

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources ⁽¹⁾, as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas the Convention on the Conservation of Antarctic Marine Living Resources was approved by the Council in its Decision 81/691/EEC ⁽²⁾;

Whereas Article XXIV of the Convention provides for the establishment of a system of observation and inspection in order to promote the objective and ensure observance of the provisions of the Convention;

Whereas, in accordance with that Article, the system is to include *inter alia* procedures for boarding and inspection by observers and inspectors designated by Contracting Parties to the Convention; whereas it is also to include procedures for flag-State prosecution and sanctions on the basis of evidence resulting from such boarding and inspection;

Whereas the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) has duly adopted a system of observation and inspection; whereas provision must be made for the system to apply in the Community;

Whereas it is appropriate to extend the inspection of Community vessels in the Convention area to cover their compliance with any other relevant Community measures for the control and conservation of fishery resources;

Whereas in the interest of monitoring the fishing activities in the Convention area it is necessary that the Member States cooperate with each other and with the Commission in the application of the system and other relevant Community measures;

Whereas the system of observation and inspection applies without prejudice to the obligation of the Member States under Article 1 of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing

activities ⁽³⁾ as amended by Regulation (EEC) No 3483/88 ⁽⁴⁾ to inspect and control Community vessels which have been engaged in fishing and related activities in the Convention area;

Whereas the system is subject to revision and provision should therefore be made for adopting any amendments agreed upon at a multilateral level by CCAMLR thereto as well as detailed rules for implementing the system,

HAS ADOPTED THIS REGULATION:

Article 1

The system of observation and inspection established under the Convention on the Conservation of Antarctic Marine Living Resources, hereinafter referred to as 'the system', shall apply in the Community.

The provisions of the system are set out in the Annex.

Article 2

1. The Commission shall designate Community observers or inspectors to the system. The observers or inspectors may be appointed by the Commission or by a Member State and may be placed on board any Member State vessel or, by arrangement with another Contracting Party, on a vessel of the latter, engaged in or about to be engaged in observation or inspection duties or scientific research in the Convention area. Inspectors and observers may carry out observation and inspection activities on board vessels engaged in harvesting marine living resources or in scientific research related to fisheries resources in the Convention area.

2. In addition to their functions under the system, Community inspectors shall inspect in the Convention area Community vessels to which the system applies for compliance with any other Community conservation or control measures relating to fisheries resources applying to those vessels.

Article 3

Member States shall cooperate with each other and with the Commission in the application of the system.

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 1.

⁽²⁾ OJ No L 252, 5. 9. 1981, p. 26.

⁽³⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽⁴⁾ OJ No L 306, 11. 11. 1988, p. 2.

Article 4

Detailed rules for the implementation of this Regulation shall be adopted if necessary in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 170/83.

Article 5

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

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

Done at Brussels, 19 December 1990.

For the Council
The President
C. VIZZINI

ANNEX

COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES
OBSERVATION AND INSPECTION SYSTEM

Notes:

1. In the following text of the Observation and Inspection System, adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the term 'Commission' has been replaced, for the sake of clarity, by 'CCAMLR'.
2. Appended to the Observation and Inspection System are the pennant for Inspectors's vessels, the report of inspection form and the inspector identification card, as approved by the Commission for the Conservation of Antarctic Marine Living Resources.

