

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 254

Issued by the authority of the Minister for Agriculture, Fisheries and Forestry

Fisheries Management Act 1991

Fisheries Management (International Agreements) Regulations 2009

The *Fisheries Management (International Agreements) Regulations 2009* (the Regulations) are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Subsection 168(1) of the *Fisheries Management Act 1991* (the FM Act) provides that the Governor-General may make regulations, not inconsistent with the FM Act, prescribing all matters required or permitted by the FM Act to be prescribed, or necessary or convenient to be prescribed, in carrying out or giving effect to the FM Act.

Section 14 of the FM Act provides that for the purpose of conserving the marine environment the regulations may prohibit, or make provision for the regulation of, the engaging in specified activities or the use of specified practices by persons engaged in fishing in the Australian Fishing Zone (AFZ) and Australian boats, and persons on Australian boats, engaged in fishing outside the AFZ.

The *Fisheries Legislation Amendment (New Governance Arrangements for the Australian Fisheries Management Authority and Other Matters) Act 2008* (the Amendment Act) recently amended the FM Act to include a revised and strengthened legislative framework for the enforcement of fishing activities beyond the AFZ. These changes came into effect on 25 June 2009 and fall into three broad categories: Australian boats operating beyond the AFZ; Australian nationals on foreign boats operating beyond the AFZ; and foreign boats operating beyond the AFZ. The Amendment Act also included two new definitions:

- **international fisheries management organisation** (IFMO) means a global, regional, or subregional fisheries organisation or arrangement prescribed by regulations; and
- **international fisheries management measure** (IFMM) means a measure prescribed by the regulations to give effect to a measure established by an international fisheries management organisation.

The *Fisheries Management (International Agreements) Regulations 2009* (the Regulations) prescribe IFMOs to which Australia is a party and the IFMMs adopted by them. The Regulations enable the Australian Fisheries Management Authority (AFMA), the statutory authority responsible for the efficient management and sustainable use of Commonwealth fisheries, to enforce compliance with these measures and arrangements by domestic and foreign vessels operating beyond the AFZ. Under the Regulations, AFMA will ensure that Australia complies with its obligations under International Law.

The IFMOs prescribed in the Regulations are the:

1. Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR);
2. Convention of the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC);
3. Agreement for the Establishment of the Indian Ocean Tuna Commission (IOTC); and
4. Convention for the Conservation of Southern Bluefin Tuna (CCSBT).

The IFMMs that are prescribed in the Regulations are enforceable components of the measures and arrangements adopted by the first three IFMOs. The fourth IFMO, CCSBT, proposed to be reviewing its measures and arrangements in October 2009 and these will also be prescribed in due course.

Regulation Impact Statement

In view of the low or nil impact on business, the Office of Best Practice Regulation (OBPR) has advised that neither a Business Cost Calculator Report nor a Regulation Impact Statement is required (Reference: 10506).

Consultation

The Regulations were drafted following detailed consultation with the Department Agriculture Fisheries and Forestry (DAFF), Department of Environment, Water, Heritage and the Arts (DEWHA), and the Attorney-General's Department's Office of International Law. DAFF has portfolio responsibility, is the lead agency for Australian delegations and is the Commissioner to WCPFC, IOTC, and CCSBT. DEWHA's Australian Antarctic Division (AAD) serves a similar role to CCAMLR.

Consultation also included:

- One hundred thirty nine (139) letters to those concession holder who hold an entitlement to fish on the high seas;
- the Commonwealth Fisheries Association who is the peak industry body for representing fishers operating in **Commonwealth** managed **fisheries**;
- The Department of Foreign Affairs and Trade; the Australian Customs and Border Protection Service, and the Australian Government Border Protection Command
- Representation at interdepartmental government meetings including the Commonwealth Government Maritime Legislation Working Group.

- A dedicated page on AFMA's website;
- An article in AFMA's newsletter which has a distribution to all interested stakeholders in fisheries management (Volume 6, Issue 12, 12 June 2009).

The consultation have sought comments and provided an explanation of how the regulation will give full effect to the June 2009 FM Act changes that relate to boats beyond the AFZ.

The Regulations

Details of the Regulations are set out below:

Part 1 - Preliminary

Regulation 1.1 provides for the Regulations to be referred to as the *Fisheries Management (International Agreements) Regulations 2009*.

Regulation 1.2 provides for the Regulations to commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 1.3 provides that in the Regulations the:

- term *Act* means the *Fisheries Management Act 1991*;
- term *CCAMLR* means the Commission for the Conservation of Antarctic Marine Living Resources;
- term *FAO Standard Specifications for the Marking and Identification of Fishing Vessels* means the *Food and Agriculture Organisation Standard Specifications for the Marking and Identification of Fishing Vessels*, as amended from time to time;
- *Note* explains how and where to find the FAO specifications;
- term *IOTC* means the Indian Ocean Tuna Commission; and
- term *WCPFC* means the Western and Central Pacific Fisheries Commission.

