 3, there shall be no offal discharge in the fisheries referred to in paragraph 7.

9. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 20(2).

Article 9

Incidental mortality of seabirds and marine mammals in the course of trawl fishing

1. In the course of trawl fishing, the use of net monitor cables is prohibited.

2. Community fishing vessels shall at all times arrange the location and level of lighting so as to minimise illumination directed out from the vessel, consistent with the safe operation of the vessel.

3. The discharging at sea of offal shall be prohibited during the shooting and hauling of trawl gear.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 20(2).

CHAPTER III

CONDUCT OF FISHING ACTIVITIES

Article 10

Movement of vessels in relation to their level of by-catch

1. In the case of fisheries other than new or exploratory fisheries, Community fishing vessels shall move in relation to the level of their by-catches in accordance with Annex V, point A.

2. In the case of new and exploratory fisheries, Community fishing vessels shall move in relation to the level of their by-catches in accordance with Annex V, point B.

Article 11

Special measures applicable to the exploratory fisheries for *Dissostichus* spp.

1. Community fishing vessels participating in the exploratory fishery for Dissostichus spp. using the trawl or longline methods in the Convention area, except for such fisheries where the CCAMLR has given specific exemptions, shall operate in accordance with the rules set out in paragraphs 3 to 6.

2. For the purposes of this Article, a haul comprises a single deployment of the trawl net. In longline fisheries, a haul comprises the setting of one or more lines in a single location.

3. Fishing shall take place over as large a geographical and bathymetric range as possible. To this end, fishing in any fine-scale rectangle shall cease when the reported catch reported in accordance with Article 12 of Regulation (EC) No 601/2004 reaches 100 tonnes and that rectangle shall be closed to fishing for the remainder of the season. Fishing in any fine-scale rectangle shall be restricted to one vessel at any one time.

4. In order to give effect to paragraph 3:

(a) the precise geographic position of a haul in trawl fisheries shall be determined by the mid-point of the path between the start-point and end-point of the haul;

(b) the precise geographic position of a haul in longline fisheries shall be determined by the centre-point of the line or lines deployed;

(c) the fine-scale rectangle in which a vessel is deemed to be fishing will be that in which the precise geographic position of a haul lies;

(d) the vessel will be deemed to be fishing in any fine-scale rectangle from the beginning of the setting process until the completion of the hauling of all lines in that fine-scale rectangle.

5. Each haul of a longline shall have, except in exceptional circumstances beyond the control of the vessel (such as ice and weather conditions), a soak time not exceeding 48 hours, measured from the completion of the setting process to the beginning of the hauling process.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 20(2).

Article 12

Special measures applicable to the fishery for *Champsocephalus gunnari* in FAO statistical sub-area 48.3

1. Fishing for *Champsocephalus gunnari* shall be prohibited within 12 nautical miles of the coast of South Georgia during the period between 1 March and 31 May (spawning period).

2. Where any haul contains more than 100 kg of *Champsocephalus gunnari*, and more than 10 % of the *Champsocephalus gunnari* by number are smaller than 240 mm total length, the fishing vessel shall move to another fishing location at least five nautical miles distant. The fishing vessel shall not return to any point within five nautical miles of the location where the catch of small *Champsocephalus gunnari* exceeds 10 % for a period of at least five days. The location where the incidental catch of small *Champsocephalus gunnari* exceeds 10 % is defined as the path followed by the fishing vessel from the point at which the fishing gear is first deployed to the point at which the fishing gear is retrieved by the fishing vessel.

3. When a vessel has caught a total of 20 seabirds, it shall cease fishing and shall be excluded from further participation in the fishery in that season.

4. Vessels participating in this fishery during the period 1 March to 31 May shall carry out not less than 20 research trawls as described in Annex VI.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 20(2).

CHAPTER IV

SCIENTIFIC OBSERVATION ON BOARD VESSELS OPERATING IN THE CONVENTION AREA

Article 13

Object and scope

The scientific observation system adopted by the CCAMLR under Article XXIV of the Convention shall apply, in accordance with this Chapter, to Community fishing vessels carrying on fishing and research operations in the Convention area.

Article 14

Activities subject to scientific observation

1. During each fishing period Community fishing vessels shall carry on board at least one scientific observer and, where possible, one additional scientific observer when fishing for:

(a) *Champsocephalus gunnari* in FAO statistical sub-area 48.3 and division 58.5.2;

(b) crab in FAO statistical sub-area 48.3;

(c) *Dissostichus eleginoides* in FAO statistical sub-areas 48.3 and 48.4 and division 58.5.2; or

(d) *Martialia hyadesi* in FAO statistical sub-area 48.3.

2. Community fishing vessels shall also carry on board at least two scientific observers, one of whom shall be a CCAMLR Scientific observer designated in accordance with Article 15, when participating in an exploratory fishery as referred to in Article 11 of this Regulation or in another exploratory fishery authorised in accordance with Article 7 of Regulation (EC) No 601/2004.

3. By way of derogation from paragraph 2, vessels participating in exploratory fisheries for *Dissostichus* spp. in FAO statistical divisions 48.3.a) and 48.3.b) shall carry on board at least one CCAMLR scientific observer and, where possible, one additional scientific observer.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 20(2).

Article 15

Scientific observers

1. Member States shall designate scientific observers authorised to carry out the tasks associated with the implementation of the observation system adopted by the CCAMLR in accordance with this Regulation.

2. The duties and tasks of scientific observers carried on board vessels are set out in Annex VII.

3. Scientific observers shall be nationals of the Member State which designates them. They shall comply with the customs and rules in force on the vessel on which they make their observations.

4. Scientific observers shall be familiar with the harvesting and scientific research activities to be observed, the provisions of the Convention and the measures adopted under the Convention, and shall have received adequate training to carry out their duties competently. They shall, in addition, be able to communicate in the language of the flag State of the vessels on which they carry out their activities.