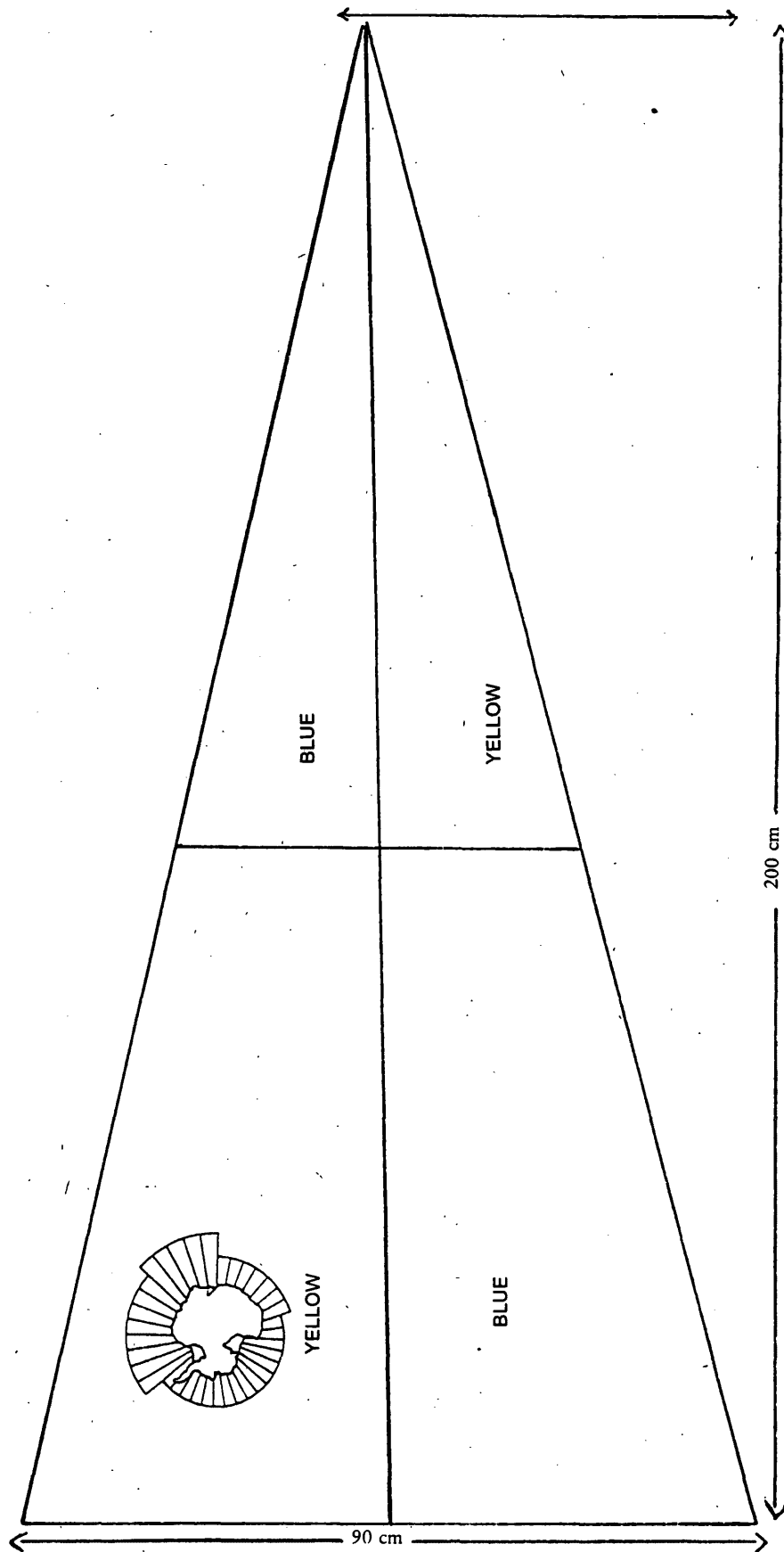
OBSERVATIONS AND INSPECTION SYSTEM

- I. Each Member of CCAMLR may designate observers and inspectors referred to in Article XXIV of the Convention.
 - (a) Designated observers and inspectors shall be familiar with the fishing and scientific research activities to be observed and inspected and the provisions of the Convention and measures adopted under it.
 - (b) Members shall certify the qualifications of each observer and inspector they designate.
 - (c) Observers and inspectors shall be nationals of the Contracting Party which designates them and, while carrying out observation and inspection activities, shall be subject solely to the jurisdiction of that Contracting Party.
 - (d) Observers and inspectors shall be able to communicate in the language of the flag State of the vessels on which they carry out their activities.
 - (e) Observers and inspectors shall be accorded the status of ship's officer while on board such vessels.
 - (f) Names of designated observers and inspectors shall be communicated to CCAMLR by 1 May each year. Designations shall remain valid until July 1 of the following year.
- II. CCAMLR shall maintain a register of certified observers and inspectors designated by Members.
 - (a) CCAMLR shall communicate the register of observers and inspectors to each Contracting Party by 31 May each year.
- III. In order to verify compliance with measures adopted under the Convention, observers and inspectors designated by Members shall be entitled to carry out observation and inspection activities on board vessels engaged in scientific research or harvesting of marine living resources in the area to which the Convention applies.
 - (a) Observation and inspection may be carried out by designated observers and inspectors from vessels of the designating States.
 - (b) Ships carrying observers or inspectors shall carry a special flag or pennant approved by CCAMLR to indicate that the observers or inspectors on board are carrying out observation and inspection duties in accordance with this system.
 - (c) Such observers and inspectors may also be placed on board vessels, with the schedule of embarkation and disembarkation of observers and inspectors subject to arrangements to be concluded between the designating State and the flag State.
- IV. Each Contracting Party shall provide to CCAMLR by 1 May each year a list of all of its flag vessels intending to harvest marine living resources in the Convention area during the year beginning 1 July. Such list shall include:
 - name of vessel,
 - call sign of the vessel registered by appropriate authorities of the flag State,
 - home port and nationality of vessel,
 - owner or charterer of vessel,
 - 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 harvesting marine living resources in the Convention area.
 - (a) CCAMLR shall communicate to all Parties by 31 May each year a consolidated list of all such vessels. The list shall also include the names of research vessels contained in the Register of Permanent Research Vessels compiled in accordance with paragraph 60 of the report of the fifth meeting of CCAMLR.

- (b) Each Contracting Party shall also notify CCAMLR as soon as possible of any of its flag vessels added to or deleted from the list during an ongoing fishing season. CCAMLR shall promptly communicate this information to the other Contracting Parties.
- V. (a) Any vessel present in the Convention area for the purpose of harvesting or conducting scientific research on marine living resources shall, when given the appropriate signal in the International Code of Signals by a ship carrying an observer or inspector (as signified by flying the flag or pennant referred to in paragraph III (b)), stop or take such other actions as necessary to facilitate the safe and prompt transfer of the observer or inspector to the vessel, unless the vessel is actively engaged in harvesting operations, in which case it shall do so as soon as practicable.