Part 2 – International fisheries management measures

Regulation 2.1 provides that in the Regulations, the measures established by the *Commission on the Conservation of Antarctic Marine Living Resources* are in Schedule 1, the measures established by the *Indian Ocean Tuna Commission* in Schedule 2 and the measures established by the *Western and Central Pacific Fisheries Commission* in Schedule 3.

Part 3 – International fisheries management organisations

Regulation 3.1 provides that Schedule 4 prescribes each arrangement that fits within the definition of *international fisheries management organisation* in subsection 4(1) of the FM Act.

Regulation 3.2 provides that Schedule 5 prescribes each organisation that fits within the definition of *international fisheries management organisation* in subsection 4(1) of the FM Act.

Schedule 1 Prescribed measures – Commission on the Conservation of Antarctic Marine Living Resources

This schedule contains those CCAMLR conservation measures that are prescribed in the Regulations.

Clause 1 provides for the definitions of terms relevant to the prescribed measures in Schedule 1.

Subclause 1.1 provides that the:

- term **CCAMLR Secretariat** means the Secretariat of the Commission;
- term **Commission** means the Commission on the Conservation of Antarctic Marine Living Resources;
- term **Convention Area** means the waters defined in Article I(4) of the *Convention on the Conservation of Antarctic Marine Living Resources* done at Canberra on 20 May 2008 [1982] ATS 9;
- **Note** explains where to find the electronically available text of CCAMLR;
- term **CP-IUU vessel list** means the Contracting Party illegal, unregulated and unreported vessel list established by the Commission;
- **Note** explains where to find the electronically available list;
- term **fishing season**, for all species in the Convention Area, means the period starting on 1 December in a year and ending on 30 November of the following year or another period that is specified for the species, including a period that is to end if a precautionary catch limit is reached;
- term **IMO** means the International Maritime Organization;
- term **MARPOL 73/78** means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships 1973;
- **Note** explains where to find the electronically available text of MARPOL 73/78;
- term **NCP-IUU vessel list** means the Non-Contracting Party illegal, unregulated and unreported vessel list;
- **Note** explains where to find the electronic list;
- term **SSRU** means small-scale research unit; and
- term **UTC** means Coordinated Universal Time.

Clause 2 provides for the marking of fishing vessels, licensed to fish in the Convention Area, and fishing gear in accordance with CCAMLR conservation measure number 10-01(1998).

Subclause 2.1 prescribes that a person must mark the vessel in accordance with internationally-recognised standards and must mark all floating gear that is used or intended to be used with the letter or letters of the vessel to which the gear belongs.

Clause 3 prescribes the licensing and inspection obligations of Contracting Parties in accordance with CCAMLR conservation measure 10-02 (2008) whose vessels operate in the Convention Area.

Subclause 3.1 provides that a person using a boat to fish in the Convention Area must make the authorisation to fish available for inspection, on request, by an inspector designated by the Commission.

Subclause 3.2 prescribes what information a person using a boat to fish in the Convention Area must keep where possible and that the person has an obligation to forward a report to the relevant flag state of the vessel.

Clause 4 provides for the use of automated satellite-linked Vessel Monitoring Systems (VMS) in accordance with CCAMLR conservation measure 10-04 (2007).

Subclause 4.1 prescribes that a person using a boat for fishing in the Convention Area would have an obligation under this Conservation Measure to have a satellite-linked vessel monitoring device that communicates the listed information to the relevant fisheries monitoring centre. The person also has an obligation to ensure that the device is properly stowed and protected.

Subclause 4.2 prescribes that, if the device has a technical fault, the information requested in subclause 4.1 must be communicated to the relevant fisheries monitoring centre at least once every six hours by another means.

Subclause 4.3 provides for the minimum notice period that a person must give prior to entering, exiting and moving between subareas and divisions of the Convention Area.

Clause 5 prescribes how the Catch Documentation Scheme for the *Dissostichus* (Toothfish) species is to be used in accordance with CCAMLR Conservation Measure 10-05 (2008).

Subclause 5.1 prescribes when and how a person should complete a DCD (this term is defined in subclause 5.3 as *Dissostichus* catch document) and to whom the DCD is to be sent.

Subclause 5.2 prescribes what information must be in a DCD.

Subclause 5.3 defines the term **DCD** as meaning a *Dissostichus* catch document and includes a definition for the term **transshipment** for the purposes of this clause.

