

Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required

## CHAPTER IX

### **SPECIAL PROVISIONS FOR COMMUNITY VESSELS FISHING IN THE CCAMLR CONVENTION AREA**

#### SECTION 2

#### **Exploratory fisheries**

##### *Article 41*

#### **Rules of conduct for exploratory fisheries**

Without prejudice to Article 4 of Regulation (EC) No 601/2004 Member States shall ensure that all Community vessels are equipped with:

- (a) adequate communication equipment (including MF/HF radio and carriage of at least one 406MHz Emergency Position Indicating Radio Beacon (EPIRB) and trained operators on board and wherever possible fitted with GMDSS equipment;
- (b) sufficient immersion survival suits for all on board;
- (c) adequate arrangements to handle medical emergencies that may arise in the course of the voyage;
- (d) reserves of food, fresh water, fuel and spare parts for critical equipment to provide for unforeseen delays and besetment;
- (e) an approved Shipboard Oil Pollution Emergency Plan (SOPEP) outlining marine pollution mitigation arrangements (including insurance) in the event of a fuel or waste spill.

##### *Article 42*

#### **Participation in exploratory fisheries**

1 Fishing vessels flying the flag of, and registered in a Member State that have been notified to CCAMLR in accordance with the provisions of Articles 7 and 7a of Regulation (EC) No 601/2004 may participate in long-line exploratory fisheries for *Dissostichus* spp. in Subareas FAO 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2 and 58.4.3(b) outside areas of national jurisdiction.

2 No more than one fishing vessel shall fish in Division 58.4.3(b) at any one time.

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, SECTION 2. (See end of Document for details)*

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3 With regard to Subareas FAO 88.1 and 88.2 as well as Divisions 58.4.1, 58.4.2 and 58.4.3(b) total catch and by-catch limits per Subarea and Division, and their distribution among Small Scale Research Units (SSRUs) within each of them shall be as set out in Annex XII. Fishing in any SSRU shall cease when the reported catch reaches the specified catch limit, and that SSRU shall be closed to fishing for the remainder of the season.

4 Fishing shall take place over as large a geographical and bathymetric range as possible to obtain the information necessary to determine fishery potential and to avoid over-concentration of catch and fishing effort. However, fishing in Subareas FAO 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2 and 58.4.3(b) shall be prohibited in depths less than 550 m.

### Article 43

#### Reporting systems

Fishing vessels participating in the exploratory fisheries as referred to in Article 42 shall be subject to the following catch and effort reporting systems:

- (a) the Five-day Catch and Effort Reporting System set out in Article 12 of Regulation (EC) No 601/2004, with the exception that Member States shall submit to the Commission catch and effort reports not later than two working days after the end of each reporting period, for immediate transmission to CCAMLR. In Subareas FAO 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2 and 58.4.3(b) reporting shall be made by Small Scale Research Units;
- (b) the Monthly fine-scale Catch and Effort Reporting System set out in Article 13 of Regulation (EC) No 601/2004;
- (c) the total number and weight of *Dissostichus eleginoides* and *Dissostichus mawsoni* discarded, including those with the 'jellymeat' condition, shall be reported.

### Article 44

#### Definition of hauls

1 For the purposes of this Section, a haul shall comprise the setting of one or more lines in a single location. The precise geographic position of a haul shall be determined by the centre-point of the line or lines deployed for the purposes of catch and effort reporting.

- 2 To be designated as a research haul:
- a each research haul shall be separated by no less than five nautical miles from any other research haul, distance to be measured from the geographical mid-point of each research haul;
  - b each haul shall comprise at least 3 500 hooks and no more than 5 000 hooks; this may comprise a number of separate lines set in the same location;
  - c each haul of a longline shall have a soak time of not less than six hours, measured from the time of completion of the setting process to the beginning of the hauling process.

