

**For Discussion on
11 March 2014**

**Legislative Council
Panel on Food Safety and Environmental Hygiene**

**Proposed Legislation for Implementing the Convention on the
Conservation of Antarctic Marine Living Resources in Hong Kong**

PURPOSE

This paper seeks Members' views on the proposal to introduce a control scheme for the trading of toothfish by way of a new piece of legislation for the implementation of the Convention on the Conservation of Antarctic Marine Living Resources ("CCAMLR") in Hong Kong. The purpose of the Convention and thus the proposed new legislation is for the better protection of Antarctic marine living resources.

DETAILS

CCAMLR

2. CCAMLR is an international convention with the objective to conserve¹ Antarctic marine living resources, which cover the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence. It entered into force in 1982. The English text of the Convention is at **Annex A**. China acceded to the CCAMLR in 2006, and the Convention has not been extended to the Hong Kong Special Administrative Region (HKSAR) yet.

3. The Commission for the Conservation of Antarctic Marine Living Resources ("the Commission") was established under the CCAMLR to give effect to the objectives and principles of conservation of the Convention, including regulating activities associated with the rational

¹ Paragraph 2 of Article II of the Convention states that for the purposes of the Convention, the term "conservation" includes rational use.

utilisation and management of the marine living resources in the Convention Area². The current membership of CCAMLR is at **Annex B**.

4. CCAMLR supports the conservation of Antarctic marine living resources through, amongst others, a set of Conservation Measures (“CMs”) adopted by the Commission. All Contracting Parties to CCAMLR are bound by the CMs. Toothfish inhabiting the Antarctic waters (including Antarctic toothfish, *Dissostichus mawsoni* and Patagonian toothfish, *D. eleginoides*) are harvested and traded internationally. The biological characteristics of toothfish (such as longevity, large size, slow growth and late maturation) make them highly vulnerable to overfishing and long-term detrimental impact. With toothfish being highly sought after as a table fish in some overseas countries, the toothfish resources have been experiencing significant levels of exploitation and illegal, unreported and unregulated (“IUU”) fishing. With a view to protecting toothfish from IUU fishing internationally, the Commission adopted in May 2000 a conservation measure entitled “Catch Documentation Scheme for *Dissostichus spp.*” (CM 10-05).

5. As a tool, the Catch Documentation Scheme (“CDS”) provides a basis for (a) identifying the origins of *Dissostichus spp.* imports; (b) determining if imports caught in the Convention Area were caught in a manner consistent with the relevant CCAMLR CMs; and (c) furnishing the Commission with essential information (e.g. catch data) necessary for fulfilling the management objectives of CCAMLR. Under the CDS, each catch or shipment of *Dissostichus spp.* must be accompanied by a valid catch document issued in accordance with the relevant CMs.

Extension of CCAMLR to the HKSAR

6. Hong Kong has no fishing vessels engaged in the harvesting and research activities in the Convention Area³. In the past, the volume of toothfish traded in Hong Kong was relatively small. Nonetheless, the trade

² CCAMLR applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

³ HKSAR is not a “flag state” of any fishing vessels, and does not intend to license fishing vessels to operate in the Convention Area.

volume and commercial activities in relation to toothfish in Hong Kong has increased in the course of time and Hong Kong is becoming one of the major importing economies of toothfish⁴. In view of the latest development and to contribute to the international concerted efforts in the protection and sustainable use of marine resources, the Government in consultation with the Central People's Government has decided to extend application of CCAMLR to the HKSAR.

7. As noted above, Hong Kong has no fishing vessels operating in the Convention Area, and there will unlikely be any such vessels in the foreseeable future⁵. The application of CCAMLR to Hong Kong therefore will have no implication on our fisheries industry. For the seafood trading sector, toothfish only constitutes a small proportion of the fish produce traded in Hong Kong and accounts for less than 0.5% of the total consumption of fisheries produce. In fact, toothfish obtained in the Convention Area in compliance with the relevant CMs should already have the necessary documents as required by the harvesting / exporting Contracting Parties. The additional costs to be incurred on the trade in meeting the relevant documentation requirements are therefore expected to be minimal.

Requirements of the CCAMLR

8. As mentioned in paragraph 4 above, the Commission has adopted a set of CMs in order to achieve the objective of conserving Antarctic marine living resources. This is mainly done through the CDS as required under CM 10-05 (see paragraph 5). In addition, the following CMs would be relevant to Hong Kong in order to meet the requirements of CCAMLR:

- (a) the Port Inspections of Fishing Vessels Carrying Antarctic

⁴ According to statistics compiled by the Commission, there were 1 017 tonnes of toothfish imported into Hong Kong in 2013, representing 6.5% of the total volume exported by Contracting Parties. Other major importing economies of toothfish include the United States, Japan and the Republic of Korea, which are all Contracting Parties to CCAMLR.