Clause 6 prescribes the scheme to promote compliance by Contracting Party vessels with CCAMLR conservation measures in accordance with CCAMLR Conservation Measure 10-06 (2008)

Subclause 6.1 prohibits the use of a boat for fishing in the Convention Area if the boat is listed on the Contracting Party Illegal, Unreported and Unregulated (CP-IUU) vessel list.

Subclause 6.2 prohibits a person using a Contracting Party boat for fishing in the Convention Area from participating in any transshipment or joint fishing operations supporting or resupplying a boat that is listed on the CP-IUU vessel list or the NCP-IUU vessel list.

Clause 7 prescribes the scheme to promote compliance by non-Contracting Party vessels with CCAMLR conservation measures in accordance with CCAMLR Conservation Measure 10-07 (2008).

Subclause 7.1 prohibits the use of a boat for fishing in the Convention Area if the boat is listed on the Non-Contracting Party Illegal, Unreported and Unregulated (NCP-IUU) vessel list.

Subclause 7.2 prohibits a person using a non-Contracting Party boat for fishing in the Convention Area from participating in any transshipment or joint fishing operations supporting or resupplying a boat that is listed on the CP-IUU vessel list or the NCP-IUU vessel list.

Clause 8 prescribes the Notification scheme for transshipment within the Conservation Area in accordance with CCAMLR Conservation Measure 10-09 (2008).

Subclause 8.1 prescribes what information a person using a boat in the Convention Area for fishing in a New and Exploratory Fishery must provide to the relevant Flag State or the CCAMLR Secretariat.

This subclause also lists where the following four species:

Dissostichus eleginoides (Patagonian Toothfish)

Dissostichus species (the two species are Patagonian Toothfish and Antarctic Toothfish)

Champscephalus gunnari (Mackerel Icefish)

Crab

can be caught in the Conservation Area and by what method.

Subclause 8.2 prescribes what information a person must record and notify in accordance with subclause 8.1.

Clause 9 prescribes the mesh size in accordance with CCAMLR Conservation Measure 22-02 (1984).

Subclause 9.1 prescribes what mesh size is to be used when targeting the following species: *Notothenia rossii* (Marbled Rockcod), *Dissostichus eleginoides* (Patagonian Toothfish), *Gobionotothen gibberifrons* (Humped Rockcod), *Notothenia kempfi* (Striped-eyed Rockcod), *Lepidonotothen squamifrons* (Grey Rockcod).

Subclause 9.2 prohibits the obstruction or diminution of the mesh sizes other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 10 prescribes the mesh size for *Champscephalus gunnari* (Mackerel Icefish) in accordance with CCAMLR Conservation Measure 22-03 (1990).

Subclause 10.1 prohibits the use of a pelagic or bottom trawl with a mesh size less than 90mm to target *Champscephalus gunnari* (Mackerel Icefish) other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Subclause 10.2 prohibits the obstruction or diminution of the mesh size other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 11 prescribes the interim prohibition of deep-sea gillnetting in accordance with CCAMLR Conservation Measure 22-04 (2006).

Subclause 11.1 prescribes that to give effect to this conservation measure, a person using a boat for fishing in the Convention Area must not use gillnets other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Subclause 11.2 prescribes that a person using a boat for fishing in the Convention Area must not use gillnets for scientific research purposes in waters deeper than 100 metres unless the person has given advance notice to the CCAMLR Scientific Committee and the Commission has agreed to the use.

Subclause 11.3 prescribes that a person transiting through the Convention Area must not be in possession of gillnets unless the person has given advance notice to the CCAMLR Scientific Committee, including the period during which the person expects to be in the Convention Area.

Clause 12 prescribes interim restrictions on the use of bottom trawling gear in high-seas areas of the Convention Area in accordance with CCAMLR Conservation Measure 22-05 (2008).

Subclause 12.1 prescribes that to give effect to this conservation measure, a person using a boat for fishing in the Convention Area must not use bottom trawling gear in the high-seas areas of the Convention Area unless Conservation Measures allow the use of bottom trawl gear.

Subclause 12.2 prescribes that a person is not required to comply with subclause 12.1 if the fishing is conducted for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 13 prescribes for bottom fishing in the Convention Area to be in accordance with CCAMLR Conservation Measure 22-06 (2008).

Subclause 13.1 prescribes that to give effect to this conservation measure, a person using a boat for fishing in the Convention Area must not engage in bottom fishing activities otherwise than in accordance with CCAMLR Conservation Measures 22-06 (2008 and 22-07 (2008)).