- (b) The master of the vessel shall permit the observer or inspector, who may be accompanied by appropriate assistants, to board the vessel.
- VI. Observers and inspectors shall have the authority to observe and inspect catch, nets and other fishing gear as well as harvesting and scientific research activities, and shall have access to records and reports of catch and location data insofar as necessary to carry out their functions.
- (a) Each observer and inspector shall carry an identity document issued by the designating State in a form approved or provided by CCAMLR stating that the observer or inspector has been designated to carry out observation and inspection in accordance with this system.
- (b) On boarding a vessel, an observer or inspector shall present the document described in subparagraph (d).
- (c) The observation and inspection shall be carried out so that the vessel is subject to the minimum interference and inconvenience. Inquiries shall be limited to the ascertainment of facts in relation to compliance with CCAMLR measures in effect for the flag State concerned.
- (d) Observers and inspectors may take photographs as necessary to document any alleged violation of CCAMLR measures in effect. Duplicate photographs shall be taken, one of which shall be attached to the notice of alleged violations provided to the vessel master in accordance with paragraph VIII.
- (e) Observers and inspectors shall affix an identification mark approved by CCAMLR to any net or other fishing gear which appears to have been used in contravention of conservation measures in effect and shall record this fact in the reports and notification referenced in paragraph VIII.
- (f) Observers and inspectors shall be provided with appropriate assistance by the master of the vessel in carrying out their duties, including access as necessary to communications equipment.
- VII. If a vessel refuses to stop or otherwise facilitate transfer of an observer or inspector, or if the master or crew of a vessel interferes with the authorized activities of an observer or inspector, the observer or inspector involved shall prepare a detailed report, including a full description of all the circumstances, and provide the report to the designating State to be transmitted in accordance with the relevant provisions of paragraphs VIII and IX.
- (a) Interference with an observer or inspector or failure to comply with reasonable requests made by an observer or inspector in the performance of his duties shall be treated by the flag State as if the observer or inspector were an observer or inspector of the State.
- (b) The flag State shall report on actions taken under this paragraph in accordance with paragraph X.
- VIII. Observers and inspectors shall prepare detailed reports on their observation and inspection activities. These reports shall be provided to the designating Member which shall in turn report to CCAMLR.
- (a) Before leaving vessels that have been observed and inspected, the observer or inspector shall give the master of the vessel a certification of inspection and a written notification of any alleged violations of CCAMLR measures in effect and shall afford the master opportunity to comment in writing on any such notification.
- (b) The ship's master shall sign the notification to acknowledge receipt and the opportunity to comment on it.
- IX. Reports referred to in paragraph VIII shall be provided to the flag State and the flag State shall be afforded the opportunity to comment on them prior to their consideration by CCAMLR.
- X. If, as a result of observation and inspection activities carried out in accordance with these provisions, there is evidence of violation of measures adopted under the Convention, the flag State shall take steps to prosecute and, if necessary, impose sanctions. The flag State shall report any such prosecutions and sanctions to CCAMLR.