⁵ Having regard to the use, nature and condition of fishing vessels and the difficulty of providing adequate supervision of fishing vessels, the Director of Marine has given a direction, pursuant to section 22(4) of the Merchant Shipping (Registration) Ordinance (Cap. 415), that it is inappropriate to register, among others, fishing vessels under Hong Kong Shipping Registry, as stipulated in G.N. 4653 of 16 September 2005.

Marine Living Resources (CM 10-03), which sets out requirements in respect of the entry and inspections of fishing vessels carrying the relevant marine resources;

- (b) Automated Satellite-linked Vessel Monitoring Systems (“VMS”) (CM 10-04), which sets out requirements in respect of the installation of satellite-linked vessel monitoring devices and monitoring of the movements of such vessels, and the use of VMS data in compliance and inspection purposes;
- (c) Scheme to Promote Compliance by Contracting Party Vessels with the CCAMLR CMs (CM 10-06), which aims to draw up a monitoring list to keep track of vessels of Contracting Parties that have engaged in IUU fishing activities;
- (d) Scheme to Promote Compliance by Non-Contracting Party Vessels with the CCAMLR CMs (CM 10-07), which aims to draw up a monitoring list to keep track of vessels of Non-Contracting Parties that have engaged in IUU fishing activities; and
- (e) Scheme to Promote Compliance by Contracting Party nationals with the CCAMLR CMs (CM 10-08), which requires Contracting Party to take measures to verify if any of its nationals has engaged in IUU fishing activities and measures to prevent such illegal activities.

A summary of these CMs is set out at **Annex C**.

The Proposed Legislation

9. To implement the requirements of the above CMs under the Convention relevant to the context of Hong Kong, we see a need to devise a new control scheme for the trading of toothfish in Hong Kong with legislative backing. Our preliminary proposal is to put the control scheme under the charge of the Agriculture, Fisheries and Conservation Department through a new piece of legislation. The proposed control scheme would have the following key elements:

- (a) prohibiting the landing, importation or transshipment of toothfish without catch documents;
- (b) prohibiting the export or re-export of toothfish without valid documents;
- (c) empowering the enforcement agency to obtain relevant information for validation of export/re-export documents for toothfish, search vessels, inspect, seize or confiscate consignments without valid catch or export/re-export documents, and dispose of the confiscated items;
- (d) requiring fishing vessels carrying Antarctic marine living resources to provide advance notice of entry into Hong Kong, and conducting inspections on these vessels;
- (e) requesting for verification of VMS reports of fishing vessels engaged in fishing in the Convention Area;
- (f) issuing and validation of catch and export/re-export documents for toothfish;
- (g) denying port access of IUU fishing vessels and prohibiting the resupplying of these fishing vessels;
- (h) communicating the information of fishing vessels suspected to be engaged in IUU activities and CDS related information to relevant overseas authorities e.g. the Commission Secretariat and the CPs; and
- (i) providing the enforcement agency other powers for carrying out their duties effectively, e.g. to stop, search and detain vessels and persons in connection with contravention of the legislation.

10. The above are our preliminary proposals. Subject to Members' view on the overall approach and the key elements of the proposed new legislation for implementing CCAMLR in Hong Kong, we will engage

relevant stakeholders (including seafood traders and importers, environmental concern groups, and relevant advisory committees) and seek their views on the proposed control scheme. Taking into account the views gathered, we will fine-tune the proposed scheme and prepare the proposed legislation.

11. The CCAMLR will formally apply to the HKSAR upon enactment of the relevant legislation.

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
March 2014**

PART 1

**TEXT OF THE CONVENTION ON THE
CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES**

**STATEMENT BY THE CHAIRMAN
OF THE CONFERENCE ON THE CONSERVATION
OF ANTARCTIC MARINE LIVING RESOURCES**

CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES

The Contracting Parties,

RECOGNISING the importance of safeguarding the environment and protecting the integrity of the ecosystem of the seas surrounding Antarctica;

NOTING the concentration of marine living resources found in Antarctic waters and the increased interest in the possibilities offered by the utilisation of these resources as a source of protein;

CONSCIOUS of the urgency of ensuring the conservation of Antarctic marine living resources;

CONSIDERING that it is essential to increase knowledge of the Antarctic marine ecosystem and its components so as to be able to base decisions on harvesting on sound scientific information;

BELIEVING that the conservation of Antarctic marine living resources calls for international co-operation with due regard for the provisions of the Antarctic Treaty and with the active involvement of all States engaged in research or harvesting activities in Antarctic waters;

RECOGNISING the prime responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the Antarctic environment and, in particular, their responsibilities under Article IX, paragraph 1(f) of the Antarctic Treaty in respect of the preservation and conservation of living resources in Antarctica;

RECALLING the action already taken by the Antarctic Treaty Consultative Parties including in particular the Agreed Measures for the Conservation of Antarctic Fauna and Flora, as well as the provisions of the Convention for the Conservation of Antarctic Seals;

BEARING in mind the concern regarding the conservation of Antarctic marine living resources expressed by the Consultative Parties at the Ninth Consultative Meeting of the Antarctic Treaty and the importance of the provisions of Recommendation IX-2 which led to the establishment of the present Convention;

Convention

BELIEVING that it is in the interest of all mankind to preserve the waters surrounding the Antarctic continent for peaceful purposes only and to prevent their becoming the scene or object of international discord;

RECOGNISING, in the light of the foregoing, that it is desirable to establish suitable machinery for recommending, promoting, deciding upon and co-ordinating the measures and scientific studies needed to ensure the conservation of Antarctic marine living organisms;

HAVE AGREED as follows:

ARTICLE I

1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.