Subclause 13.2 prescribes that in the absence of site-specific or other conservation measures to prevent significant adverse impact on vulnerable marine ecosystems, a person using a boat for fishing in the Convention Area must cease bottom fishing activities in any location in which the person encounters evidence of a vulnerable marine ecosystem while engaging in fishing operations and must report the encounter to the relevant Flag State.

Subclause 13.3 prescribes that a person using a boat for fishing in the Convention Area must ensure that there is at least one CCAMLR-designated scientific observer on the boat to collect data.

Subclause 13.4 prescribes that this clause applies to all areas in the Convention Area south of latitude 60°S and any other area in the Convention Area unless subclause 13.5 applies.

Subclause 13.5 prescribes that this clause does not apply to any Statistical Subarea or Statistical Division of the Convention Area in which an established fishery was in place in the 2006-07 fishing season and had a catch limit greater than zero, and the area of Statistical Division 58.4.1 north of latitude 60°S.

Subclause 13.6 provides that in this clause, the term *bottom fishing activities* includes the use of any gear that interacts with the bottom and the term *vulnerable marine ecosystem* includes seamounts, hydrothermal vents, cold water corals and sponge fields.

Clause 14 prescribes the application of conservation measures to scientific research in accordance with CCAMLR Conservation Measure 24-01 (2008).

Subclause 14.1 prescribes that to give effect this conservation measure, a person using a boat for fishing in the Convention Area must not use the boat for scientific purposes unless the Commission has authorised the boat to engage in such fishing.

Subclause 14.2 prescribes that a person using a boat for scientific research fishing in the Convention Area, during a voyage that involves any commercial fishing, must ensure that the boat is linked to an automated satellite-linked vessel monitoring system in accordance with Conservation Measure 10-04 (2007), as given effect by clause 4.

Clause 15 prescribes the longline weighting for seabird conservation in accordance with CCAMLR Conservation Measure 24-02 (2008).

Subclause 15.1 prescribes that to give effect to this conservation measure a person using a boat for longline fishing between sunrise and sunset in any of Statistical Subareas 48.4, 48.6, 88.1 or 88.2 of the Convention Area or any of Statistical Divisions 58.4.1, 58.4.2, 58.4.3a, 58.4.3b or 58.5.2 in the Convention Area must conduct a longline sink rate test under observation by a scientific observer.

Subclause 15.2 prescribes that the longline sink rate test must be conducted in accordance with one of the three requirements prescribed in this clause.

Clause 16 prescribes for the minimisation of the incidental mortality of seabirds in the course of longline fishing or longline fishing research in the Convention Area in accordance with CCAMLR Conservation Measure 25-02 (2008).

Subclause 16.1 prescribes that, to give effect to this conservation measure, a person using a boat for fishing in the Convention Area must ensure that the fishing operations of the boat are conducted in a way that all procedural measures set out in the Conservation Measure are taken to ensure that hooklines sink beyond the reach of seabirds as soon as possible after they are put in the water.

Subclause 16.2 prescribes that if the person uses an autoline system, the person must either add weights to the hookline while deploying a longline or use integrated weight hooklines while deploying a longline.

Subclause 16.3 prescribes that if the person uses the Spanish method of longline fishing, the person must either use traditional weights made of rocks or concrete of at least 8.5 kilogram (kg) mass, spaced at intervals of no more than 40 metres (m) or traditional weights made of rocks or concrete of at least 6 kg, spaced at intervals of no more than 20 m or solid steel weights, not made from chain links, of at least 5 kg mass, spaced at intervals of no more than 40 m and must release the weights before line tension occurs.

The Spanish longline system consists of a main line anchored to the ocean floor at both ends and marked with radio beacons / buoys for later recovery. This system is commonly used to target Patagonian toothfish. The gear consists of two lines joined in parallel. The top (main) line is usually thick (18 mm) polypropylene rope, which takes the weight

during hauling. The hooks and weights are attached to the lighter (second) line, which is joined to the main line by branch lines in a ladder-like arrangement. Weights (stone cobbles encased in net bags) are attached at regular intervals as the line is set. The mass, density and distance between weights affect the line sink rate. The line can be baited automatically due to the single hook configuration.

Subclause 16.4 prescribes that if the person uses the trotline system exclusively (not alternating between trotlines and the Spanish method of longline fishing within the same longline), the person must either use traditional weights made of rocks or concrete of at least 6 kg mass, but only at the distal end of the droppers in the trotline or solid steel weights of at least 5 kg mass, but only at the distal end of the droppers in the trotline.

Trotline is a specialised form of set longline where droppers with multiple hooks are attached to a mainline which is suspended horizontally above the bottom by floats. The main line is anchored to the ocean floor at both ends and marked with radio beacons/buoys for later recovery. It is generally manually baited due to the multiple hook configuration.