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## Article 45

### Research plans

Fishing vessels participating in the exploratory fisheries referred to in Article 42 shall implement Research Plans, in each and all SSRUs in which Divisions 58.4.1, 58.4.2 and 58.4.3(b) are divided. The Research Plan shall be implemented in the following manner:

- (a) on first entry into a SSRU, the first 10 hauls, designated 'first series', shall be designated 'research hauls' and must satisfy the criteria set out in Article 44(2); research hauls shall be carried out on, or close to, positions provided by the CCAMLR Secretariat, based on a stratified random design in prescribed areas within that SSRU;
- (b) the next 10 hauls, or 10 tonnes of catch, whichever trigger level is achieved first, shall be designated the 'second series'. Hauls in the second series may, at the discretion of the master, be fished as part of normal exploratory fishing. However, provided they satisfy the requirements of Article 44(2), these hauls may also be designated as research hauls;
- (c) on completion of the first and second series of hauls, if the master wishes to continue to fish within the SSRU, the vessel shall undertake a 'third series' which shall result in a total of 20 research hauls being made in all three series. The third series of hauls shall be completed during the same visit as the first and the second series in a SSRU;
- (d) on completion of 10 research hauls of the third series, the vessel may continue to fish within the SSRU.

## Article 46

### Data collection plans

1 Fishing vessels participating in the exploratory fisheries referred to in Article 42 shall implement data collection plans, in each and all SSRUs in which Subareas FAO 88.1 and 88.2 as well as Divisions 58.4.1, 58.4.2 and 58.4.3(b) are divided. The Data Collection Plan shall comprise the following data:

- a the position and sea depth at each end of every line in a haul;
- b the setting, soak, and hauling times;
- c the number and species of fish lost at surface;
- d the number of hooks set;
- e the bait type;
- f the baiting success (%);
- g the hook type.

2 All data referred to under paragraph 1 shall be collected for every research haul; in particular, all fish in a research haul up to 100 fish are to be measured and at least 30 fish sampled for biological studies. Where more than 100 fish are caught, a method for randomly subsampling the fish shall be applied.

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### Article 47

#### Tagging programme

1 Without prejudice to Article 7b of Regulation (EC) No 601/2004 each longline vessel shall tag and release *Dissostichus* spp., continuously while fishing, at a rate specified in the conservation measure for that fishery according to the CCAMLR Tagging Protocol.

2 From the date of entry into force of this Regulation until the end of the 2008/2009 fishing season, each longline vessel shall tag and release skates, continuously while fishing, at a rate specified in the conservation measure for that fishery according to the CCAMLR Tagging Protocol. All tagged skates must be double-tagged and released alive.

3 All toothfish and skate tags for use in exploratory fisheries shall be sourced from the CCAMLR Secretariat.

### Article 48

#### Scientific observers

1 Each fishing vessel participating in the exploratory fisheries referred to in Article 42 shall have at least two scientific observers, one of which shall be an observer appointed in accordance with the CCAMLR Scheme of International Scientific Observation, on board throughout all fishing activities within the fishing period.

[<sup>F1</sup>1a Each vessel participating in the krill fishery referred to in Article 49 shall have at least one scientific observer appointed in accordance with the CCAMLR Scheme of International Scientific Observation or fulfilling the requirements under that scheme, on board throughout all fishing activities within the fishing period.]

2 Each Member State, subject to and in accordance with their applicable laws and regulations, including rules governing the admissibility of evidence in domestic courts, shall consider and act on reports from inspectors of designating CCAMLR Contracting Party under this scheme on the same basis as reports from its own inspectors and both Member State and designating CCAMLR Contracting Party concerned shall cooperate in order to facilitate judicial or other proceedings arising from any such report.

#### Textual Amendments

**F1** Inserted by [Council Regulation \(EC\) No 753/2009 of 27 July 2009 amending Regulation \(EC\) No 43/2009, as regards fishing opportunities and associated conditions for certain fish stocks.](#)

### Article 49

#### Notifications of intent to participate in a krill fishery during the 2009/2010 fishing season

1 Only those Member States which are Members of the CCAMLR Commission may fish for krill in the CCAMLR Convention Area during the 2009/2010 fishing season. By way of derogation from Article 5a of Regulation (EC) No 601/2004, such Member States, if intending to fish for krill in the CCAMLR Convention Area, shall notify the CCAMLR Secretariat and

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the Commission, of their intention no later than 1 June 2009, immediately prior to the season in which they intend to fish, using the format laid down in Annex XII to this Regulation in order to ensure an appropriate review by the CCAMLR Commission before the vessels commence fishing as well as the net configuration form using the format laid down in Annex XIII.