4. The Antarctic Convergence shall be deemed to be 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°.

ARTICLE II

1. The objective of this Convention is the conservation of Antarctic marine living resources.

2. For the purposes of this Convention, the term 'conservation' includes rational use.

3. Any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles of conservation:

- (a) prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment;
- (b) maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to the levels defined in sub-paragraph (a) above; and
- (c) prevention of changes or minimisation of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources.

ARTICLE III

The Contracting Parties, whether or not they are Parties to the Antarctic Treaty, agree that they will not engage in any activities in the Antarctic Treaty area contrary to the principles and purposes of that Treaty and that, in their relations with each other, they are bound by the obligations contained in Articles I and V of the Antarctic Treaty.

ARTICLE IV

1. With respect to the Antarctic Treaty area, all Contracting Parties, whether or not they are Parties to the Antarctic Treaty, are bound by Articles IV and VI of the Antarctic Treaty in their relations with each other.

2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:

Convention

- (a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;
- (b) be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal state jurisdiction under international law within the area to which this Convention applies;
- (c) be interpreted as prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any such right, claim or basis of claim;
- (d) affect the provision of Article IV, paragraph 2, of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force.

ARTICLE V

1. The Contracting Parties which are not Parties to the Antarctic Treaty acknowledge the special obligations and responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the environment of the Antarctic Treaty area.

2. The Contracting Parties which are not Parties to the Antarctic Treaty agree that, in their activities in the Antarctic Treaty area, they will observe as and when appropriate the Agreed Measures for the Conservation of Antarctic Fauna and Flora and such other measures as have been recommended by the Antarctic Treaty Consultative Parties in fulfilment of their responsibility for the protection of the Antarctic environment from all forms of harmful human interference.

3. For the purposes of this Convention, 'Antarctic Treaty Consultative Parties' means the Contracting Parties to the Antarctic Treaty whose Representatives participate in meetings under Article IX of the Antarctic Treaty.

ARTICLE VI

Nothing in this Convention shall derogate from the rights and obligations of Contracting Parties under the International Convention for the Regulation of Whaling and the Convention for the Conservation of Antarctic Seals.

ARTICLE VII

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as 'the Commission').

2. Membership in the Commission shall be as follows:

- (a) each Contracting Party which participated in the meeting at which this Convention was adopted shall be a Member of the Commission;
- (b) each State Party which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as that acceding Party is engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies;
- (c) each regional economic integration organisation which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as its States members are so entitled;
- (d) a Contracting Party seeking to participate in the work of the Commission pursuant to sub-paragraphs (b) and (c) above shall notify the Depositary of the basis upon which it seeks to become a Member of the Commission and of its willingness to accept conservation measures in force. The Depositary shall communicate to each Member of the Commission such notification and accompanying information. Within two months of receipt of such communication from the Depositary, any Member of the Commission may request that a special meeting of the Commission be held to consider the matter. Upon receipt of such request, the Depositary shall call such a meeting. If there is no request for a meeting, the Contracting Party submitting the notification shall be deemed to have satisfied the requirements for Commission Membership.

Convention

3. Each Member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisers.

ARTICLE VIII

The Commission shall have legal personality and shall enjoy in the territory of each of the States Parties such legal capacity as may be necessary to perform its function and achieve the purposes of this Convention. The privileges and immunities to be enjoyed by the Commission and its staff in the territory of a State Party shall be determined by agreement between the Commission and the State Party concerned.

ARTICLE IX

1. The function of the Commission shall be to give effect to the objective and principles set out in Article II of this Convention. To this end, it shall:

- (a) facilitate research into and comprehensive studies of Antarctic marine living resources and of the Antarctic marine ecosystem;
- (b) compile data on the status of and changes in population of Antarctic marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
- (c) ensure the acquisition of catch and effort statistics on harvested populations;
- (d) analyse, disseminate and publish the information referred to in sub-paragraphs (b) and (c) above and the reports of the Scientific Committee;
- (e) identify conservation needs and analyse the effectiveness of conservation measures;
- (f) formulate, adopt and revise conservation measures on the basis of the best scientific evidence available, subject to the provisions of paragraph 5 of this Article;