Subclause 16.5 prescribes that if the person alternates between using trotlines and the Spanish method of longline fishing within the same longline for the Spanish method of longline fishing, the person must comply with subclause 16.3 and for the trotline method, the person must use traditional weights made of rocks or concrete of at least 8.5 kg mass or solid steel weights of at least 5 kg mass that are attached on the hook-end of all droppers in the trotline at no more than 80 m intervals.

Subclause 16.6 prescribes that a person using a boat in the Convention Area for fishing must set longlines only at night, during the hours of darkness between the times of nautical twilight, unless the person is conducting a longline sink rate test in any of Statistical Subareas 48.4, 48.6, 88.1 or 88.2 of the Convention Area or any of Statistical Divisions 58.4.1, 58.4.2, 58.4.3a, 58.4.3b or 58.5.2 in the Convention Area and the person complies with clause 15.

Subclause 16.7 prescribes that a person using a boat in the Convention Area for longline fishing at night must use only the minimum lights of the boat that are necessary for safety.

Subclause 16.8 prescribes what a person must not do while fishing in accordance with this clause.

Clause 17 provides for the minimisation of the incidental mortality of seabirds and marine mammals in the course of trawl fishing in the Convention Area in accordance with CCAMLR Conservation Measure 25-03 (2003).

Subclause 17.1 prescribes that a person using a boat for fishing in the Convention Area must not use a net monitor cable and must not discharge offal during the shooting and hauling of trawl gear.

Clause 18 provides for general environmental protection during fishing in accordance with CCAMLR Conservation Measure 26-01 (2008).

Subclause 18.1 prescribes that a person using a boat for fishing in the Convention Area must not use a plastic packaging band to secure a bait box.

Subclause 18.2 prescribes that a person using a boat for fishing in the Convention Area that does not have an on-board incinerator that is a closed system must not use a plastic packaging band for any purpose.

Subclause 18.3 prescribes what steps a person using a boat for fishing in the Convention Area that has an on-board incinerator that is a closed system must take.

Subclause 18.4 prescribes what a person using a boat for fishing in the Convention Area must not do when fishing south of latitude 60°S.

Subclause 18.5 prescribes that a person using a boat for fishing south of latitude 60°S in the must not bring live poultry or other living birds into the area and must remove from the area any dressed poultry that has not been consumed.

Clause 19 prescribes the general measure for the closure of all fisheries in accordance with CCAMLR Conservation Measure 31-02 (2007).

Subclause 19.1 prescribes what steps must be taken by a person using a boat for fishing in the Convention Area if the CCAMLR Secretariat notifies that person of the closure of a fishery.

Subclause 19.2 prescribes that if it is likely that the person will be unable to remove all of the fishing gear from the water before the date and time of closure by reason of any of the reasons listed in this clause, the person must notify the Flag State of the boat and remove all fishing gear from the water as soon as possible.

Clause 20 provides for the prohibition of directed fishing for Finfish in Statistical Subarea 48.1 in accordance with CCAMLR Conservation Measure 32-02 (1998).

Subclause 20.1 prohibits the taking of Finfish in Statistical Subarea 48.1 other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 21 provides for the prohibition of directed fishing for Finfish in Statistical Subarea 48.2 in accordance with CCAMLR Conservation Measure 32-03 (1998).

Subclause 21.1 prohibits the taking of Finfish in Statistical Subarea 48.2 other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 22 provides for the prohibition of directed fishing for *Notothenia rosii* (Marbled Rockcod) in the Peninsula area (Statistical Subarea 48.1) in accordance with CCAMLR Conservation Measure 32-04 (1986).

Subclause 22.1 prohibits the taking of *Notothenia rosii* (Marbled Rockcod) in the Peninsula area (Statistical Subarea 48.1).

Subclause 23 prohibits directed fishing for *Notothenia rosii* (Marbled Rockcod) around South Orkneys (Statistical Subarea 48.2) in accordance with CCAMLR Conservation Measure 32-05 (1986).

Subclause 23.1 prohibits directed fishing for *Notothenia rosii* (Marbled Rockcod) around the South Orkneys (Statistical Subarea 48.2).

Clause 24 provides for the prohibition of directed fishery for *Notothenia rosii* (Marbled Rockcod) around South Georgia (Statistical Subarea 48.3) in accordance with CCAMLR Conservation Measure 32-06 (1985).

Subclause 24.1 prohibits directed fishing for *Notothenia rosii* (Marbled Rockcod) around South Georgia (Statistical Subarea 48.3).