2 The notification, referred to in paragraph 1 shall include the information provided for in Article 3 of Regulation (EC) No 601/2004 for each vessel to be authorised by the Member State to participate in the krill fishery.

3 Member States intending to fish for krill in the CCAMLR Convention Area shall only notify vessels flying its flag at the time of the notification.

4 By way of derogation from paragraph 3, Member States shall be entitled to authorise participation in a krill fishery by a vessel other than that notified to CCAMLR in accordance with paragraphs 1 to 3, if the notified vessel is prevented from participation due to legitimate operational reasons or *force majeure*. In such circumstances Member States concerned shall immediately inform the CCAMLR Secretariat and the Commission, providing:

- (i) full details of the intended replacement vessel(s) referred to in paragraph 2;
- (ii) a comprehensive account of the reasons justifying the replacement and any relevant supporting evidence or references.

5 By way of derogation from paragraphs 3 and 4, Member States shall not authorise a vessel on either of the CCAMLR IUU Vessel Lists to participate in krill fisheries.

#### Article 50

##### **Precautionary catch limitations on krill fishery for certain sub areas**

1 The total combined catch of krill in Statistical Sub areas 48.1, 48.2, 48.3 and 48.4 shall be limited to 3,47 million tonnes in any fishing season. The total catch of krill in Statistical Division 58.4.2 shall be limited to 2,645 million tonnes in any fishing season.

2 Until an allocation of this total catch limit between smaller management units has been defined, based on the advice from the Scientific Committee, the total combined catch in Statistical Sub areas 48.1, 48.2, 48.3 and 48.4 shall be further limited to 620 000 tonnes in any fishing season. The total catch in Division 58.4.2 shall be limited to 260 000 tonnes West of 55°E and 192 000 tonnes East of 55°E in any fishing season.

3 A fishing season shall begin on 1 December and end on 30 November of the following year.

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##### **Textual Amendments**

- F2** Deleted by [Council Regulation \(EC\) No 753/2009 of 27 July 2009 amending Regulation \(EC\) No 43/2009, as regards fishing opportunities and associated conditions for certain fish stocks.](#)

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## Article 51

### Data Reporting System for krill fisheries

1 Catches of krill shall be reported in accordance with Articles 11, 13 and 14 of Regulation (EC) No 601/2004.

2 The operation of the krill fishery shall be carried out in accordance with Article 9 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<sup>(1)</sup>.

3 Vessels shall use marine mammal exclusion devices on trawls.

4 When the total reported catch in any fishing season is greater than or equal to 80 % of the trigger level of 620 000 tonnes in Sub areas 48.1, 48.2, 48.3 and 48.4 and of 260 000 tonnes west of 55°E and 192 000 tonnes east of 55°E in sub area 58.4.2, catches shall be reported in accordance with Article 11 of Regulation (EC) No 601/2004.

5 In the fishing season following that in which the total catch has been greater than or equal to 80 % of the trigger level, laid down in paragraph 2, catches shall be reported in accordance with Article 11 of Regulation (EC) No 601/2004 when the total catch is greater than or equal to 50 % of that trigger level.

6 Member States shall report to the CCAMLR Executive Secretary, with a copy to the Commission, the total green weight of krill caught and lost.

7 At the end of each fishing season Member States shall obtain from each of its vessels the haul-by-haul data required to complete the ccamlr fine-scale catch and effort data form. It shall transmit those data, in the trawl fisheries form C1 of CCAMLR, to the CCAMLR Executive Secretary and to the Commission not later than 1 April of the following year.

## Article 52

### Interim prohibition of deep-sea gillnetting

1 For the purpose of this Article the following definition shall apply:

Gillnets are strings of single, double or triple netting walls, vertical, near the surface, in midwater or on the bottom, in which fish will gill, entangle or enmesh. Gillnets have floats on the upper line (headrope) and, in general, weights on the ground-line (footrope). Gillnets consist of single or, less commonly, double or triple netting (known as 'trammel net') mounted together on the same frame ropes. Several types of nets may be combined in one gear (for example, trammel net combined with gillnet). These nets can be used either alone or, as is more usual, in large numbers placed in line ('fleets' of nets). The gear can be set, anchored to the bottom (known as 'bottom-set net') or left drifting, free or connected with the vessel (known as 'driftnet').