- (g) implement the system of observation and inspection established under Article XXIV of this Convention;
 - (h) carry out such other activities as are necessary to fulfil the objective of this Convention.
2. The conservation measures referred to in paragraph 1(f) above include the following:
- (a) the designation of the quantity of any species which may be harvested in the area to which this Convention applies;
 - (b) the designation of regions and sub-regions based on the distribution of populations of Antarctic marine living resources;
 - (c) the designation of the quantity which may be harvested from the populations of regions and sub-regions;
 - (d) the designation of protected species;
 - (e) the designation of the size, age and, as appropriate, sex of species which may be harvested;
 - (f) the designation of open and closed seasons for harvesting;
 - (g) the designation of the opening and closing of areas, regions or sub-regions for purposes of scientific study or conservation, including special areas for protection and scientific study;
 - (h) regulation of the effort employed and methods of harvesting, including fishing gear, with a view, inter alia, to avoiding undue concentration of harvesting in any region or sub-region;
 - (i) the taking of such other conservation measures as the Commission considers necessary for the fulfilment of the objective of this Convention, including measures concerning the effects of harvesting and associated activities on components of the marine ecosystem other than the harvested populations.

Convention

3. The Commission shall publish and maintain a record of all conservation measures in force.

4. In exercising its functions under paragraph 1 above, the Commission shall take full account of the recommendations and advice of the Scientific Committee.

5. The Commission shall take full account of any relevant measures or regulations established or recommended by the Consultative Meetings pursuant to Article IX of the Antarctic Treaty or by existing fisheries commissions responsible for species which may enter the area to which this Convention applies, in order that there shall be no inconsistency between the rights and obligations of a Contracting Party under such regulations or measures and conservation measures which may be adopted by the Commission.

6. Conservation measures adopted by the Commission in accordance with this Convention shall be implemented by Members of the Commission in the following manner:

- (a) the Commission shall notify conservation measures to all Members of the Commission;
- (b) conservation measures shall become binding upon all Members of the Commission 180 days after such notification, except as provided in subparagraphs (c) and (d) below;
- (c) if a Member of the Commission, within ninety days following the notification specified in sub-paragraph (a), notifies the Commission that it is unable to accept the conservation measure, in whole or in part, the measure shall not, to the extent stated, be binding upon that Member of the Commission;
- (d) in the event that any Member of the Commission invokes the procedure set forth in sub-paragraph (c) above, the Commission shall meet at the request of any Member of the Commission to review the conservation measure. At the time of such meeting and within thirty days following the meeting, any Member of the Commission shall have the right to declare that it is no longer able to accept the conservation measure, in which case the Member shall no longer be bound by such a measure.

ARTICLE X

1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention.
2. The Commission shall draw the attention of all Contracting Parties to any activity which, in the opinion of the Commission, affects the implementation by a Contracting Party of the objective of this Convention or the compliance by that Contracting Party with its obligations under this Convention.

ARTICLE XI

The Commission shall seek to co-operate with Contracting Parties which may exercise jurisdiction in marine areas adjacent to the area to which this Convention applies in respect of the conservation of any stock or stocks of associated species which occur both within those areas and the area to which this Convention applies, with a view to harmonising the conservation measures adopted in respect of such stocks.

ARTICLE XII

1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.
2. Decisions on matters other than those referred to in paragraph 1 above shall be taken by a simple majority of the Members of the Commission present and voting.
3. In Commission consideration of any item requiring a decision, it shall be made clear whether a regional economic integration organisation will participate in the taking of the decision and, if so, whether any of its Member States will also participate. The number of Contracting Parties so participating shall not exceed the number of Member States of the regional economic integration organisation which are Members of the Commission.
4. In the taking of decisions pursuant to this Article, a regional economic integration organisation shall have only one vote.

Convention

ARTICLE XIII

1. The headquarters of the Commission shall be established at Hobart, Tasmania, Australia.

2. The Commission shall hold a regular annual meeting. Other meetings shall also be held at the request of one-third of its Members and as otherwise provided in this Convention. The first meeting of the Commission shall be held within three months of the entry into force of this Convention, provided that among the Contracting Parties there are at least two States conducting harvesting activities within the area to which this Convention applies. The first meeting shall, in any event, be held within one year of the entry into force of this Convention. The Depositary shall consult with the signatory States regarding the first Commission meeting, taking into account that a broad representation of such States is necessary for the effective operation of the Commission.

3. The Depositary shall convene the first meeting of the Commission at the headquarters of the Commission. Thereafter, meetings of the Commission shall be held at its headquarters, unless it decides otherwise.

4. The Commission shall elect from among its Members a Chairman and Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election for one additional term. The first Chairman shall, however, be elected for an initial term of three years. The Chairman and Vice-Chairman shall not be representatives of the same Contracting Party.

5. The Commission shall adopt and amend as necessary the rules of procedure for the conduct of its meetings, except with respect to the matters dealt with in Article XII of this Convention.

6. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XIV

1. The Contracting Parties hereby establish the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as 'the Scientific

Committee') which shall be a consultative body to the Commission. The Scientific Committee shall normally meet at the headquarters of the Commission unless the Scientific Committee decides otherwise.

2. Each Member of the Commission shall be a Member of the Scientific Committee and shall appoint a representative with suitable scientific qualifications who may be accompanied by other experts and advisers.