Clause 25 provides for the prohibition of directed fishing for *Gobionotothen gibberifrons* (Humped Rockcod), *Chaenocephalus aceratus* (Blackfin Icefish), *Pseudochaenichthys georgianus* (South Georgia Icefish), *Lepidonotothen squamifrons* (Grey Rockcod) and *Patagonotothen guntheri* (Patagonian Rockcod) in Statistical Subarea 48.3 in accordance with CCAMLR Conservation Measure 32-07 (1999).

Subclause 25.1 prohibits directed fishing for those species by a person using a boat in the Convention Area for fishing in Statistical Subarea 48.3.

Clause 26 provides for the prohibition of directed fishing for *Lepidonotothen squamifrons* (Grey Rockcod) in Statistical Division 58.4.4 (Ob and Lena Banks) in accordance with CCAMLR Conservation Measure 32-08 (1997).

Subclause 26.1 prohibits the taking of *Lepidonotothen squamifrons* (Grey Rockcod), other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14, by a person using a boat in the Convention Area for fishing in Statistical Division 58.4.4 (Ob and Lena Banks).

Clause 27 provides for the prohibition of directed fishing for *Dissostichus* (Toothfish) species (the two species are Patagonian Toothfish and Antarctic Toothfish) except in accordance with specific conservation measures in the 2008/09 season in accordance with CCAMLR Conservation Measure 32-09 (2008).

Subclause 27.1 prohibits directed fishing for *Dissostichus* (Toothfish) species by a person using a boat to fish in Statistical Subarea 48.5 in the period starting on the day on which these Regulations commence and ending on 30 November 2009.

Clause 28 provides for the prohibition of directed fishing for *Dissostichus* (Toothfish) species in Statistical Division 58.4.4 outside areas of national jurisdiction in accordance with CCAMLR Conservation Measure 32-10 (2002).

Subclause 28.1 prohibits a person using a boat to fish in Statistical Division 58.4.4 from engaging in directed fishing for *Dissostichus* (Toothfish) species outside areas of national jurisdiction other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 29 provides for the prohibition of directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) species in Statistical Subarea 58.6 in accordance with CCAMLR Conservation Measure 32-11 (2002).

Subclause 29.1 prohibits a person using a boat to fish in Statistical Subarea 58.6 from engaging in directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) species other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 30 provides for the prohibition of directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) in Statistical Subarea 58.7 in accordance with CCAMLR Conservation Measure 32-12 (1998).

Subclause 30.1 prohibits a person using a boat to fish in Statistical Subarea 58.7 from engaging in directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 31 provides for the prohibition of directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) in Statistical Division 58.5.1 outside areas of national jurisdiction in accordance with CCAMLR Conservation Measure 32-13 (2003).

Subclause 31.1 prohibits a person using a boat to fish in Statistical Division 58.5.1 from engaging in directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) outside areas of national jurisdiction other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 32 provides for the prohibition of directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) in Statistical Division 58.5.2 east of longitude 79°20'E and outside the exclusive economic zone to the west of longitude 79°20'E in accordance with CCAMLR Conservation Measure 32-14 (2003).

Subclause 32.1 prohibits a person using a boat to fish in Statistical Division 58.5.2 to the east of longitude 79°20'E and outside the EEZ to the west of longitude 79°20'E from engaging in directed fishing for *Dissostichus eleginoides* (Patagonian Toothfish) other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 33 provides for the prohibition of directed fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 88.2 North of latitude 65°S in accordance with CCAMLR Conservation Measure 32-15 (2003).

Subclause 33.1 prohibits a person using a boat to fish in Statistical Subarea 88.2 to the north of latitude 65°S from engaging in directed fishing for *Dissostichus* (Toothfish) species other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 34 provides for the prohibition of directed fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 88.3 in accordance with CCAMLR Conservation Measure 32-16 (2003).

Subclause 34.1 prohibits a person using a boat to fish in Statistical Subarea 88.3 from engaging in directed fishing for *Dissostichus* (Toothfish) species other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 35 provides for the prohibition of directed fishing for *Electrona Carlsberg* (Lanternfish) in Statistical Subarea 48.3 in accordance with CCAMLR Conservation Measure 32-17 (2003).

Subclause 35.1 prohibits a person using a boat to fish in Statistical Subarea 48.3 from engaging in directed fishing for *Electrona Carlsberg* (Lanternfish) other than for scientific research purposes that are carried out in accordance with CCAMLR Conservation Measure 24-01 (2008), as given effect by clause 14.

Clause 36 provides for the conservation of sharks in accordance with CCAMLR Conservation Measure 32-18 (2006).

Subclause 36.1 prohibits a person using a boat to fish in the Convention Area from undertaking directed fishing on shark species in the Convention Area unless such fishing is permitted in accordance with a permit allowing catch of shark for scientific research purposes and where possible, the person must release any by-catch of shark alive.