2 The use of gillnets in the CCAMLR Convention Area, for purposes other than scientific research, is prohibited until such time as the Scientific Committee has investigated and reported on the potential impacts of this gear and the Commission has agreed on the basis of advice from the Scientific Committee that such a method may be used in the CCAMLR Convention Area.

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3 Proposal for the use of gillnets for scientific research in waters deeper than 100 meters shall be notified in advance to the Scientific Committee and be approved by the Commission before such research can commence.

4 Any vessel seeking to transit the CCAMLR Convention Area carrying gillnets must give advance notice of its intent, including the expected dates of its passage through the CCAMLR Convention Area to the CCAMLR Secretariat. Any vessel in possession of gillnets within the CCAMLR Convention Area which has not given such an advance notice, shall be deemed to be in breach of this provision.

### *Article 53*

#### **Minimisation of the incidental mortality of seabirds**

1 Without prejudice to Article 8 of Regulation (EC) No 601/2004 vessels using exclusively the Spanish method of longline fishing shall release weights before line tension occurs.

2 The following weights may be used:

- a traditional weights made from rocks or concrete of at least 8,5 kg mass which shall be used, spaced at intervals of no more than 40 m;
- b traditional weights made from rocks or concrete of at least 6 kg mass which shall be used, spaced at intervals of no more than 20 m; or
- c solid steel weights, not made from chain links, of at least 5 kg mass which shall be used, spaced at intervals of no more than 40 m.

3 Vessels using exclusively the trotline method shall use weights only at the distal end of the droppers in the trotline. The weights shall be traditional weights of at least 6 kg or solid steel weights of at least 5 kg.

4 Vessels using both the Spanish method referred to in paragraph 1 and the trotline method referred to in paragraph 3 shall use:

- (i) for the Spanish method: line weighting in accordance with the provisions in paragraph 1;
- (ii) for the trotline method: line weighting which shall consist either of 8,5 kg traditional weights or of 5 kg steel weights attached on the hook-end of all droppers in the trotline at no more than 80 m intervals.

### *Article 54*

#### **Closure of all fisheries**

1 Following notification by the CCAMLR Secretariat of the closure of a fishery, Member States shall ensure that all vessels flying their flag and fishing in the area, management area, subarea, division, small-scale research unit or other management unit, subject to the closure notice, shall remove all their fishing gear from the water by the notified closure date and time.

2 On receipt of such notification by the vessel, no further longlines may be set within 24 hours of the notified date and time. If such notification is received less than 24 hours before the closure date and time, no further longlines may be set following receipt of that notification.

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3 In the case of closure of the fishery, all vessels shall depart from the fishing area as soon as all fishing gear has been removed from the water.

4 Where a vessel is unable to remove all its fishing gear from the water by the notified closure date and time for reasons relating to:

- (i) the safety of the vessel and crew;
- (ii) the limitations which may arise from adverse weather conditions;
- (iii) sea-ice cover; or
- (iv) the need to protect the Antarctic marine environment,

the vessel shall notify the Member State concerned of the situation. The Member States shall promptly notify the CCAMLR Secretariat, and the Commission. The vessel shall nonetheless make all reasonable efforts to remove all its fishing gear from the water as soon as possible.

5 If paragraph 4 applies, Member States shall carry out an investigation of the vessel's actions and, according to its domestic procedures, report the CCAMLR Secretariat and the Commission of its findings, including all relevant matters, no later than the next CCAMLR meeting. The final report shall assess whether the vessel made all reasonable efforts to remove all its fishing gear from the water:

- (i) by the notified closure date and time; and
- (ii) as soon as possible after the notification referred to in paragraph 4.

6 Where a vessel does not depart from the closed area as soon as all fishing gear has been removed from the water, the flag Member State or vessel shall inform the CCAMLR Secretariat and the Commission.



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**Changes to legislation:** There are currently no known outstanding effects for the  
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(1) [OJ L 97, 1.4.2004, p. 1.](#)

**Changes to legislation:**

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SECTION 2.