3. The Scientific Committee may seek the advice of other scientists and experts as may be required on an *ad hoc* basis.

ARTICLE XV

1. The Scientific Committee shall provide a forum for consultation and co-operation concerning the collection, study and exchange of information with respect to the marine living resources to which this Convention applies. It shall encourage and promote co-operation in the field of scientific research in order to extend knowledge of the marine living resources of the Antarctic marine ecosystem.

2. The Scientific Committee shall conduct such activities as the Commission may direct in pursuance of the objective of this Convention and shall:

- (a) establish criteria and methods to be used for determinations concerning the conservation measures referred to in Article IX of this Convention;
- (b) regularly assess the status and trends of the populations of Antarctic marine living resources;
- (c) analyse data concerning the direct and indirect effects of harvesting on the populations of Antarctic marine living resources;
- (d) assess the effects of proposed changes in the methods or levels of harvesting and proposed conservation measures;
- (e) transmit assessments, analyses, reports and recommendations to the Commission as requested or on its own initiative regarding measures and research to implement the objective of this Convention;

Convention

- (f) formulate proposals for the conduct of international and national programs of research into Antarctic marine living resources.

3. In carrying out its functions, the Scientific Committee shall have regard to the work of other relevant technical and scientific organisations and to the scientific activities conducted within the framework of the Antarctic Treaty.

ARTICLE XVI

1. The first meeting of the Scientific Committee shall be held within three months of the first meeting of the Commission. The Scientific Committee shall meet thereafter as often as may be necessary to fulfil its functions.

2. The Scientific Committee shall adopt and amend as necessary its rules of procedure. The rules and any amendments thereto shall be approved by the Commission. The rules shall include procedures for the presentation of minority reports.

3. The Scientific Committee may establish, with the approval of the Commission, such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XVII

1. The Commission shall appoint an Executive Secretary to serve the Commission and Scientific Committee according to such procedures and on such terms and conditions as the Commission may determine. His term of office shall be for four years and he shall be eligible for re-appointment.

2. The Commission shall authorise such staff establishment for the Secretariat as may be necessary and the Executive Secretary shall appoint, direct and supervise such staff according to such rules, and procedures and on such terms and conditions as the Commission may determine.

3. The Executive Secretary and Secretariat shall perform the functions entrusted to them by the Commission.

ARTICLE XVIII

The official languages of the Commission and of the Scientific Committee shall be English, French, Russian and Spanish.

ARTICLE XIX

1. At each annual meeting, the Commission shall adopt by consensus its budget and the budget of the Scientific Committee.

2. A draft budget for the Commission and the Scientific Committee and any subsidiary bodies shall be prepared by the Executive Secretary and submitted to the Members of the Commission at least sixty days before the annual meeting of the Commission.

3. Each Member of the Commission shall contribute to the budget. Until the expiration of five years after the entry into force of this Convention, the contribution of each Member of the Commission shall be equal. Thereafter the contribution shall be determined in accordance with two criteria: the amount harvested and an equal sharing among all Members of the Commission. The Commission shall determine by consensus the proportion in which these two criteria shall apply.

4. The financial activities of the Commission and Scientific Committee shall be conducted in accordance with financial regulations adopted by the Commission and shall be subject to an annual audit by external auditors selected by the Commission.

5. Each Member of the Commission shall meet its own expenses arising from the attendance at meetings of the Commission and of the Scientific Committee.

6. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

Convention

ARTICLE XX

1. The Members of the Commission shall, to the greatest extent possible, provide annually to the Commission and to the Scientific Committee such statistical, biological and other data and information as the Commission and Scientific Committee may require in the exercise of their functions.
2. The Members of the Commission shall provide, in the manner and at such intervals as may be prescribed, information about their harvesting activities, including fishing areas and vessels, so as to enable reliable catch and effort statistics to be compiled.
3. The Members of the Commission shall provide to the Commission at such intervals as may be prescribed information on steps taken to implement the conservation measures adopted by the Commission.
4. The Members of the Commission agree that in any of their harvesting activities, advantage shall be taken of opportunities to collect data needed to assess the impact of harvesting.

ARTICLE XXI

1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article IX of this Convention.
2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1 above, including the imposition of sanctions for any violation.

ARTICLE XXII

1. Each Contracting Party undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to the objective of this Convention.
2. Each Contracting Party shall notify the Commission of any such activity which comes to its attention.

ARTICLE XXIII

1. The Commission and the Scientific Committee shall co-operate with the Antarctic Treaty Consultative Parties on matters falling within the competence of the latter.
2. The Commission and the Scientific Committee shall co-operate, as appropriate, with the Food and Agriculture Organisation of the United Nations and with other Specialised Agencies.
3. The Commission and the Scientific Committee shall seek to develop co-operative working relationships, as appropriate, with inter-governmental and nongovernmental organisations which could contribute to their work, including the Scientific Committee on Antarctic Research, the Scientific Committee on Oceanic Research and the International Whaling Commission.
4. The Commission may enter into agreements with the organisations referred to in this Article and with other organisations as may be appropriate. The Commission and the Scientific Committee may invite such organisations to send observers to their meetings and to meetings of their subsidiary bodies.