Clause 37 provides for the limitation of by-catch in new and exploratory fisheries in the 2008-09 season in accordance with CCAMLR Conservation Measure 33-03 (2008).

Subclause 37.1 prescribes by which method a person must, if possible, release skates and rays alive from the line unless a scientific observer asks the person not to do so.

Subclause 37.2 prescribes what steps must be taken by a person if there is a bycatch of a species of one tonne or more in any one haul or set.

Subclause 37.3 prohibits the person from using the boat to fish in the SSRU for the remainder of the fishing season if the catch of *Macrourus* species (Rat tails, Grenadiers) taken by a single boat in any 2 10-day periods in a single SSRU exceeds 1500 kg in each of the 10-day periods and 16 per cent of the catch of *Dissostichus* (Toothfish) species by the boat in the SSRU in those periods.

Clause 38 prescribes the limits on the exploratory fishery for *Dissostichus* (Toothfish) species in Statistical Subarea 48.6 in the 2008-09 season in accordance with CCAMLR Conservation Measure 41-04 (2008).

Subclause 38.1 prohibits a person from fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 48.6 unless the person is conducting the exploratory longline fishery in a boat flagged to either of the two listed member states.

Subclause 38.2 prohibits the fishing of *Dissostichus* (Toothfish) species at a depth shallower than 550 m in Statistical Subarea 48.6 or the discharge of offal.

Subclause 38.3 prohibits fishing for *Dissostichus* (Toothfish) species in an area if the precautionary catch limit of that area has been caught.

Subclause 38.4 prescribes the steps and procedures that to be complied with by a person if any Toothfish and Skates are caught in the area covered by this clause and that at least two scientific observers are on board throughout all fishing activities, and that at least one of them is appointed in accordance with the CCAMLR Scheme of International Scientific Observations.

Clause 39 prescribes the limits on the exploratory fishery for *Dissostichus* (Toothfish) species in Statistical Division 58.4.2 in the 2008-09 season in accordance with CCAMLR Conservation Measure 41-05 (2008).

Subclause 39.1 prohibits a person from fishing for *Dissostichus* (Toothfish) species in Statistical Division 58.4.2 in the 2008-09 fishing season unless the person is conducting the exploratory longline fishery in a boat flagged to any of the four listed member states.

Subclause 39.2 prescribes the certain steps and procedures that must be complied with if any Toothfish or Skates are caught in Statistical Division 58.4.2 of the Convention Area. This subclause also prescribes the observer requirements in accordance with the CCAMLR Scheme of International Scientific Observation.

Subclause 39.3 prohibits fishing for *Dissostichus* (Toothfish) species in an area if the precautionary catch limit for that area has been caught.

Subclause 39.4 prohibits fishing for *Dissostichus* (Toothfish) species at a depth shallower than 550 m.

Subclause 39.5 prescribes the different precautionary catch limits for *Dissostichus* (Toothfish) species in Statistical Division 58.4.2 that must not be exceeded in the 2008-09 fishing season.

Subclause 39.6 prescribes the relevant fishing season for the purposes of this clause.

Clause 40 prescribes the limits on the exploratory fishery for *Dissostichus* (Toothfish) species on Elan Bank (Statistical Division 58.4.3a) outside areas of national jurisdiction in the 2008-09 season in accordance with CCAMLR Conservation Measure 41-06 (2008).

Subclause 40.1 prohibits fishing for *Dissostichus* (Toothfish) species on Elan Bank (Statistical Division 58.4.3a) outside areas of national jurisdiction in a fishing season unless the fishing is undertaken by a person who is conducting the exploratory longline fishery in a flagged boat of Japan.

Subclause 40.2 prohibits fishing for *Dissostichus* (Toothfish) species on Elan Bank (Statistical Division 58.4.3a) outside areas of national jurisdiction at a depth shallower than 550 m.

Subclause 40.3 prohibits fishing for *Dissostichus* (Toothfish) species in Statistical Division 58.4.3a if the precautionary catch limit for that area has been caught.

Subclause 40.4 prescribes what steps and measures must be taken if any Toothfish or Skates are caught by the person fishing under this clause and lists the observer requirements in accordance with the CCAMLR Scheme of International Scientific Observation.

Subclause 40.5 prescribes the fishing season for the purposes of this clause.

Clause 41 prescribes the limits on the exploratory fishery for *Dissostichus* (Toothfish) species on BANZARE Bank (Statistical Division 58.4.3b) outside areas of national jurisdiction in the 2008-09 season in accordance with CCAMLR Conservation Measure 41-07 (2008).