Appendix 1

CCAMLR SYSTEM OF OBSERVATION AND INSPECTION
PENNANT



Appendix 2

COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES

REPORT OF INSPECTION

(Inspector: Please use capital block letters)

Note to master of the vessel to be inspected

The CCAMLR inspector will produce his CCAMLR document of identity on boarding. He is then entitled to inspect and measure all fishing gear on or near the working deck and readily available for use and the catch on and/or below decks and any relevant documents. This inspection will be to check your compliance with CCAMLR's measures to which your country has not objected and, notwithstanding any such objection, to inspect the logbook entries and fishing records for the Convention area and the catches on board. The inspector is authorized to examine and photograph the vessel's gear, catch, log book or other relevant document. The inspector will not ask you to haul your nets. However, he may remain on board until the net is hauled in.

AUTHORIZED INSPECTOR(s)

- 1. Name(s):
Designating country:
2. Name and identifying letters and/or number of vessel carrying the inspector:

INFORMATION ON VESSEL INSPECTED

- 3. Country and port of register:
4. Vessel's name and registration number:
5. Type of vessel (fishing, research):
6. Master's name:
7. Owner's name and address:
8. Position as determined by inspecting vessel's master at: GMT
Latitude: Longitude:
(a) Equipment used in determining position:
9. Position as determined by inspected vessel's master at: GMT
Latitude: Longitude:
(a) Equipment used in determining position:

DATE AND TIMES THE INSPECTION COMMENCED AND FINISHED

- 10. Date: Time arrived on board: GMT; Time of departure: GMT

41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60

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	Total mm for 60 mesh + 60 measurements =		average mesh size
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If master disputes initial 60 mesh measurements, a further 20 meshes will be measured using a weight or dynamometer in accordance with Conservation Measure 4/V (Article 6(2)). This measurement will be considered final.

Final measurement in case of dispute, Conservation Measure 4/V (Article 6(2))

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

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	Total mm for 20 mesh + 20 measurements =		average mesh size
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RESULT OF INSPECTION OF FISH ON BOARD

13. Result of inspection of fish observed in last tow (if appropriate)

Total tonnes	3-Alpha code	All species taken	Percentage taken	Percentage discarded
		Total catch:		

Record catch in round weight (i.e. not processed weight).