ARTICLE XXIV

1. In order to promote the objective and ensure observance of the provisions of this Convention, the Contracting Parties agree that a system of observation and inspection shall be established.
2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:
 - (a) Contracting Parties shall co-operate with each other to ensure the effective implementation of the system of observation and inspection, taking account of the existing international practice. This system shall include, inter alia, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag state prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XXI of this Convention;

Convention

- (b) in order to verify compliance with measures adopted under this Convention, observation and inspection shall be carried out on board vessels engaged in scientific research or harvesting of marine living resources in the area to which this Convention applies, through observers and inspectors designated by the Members of the Commission and operating under terms and conditions to be established by the Commission;
 - (c) designated observers and inspectors shall remain subject to the jurisdiction of the Contracting Party of which they are nationals. They shall report to the Member of the Commission by which they have been designated which in turn shall report to the Commission.
3. Pending the establishment of the system of observation and inspection, the Members of the Commission shall seek to establish interim arrangements to designate observers and inspectors and such designated observers and inspectors shall be entitled to carry out inspections in accordance with the principles set out in paragraph 2 above.

ARTICLE XXV

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
2. Any dispute of this character not so resolved shall, with the consent in each case of all Parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court or to arbitration shall not absolve Parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 above.
3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention.

ARTICLE XXVI

1. This Convention shall be open for signature at Canberra from 1 August to 31 December 1980 by the States participating in the Conference on the Conservation of Antarctic Marine Living Resources held at Canberra from 7 to 20 May 1980.
2. The States which so sign will be the original signatory States of the Convention.

ARTICLE XXVII

1. This Convention is subject to ratification, acceptance or approval by signatory States.
2. Instruments of ratification, acceptance or approval shall be deposited with the Government of Australia, hereby designated as the Depositary.

ARTICLE XXVIII

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the eighth instrument of ratification, acceptance or approval by States referred to in paragraph 1 of Article XXVI of this Convention.
2. With respect to each State or regional economic integration organisation which subsequent to the date of entry into force of this Convention deposits an instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following such deposit.

ARTICLE XXIX

1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.
2. This Convention shall be open for accession by regional economic integration organisations constituted by sovereign States which include among their members one or more States Members of the Commission and to which the States members of the

Convention

organisation have transferred, in whole or in part, competences with regard to the matters covered by this Convention. The accession of such regional economic integration organisations shall be the subject of consultations among Members of the Commission.

ARTICLE XXX

1. This Convention may be amended at any time.
2. If one-third of the Members of the Commission request a meeting to discuss a proposed amendment the Depositary shall call such a meeting.
3. An amendment shall enter into force when the Depositary has received instruments of ratification, acceptance or approval thereof from all the Members of the Commission.
4. Such amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification, acceptance or approval by it has been received by the Depositary. Any such Contracting Party from which no such notice has been received within a period of one year from the date of entry into force of the amendment in accordance with paragraph 3 above shall be deemed to have withdrawn from this Convention.

ARTICLE XXXI

1. Any Contracting Party may withdraw from this Convention on 30 June of any year, by giving written notice not later than 1 January of the same year to the Depositary, which, upon receipt of such a notice, shall communicate it forthwith to the other Contracting Parties.
2. Any other Contracting Party may, within sixty days of the receipt of a copy of such a notice from the Depositary, give written notice of withdrawal to the Depositary in which case the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.
3. Withdrawal from this Convention by any Member of the Commission shall not affect its financial obligations under this Convention.

ARTICLE XXXII

The Depositary shall notify all Contracting Parties of the following:

- (a) signatures of this Convention and the deposit of instruments of ratification, acceptance, approval or accession;
- (b) the date of entry into force of this Convention and of any amendment thereto.

ARTICLE XXXIII

1. This Convention, of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Government of Australia which shall transmit duly certified copies thereof to all signatory and acceding Parties.

2. This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

Drawn up at Canberra this twentieth day of May 1980.

Convention

ANNEX FOR AN ARBITRAL TRIBUNAL

1. The arbitral tribunal referred to in paragraph 3 of Article XXV shall be composed of three arbitrators who shall be appointed as follows:
 - (a) The Party commencing proceedings shall communicate the name of an arbitrator to the other Party which, in turn, within a period of forty days following such notification, shall communicate the name of the second arbitrator. The Parties shall, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either Party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal;
 - (b) If the second arbitrator has not been appointed within the prescribed period, or if the Parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either Party, by the Secretary-General of the Permanent Court of Arbitration, from among persons of international standing not having the nationality of a State which is a Party to this Convention.
2. The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.
3. The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.
4. Any Contracting Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.
5. The award of the arbitral tribunal shall be final and binding on all Parties to the dispute and on any Party which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the Parties to the dispute or of any intervening Party.
6. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

STATEMENT BY THE CHAIRMAN OF THE CONFERENCE ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES

The Conference on the Conservation of Antarctic Marine Living Resources decided to include in the publication of the Final Act of the Conference the text of the following statement made by the Chairman on 19 May 1980 regarding the application of the Convention on the Conservation of Antarctic Marine Living Resources to the waters adjacent to Kerguelen and Crozet over which France has jurisdiction and to waters adjacent to other islands within the area to which this Convention applies over which the existence of State sovereignty is recognised by all Contracting Parties.

‘1. Measures for the conservation of Antarctic marine living resources of the waters adjacent to Kerguelen and Crozet, over which France has jurisdiction, adopted by France prior to the entry into force of the Convention, would remain in force after the entry into force of the Convention until modified by France acting within the framework of the Commission or otherwise.

2. After the Convention has come into force, each time the Commission should undertake examination of the conservation needs of the marine living resources of the general area in which the waters adjacent to Kerguelen and Crozet are to be found, it would be open to France either to agree that the waters in question should be included in the area of application of any specific conservation measure under consideration or to indicate that they should be excluded. In the latter event, the Commission would not proceed to the adoption of the specific conservation measure in a form applicable to the waters in question unless France removed its objection to it. France could also adopt such national measures as it might deem appropriate for the waters in question.

3. Accordingly, when specific conservation measures are considered within the framework of the Commission and with the participation of France, then:

- (a) France would be bound by any conservation measures adopted by consensus with its participation for the duration of those measures. This would not prevent France from promulgating national measures that were more strict than the Commission’s measures or which dealt with other matters;
- (b) in the absence of consensus, France could promulgate any national measures which it might deem appropriate.

4. Conservation measures, whether national measures or measures adopted by the Commission, in respect of the waters adjacent to Kerguelen and Crozet, would be enforced by France. The system of observation and inspection foreseen by the Convention would not be implemented in the waters adjacent to Kerguelen and Crozet except as agreed by France and in the manner so agreed.

5. The understandings, set forth in paragraphs 1 to 4 above, regarding the application of the Convention to waters adjacent to the islands of Kerguelen and Crozet, also apply to waters adjacent to the islands within the area to which this Convention applies over which the existence of State sovereignty is recognised by all Contracting Parties.'

No objection to the statement was made.

Status of CCAML R (as at December 2013)

Members of the Commission

Argentina	Namibia
Australia	New Zealand
Belgium	Norway
Brazil	Poland
Chile	Russia
China, People's Republic of	South Africa
European Union	Spain
France	Sweden
Germany	Ukraine
India	United Kingdom
Italy	United States of America
Japan	Uruguay
Korea, Republic of	

Acceding states not being Members of the Commission

Bulgaria	Netherlands
Canada	Pakistan, Islamic Republic of
Cook Islands	Panama, Republic of
Finland	Peru
Greece	Vanuatu
Mauritius	

CCAMLR Conservation Measures Applicable to HKSAR

Conservation Measure (CM)		
Relevant CMs	Title	Details
CM 10-03	Port inspections of vessels carrying toothfish	<p>The Conservation Measure requires Contracting parties to undertake inspections of ALL fishing vessels carrying <i>Dissostichus</i> spp. entering their ports to ensure that the fishing activities were carried out in accordance with CCAMLR conservation measures and the catch is accompanied by a valid <i>Dissostichus</i> catch document (DCD).</p> <p>Contracting Parties shall require vessels to provide advance notice of their entry in a specified form and convey a written declaration that they have not engaged in or supported illegal, unreported and unregulated (IUU) fishing in the Convention Area and have complied with relevant CCAMLR requirements. Vessels failing to do so will be denied port access. Inspection of the vessel concerned shall be conducted within 48 hours of port entry. The outcome of each inspection needs to be provided to the Secretariat within 30 days of the port inspection.</p> <p>Catches that are caught in contravention of CCAMLR conservation measures shall not be landed or transhipped. The Contracting Party will inform the Flag State of the vessel and, if necessary, apply appropriate sanctions in accordance with national legislation.</p> <p>Container vessels and Members' marine science research vessels are excluded from the inspections. Carrier vessels equipped for transportation of fishery products may be subject to a preliminary assessment of the relevant documentation.</p>
CM 10-04	Automated satellite-linked Vessel Monitoring Systems (VMS)	Fishing vessels of Contracting Parties should be equipped with satellite-linked, tamper-proof, vessel monitoring devices which automatically communicate at least every four hours to a land-based fisheries monitoring centre of the Flag State.