15. Has the following data been recorded in the log book or other ship's records on board the vessel?

Description of vessel

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	name of ship
<input type="checkbox"/>	<input type="checkbox"/>	type of vessel
<input type="checkbox"/>	<input type="checkbox"/>	registration number and port of registration
<input type="checkbox"/>	<input type="checkbox"/>	ship nationality
<input type="checkbox"/>	<input type="checkbox"/>	gross registered tonnage
<input type="checkbox"/>	<input type="checkbox"/>	length overall (m)
<input type="checkbox"/>	<input type="checkbox"/>	maximum shaft power (kW at rev/min) or horsepower

Description of gear

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	trawl type (according to FAO nomenclature)
<input type="checkbox"/>	<input type="checkbox"/>	code number for trawl type
<input type="checkbox"/>	<input type="checkbox"/>	mesh size at mouth (mm)
<input type="checkbox"/>	<input type="checkbox"/>	mesh size at codend (mm stretched)
<input type="checkbox"/>	<input type="checkbox"/>	liner mesh size (mm)
<input type="checkbox"/>	<input type="checkbox"/>	net plan (includes strip lengths, twine sizes, mesh sizes)
<input type="checkbox"/>	<input type="checkbox"/>	gear plan (otter boards, bridles, etc., as appropriate)
<input type="checkbox"/>	<input type="checkbox"/>	underwater acoustic equipment, echosounders (types and frequencies), sonar (types and frequencies), netsonde (yes/no)

Tow information

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	date
<input type="checkbox"/>	<input type="checkbox"/>	position at start of fishing (in degrees and minutes)
<input type="checkbox"/>	<input type="checkbox"/>	time at start of fishing (in hour and minutes GMT; if local time, indicate the variation from GMT)
<input type="checkbox"/>	<input type="checkbox"/>	time at end of fishing (before hauling)
<input type="checkbox"/>	<input type="checkbox"/>	bottom depth (m)
<input type="checkbox"/>	<input type="checkbox"/>	fishing depth (only if midwater trawl)
<input type="checkbox"/>	<input type="checkbox"/>	direction of trawling (if the track changed during, give the direction of the longest part of the track)
<input type="checkbox"/>	<input type="checkbox"/>	towing speed

Environment

YES NO

<input type="checkbox"/>	<input type="checkbox"/>	presence or not of ice in water
<input type="checkbox"/>	<input type="checkbox"/>	cloud coverage or type of weather
<input type="checkbox"/>	<input type="checkbox"/>	speed of wind (knots) or wind force (Beaufort scale) and direction
<input type="checkbox"/>	<input type="checkbox"/>	sea surface temperature
<input type="checkbox"/>	<input type="checkbox"/>	air temperature

Catch records for each tow

YES NO

<input type="checkbox"/>	<input type="checkbox"/>	estimated total catch (kg)
<input type="checkbox"/>	<input type="checkbox"/>	approximate species composition (percent of total)
<input type="checkbox"/>	<input type="checkbox"/>	amount and composition of discards
<input type="checkbox"/>	<input type="checkbox"/>	number of boxes of each size of fish per species, if any
<input type="checkbox"/>	<input type="checkbox"/>	presence of fish larvae

Daily record of general information

YES NO

<input type="checkbox"/>	<input type="checkbox"/>	time at start of searching
<input type="checkbox"/>	<input type="checkbox"/>	time at end of searching and start of haul
<input type="checkbox"/>	<input type="checkbox"/>	time search is resumed after haul
<input type="checkbox"/>	<input type="checkbox"/>	time searching ends

16. Are copies of the CCAMLR placard on marine debris openly displayed on board the vessel?

YES NO

<input type="checkbox"/>	<input type="checkbox"/>
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17. Is the international Radio Call Sign permanently displayed on a weather deck and both the port and starboard sides of the vessel?

YES NO

<input type="checkbox"/>	<input type="checkbox"/>
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18. Has a record been kept of:

(a) the dates, places, types and quantities of any fishing gear lost in the area?

YES NO

<input type="checkbox"/>	<input type="checkbox"/>
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(b) lost or discarded nets, net fragments, strapping bands or other potentially hazardous marine debris, its condition and quantity, found incidentally during the operation of the vessel in the area?