Conservation Measure (CM)

Relevant CMs	Title	Details
		<p>The Masters and owners/licensees of fishing vessels should ensure that the VMS is functional and active according to the requirements of CCAMLR. Contracting Parties are required to report movement of the licensed fishing vessels and irregularities of the VMS reported to the CCAMLR Secretariat at the specified time. The Flag State will be requested to provide an explanation for failure in data transmission, or entry of its flag vessels without prior notification.</p> <p>VMS reports will be treated in a confidential manner and limited to be used for compliance and inspection purposes only. A list of vessels submitting VMS reports will be listed on a password-protected section of the CCAMLR website.</p> <p>A Contracting Party may request the CCAMLR Secretariat to check VMS data or actual VMS reports and messages from a vessel against the claims on a DCD.</p> <p>The CCAMLR Secretariat shall annually, before 30 September, report on the implementation of and compliance with this conservation measure to the Commission.</p>
10-05	Catch Documentation Scheme for <i>Dissostichus</i> spp.	<p>Contracting parties shall require each landing and transshipment of <i>Dissostichus</i> spp. be accompanied by a completed valid DCD.</p> <p>Contracting Party and non-Contracting Party participating in the CDS shall require that each shipment of <i>Dissostichus</i> spp. imported into, or exported or re-exported from, its territory be accompanied by the export/re-export document and ensure that its customs government authorities or other appropriate government officials request and examine the documentation of each shipment of <i>Dissostichus</i> spp. imported into, or exported from, its territory to verify that it includes the export document and, where appropriate, validated re-export document(s) and verify the validity of the DCDs in the CDS system online. The import, export and re-export of</p>

Conservation Measure (CM)

Relevant CMs	Title	Details
		<p><i>Dissostichus</i> spp. without an export/re-export document is prohibited.</p> <p>All catch, export and re-export documents created using the CDS will be available to the CCAMLR Secretariat as well as any Member who has had a role in the completion of such documents, including the importing State.</p>
CM 10-06	<p>Scheme to promote compliance by Contracting Party vessels with CCAMLR conservation measures</p>	<p>A CP-IUU Vessel List will be established and documented to identify vessels which have engaged in fishing activities in the Convention Area contravening the conservation measures in force. Contracting Parties may communicate any information regarding vessels engaging in such activities.</p> <p>The Contracting Parties are considered as having carried out fishing activities that have diminished the effectiveness of the conservation measures adopted by the Commission if the Parties do not ensure compliance by their vessels with the conservation measures or their vessels are repeated included in the CP-IUU Vessel List.</p> <p>The criteria for vessels to be included in the CP-IUU Vessel list are described.</p> <p>The Secretary's actions to create a draft, provisional CP-IUU Vessel List, proposed and final CP-IUU Vessel List are detailed. The corresponding actions to be taken by non-Contracting Parties cooperating with the Commission and Contracting Parties regarding vessels engaging in IUU activities are set out. The procedures taken by the Standing Committee on Implementation and Compliance to adopt a proposed CP-IUU Vessel List or remove vessels from the CP-IUU Vessel List are listed. The Executive Secretary shall make the List available to parties concerned and on the CCAMLR website.</p> <p>Contracting Parties shall take necessary actions to regulate the activities of vessels listed in the CP-IUU Vessel List. However, Contracting Parties should not take any trade measures or other sanctions which are inconsistent with their international obligations.</p>

Conservation Measure (CM)

Relevant CMs	Title	Details
CM 10-07	Scheme to promote compliance by non-Contracting Party vessels with CCAMLR conservation measures	<p>A non-Contracting Party vessel which has been sighted engaging in fishing activities in the Convention Area, which has been denied port access, landing or transshipment is presumed to be undermining the effectiveness of CCAMLR conservation measures. The vessel will be listed in the NCP-IUU Vessel List.</p> <p>The listed non-Contracting Party vessels would not be allowed to land or tranship any fish species subject to CCAMLR conservation measures unless the fish were caught in compliance with all requirements under CCAMLR.</p> <p>A Contracting Party will report to the Commission on sightings, denial or port access, landings or transshipment and the results of inspections and actions conducted by the Contracting Party. The Commission will disseminate the information and request follow up action from the Flag State concerned.</p> <p>The criteria for vessels to be included in the NCP-IUU Vessel list are described.</p> <p>The Secretary's actions to create a draft, provisional NCP-IUU Vessel List, proposed and final NCP-IUU Vessel List are detailed. The corresponding actions to be taken by non-Contracting Parties cooperating with the Commission and Contracting Parties regarding vessels engaging in IUU activities are set out. The procedures taken by the Standing Committee on Implementation and Compliance to adopt a proposed NCP-IUU Vessel List or remove vessels from the NCP-IUU Vessel List are listed. The Executive Secretary shall make the List available to parties concerned and on the CCAMLR website. The Commission and Contracting Parties shall request non-Contracting Parties with vessels engaged in IUU activities to take necessary measures to avoid diminishing the effectiveness of conservation measures adopted by CCAMLR.</p> <p>Contracting Parties and non-contracting Parties cooperating with the Commission shall take necessary actions to regulate the activities of vessels listed in the CP-IUU Vessel List. However, Contracting Parties should not take any trade measures or other sanctions which are inconsistent with their international obligations.</p>

Conservation Measure (CM)

Relevant CMs	Title	Details
CM 10-08	Scheme to promote compliance by Contracting Parties with CCAMLR conservation measures	Contracting Parties should take measures to verify if any of their nationals, natural or legal persons are engaged in, responsible for or benefit from IUU activities for toothfish, and take appropriate action to deprive the benefits obtained and dissuade the actors of further illegal activities. A contact point is designated for exchange of information for the purpose of implementing this conservation measure.