YES NO

(c) the number and condition of any fish, birds, marine mammals or other organisms entangled in the debris when found?

YES NO

(d) what was done with the debris?

YES NO

(e) an inventory of the types and quantities of netting on board?

YES NO

(f) Is each net identified?

YES NO

(g) the number, species, age, size, sex and reproductive status of any birds and marine mammals taken incidentally during fishing operations?

YES NO

19. Are there any birds or marine mammals, dead or alive, on board?

YES NO

Note to master of inspected vessel:

At this stage the inspection will finish unless an apparent infringement has been found. If no apparent infringement is found go to item 27. If an apparent infringement has been found the inspector will write the infringement here and sign at this point. You must countersign to show that you have been informed of the infringement. Your signature does not constitute acceptance of the apparent infringement.

20. Nature of apparent infringement:
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.....
.....

Signature of inspector:

Signature of master:

If an apparent infringement has been found, the inspector is authorized to:

1. re-examine and photograph the inspected vessel's gear, catch, log books or other relevant documents;
2. ask you to cease fishing if the apparent infringement consists of:
 - (a) fishing in a closed area or with gear prohibited in a specific area;
 - (b) fishing for stocks or species after the date on which the Executive Secretary has notified Members that a directed fishery for those stocks or species is prohibited.

COMMENTS AND OBSERVATIONS

21. Document inspected following an apparent infringement:

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22. Comments: (In the case of a difference between the inspector's estimates of the catches on board and the related summaries of catches from the log books, note this difference with the percentage)

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23. Subjects of photographs taken relating to an apparent infringement:

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24. Other comments, statements and/or observations by inspector(s) (in case of apparent mesh size infringement include here the identification number of the net marker attached by the inspector):

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25. Statements of second inspector or witness:

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26. Name and signature of second inspector or witness:

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27. Signature of inspector in charge:

28. Statement of master's witness:

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29. Name and signature of master's witness(es):

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30. Acknowledgement and receipt of report:

I, the undersigned, master of the vessel, hereby confirm that a copy of this report and second photographs taken have been delivered to me on this date. My signature does not constitute acceptance of any part of the contents of the report.

Date Signature

31. Comments and signature by the master of vessel:

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ONE COPY TO MASTER, ORIGINAL AND OTHER COPY TO BE RETAINED BY INSPECTOR FOR
REQUIRED DISTRIBUTION.

Remarks:

Inspectors should use these pages to record their comments on any aspect of the inspection they feel should be reported.

Appendix 3

FRONT OF IDENTITY CARD

COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES	
The Bearer of this Document	
(Name in Capitals)	
.....	
(Signature)	
is a CCAMLR inspector and has the authority to act under the arrangement approved by the Commission until 1 July 1990	
Issued by:	
Signature:	Date:
.....	
(Name of issuing country in capitals, and inspector's identity number)	
Photograph	Seal or Official Stamp

BACK OF IDENTITY CARD

<p>The bearer of this card is an authorised inspector under the CCAMLR System of Observation & Inspection</p> <p>Le porteur de cette carte est un inspecteur autorisé à agir selon le Système d'observation et d'inspection de la CCAMLR</p> <p>Der Träger dieses Ausweises ist ein im Rahmen des CCAMLR Inspektions- und Beobachtungssystems autorisierter Inspektor</p> <p>Japanese translation to be inserted here</p> <p>Korean translation to be inserted here</p> <p>Okazicielem tego dokumentu jest upowaznionym inspektorem działającym w ramach Systemu Obserwacji i Kontroli Konwencji o Ochronie Żywych Zasobów Morskich Antarktyki (CCAMLR)</p> <p>Предъявитель настоящего документа является инспектором, уполномоченным согласно Системе АНТКОМа по наблюдению и инспекции</p> <p>El portador de esta tarjeta es un inspector autorizado según el Sistema de Observación e Inspección de la CCRVMA</p>
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