Subclause 41.1 prohibits fishing for *Dissostichus* (Toothfish) species on BANZARE Bank (Statistical Division 58.4.3b) outside areas of national jurisdiction in the 2008-09 fishing season unless the person is conducting the exploratory longline fishery in a boat flagged to any of the three member states.

Subclause 41.2 prohibits fishing for *Dissostichus* (Toothfish) species on BANZARE Bank (Statistical Division 58.4.3b) outside areas of national jurisdiction in the 2008-09

fishing season if another person is already conducting the exploratory longline fishery in a flagged boat of the same country.

Subclause 41.3 prescribes what steps and measures must be taken if any Toothfish or Skates are caught by the person fishing under this clause. This subclause also prescribes that there is to be at least one scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, on board the boat during all fishing activities.

Subclause 41.4 prohibits fishing for *Dissostichus* (Toothfish) species on BANZARE Bank (Statistical Division 58.4.3b) outside areas of national jurisdiction at a depth shallower than 550 m.

Subclause 41.5 prescribes the person must not fish for *Dissostichus* (Toothfish) species in Statistical Division 58.4.3b if the precautionary catch limit for that area has been caught.

Clause 42 prescribes the limits on the exploratory fishery for *Dissostichus* (Toothfish) species in Statistical Subarea 88.1 in the 2008-09 season in accordance with CCAMLR Conservation Measure 41-09 (2008).

Subclause 42.1 prohibits fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 88.1 in the 2008-09 fishing season unless the person is conducting the exploratory longline fishery in a boat flagged to any of the nine member states as listed.

Subclause 42.2 prohibits fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 88.1 at a depth shallower than 550 m.

Subclause 42.3 prescribes what steps and measures must be taken if any Toothfish or Skates are caught by the person fishing under this clause. This subclause also prescribes that there is to be at least one scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, on board the boat during all fishing activities. It is prohibited to fish for *Dissostichus* (Toothfish) species within 10 nautical miles of the Balleny Islands under this subclause.

Subclause 42.4 prohibits the fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 88.1 if the precautionary catch limit for that area has been caught.

Subclause 42.5 prescribes that a person fishing under this clause must meet the following two reporting requirements: the Five-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-01 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000). The person is also required to submit fine-scale data on a haul-by-haul basis.

Subclause 42.6 prescribes, for the purposes of this clause, the start date and end date for the fishing season and that the Five-day Catch and Effort Reporting System set out in

CCAMLR Conservation Measure 23-01 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000) applies to a person fishing under this clause.

Clause 43 prescribes the limits on the exploratory fishery for *Dissostichus* (Toothfish) species in Statistical Subarea 88.2 in the 2008-09 season in accordance with CCAMLR Conservation Measure 41-10 (2008).

Subclause 43.1 prohibits fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 88.2 in a fishing season unless the person is conducting the exploratory longline fishery in a boat flagged to any of the nine member states as listed.

Subclause 43.2 prohibits fishing for *Dissostichus* (Toothfish) species in Statistical Subarea 88.2 in a fishing season at a depth shallower than 550 m.

Subclause 43.3 prohibits fishing for *Dissostichus* (Toothfish) species in an area if the precautionary catch limit for that area has been caught.

Subclause 43.4 prescribes the catch and tagging requirements of Toothfish caught in Statistical Subarea 88.2 and Skate caught in Statistical Subarea 88.1 and the observer requirements in accordance with the CCAMLR Scheme of International Scientific Observation

Clause 44 prescribes the limits on the exploratory fishery for *Dissostichus* (Toothfish) species in Statistical Division 58.4.1 in the 2008-09 season in accordance with CCAMLR Conservation Measure 41-11 (2007).

Subclause 44.1 prohibits fishing for *Dissostichus* (Toothfish) species. Statistical Division 58.4.1 in the 2008-09 fishing season unless the person is conducting the exploratory longline fishery in a boat flagged to any of the six member states as listed

Subclause 44.2 prohibits fishing for *Dissostichus* (Toothfish) species in Statistical Division 58.4.1 in a fishing season at a depth shallower than 550 m.

Subclause 44.3 prescribes that a person must not fish for *Dissostichus* (Toothfish) species in Statistical Division 58.4.1 if the precautionary catch limit of that area has been caught.

Subclause 44.4 prescribes the tagging requirements of Toothfish and night setting requirements in accordance with Conservation Measure 25-02 (2008) and would list the observer requirements in accordance with the CCAMLR Scheme of International Scientific Observation.

Suclause 44.5 prescribes that a person fishing under this clause must meet the following two reporting requirements: the Five-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-01 (2005) and the Monthly Fine-scale Catch and

Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000). The person is also required to submit fine-scale data on a haul-by-haul basis.

Subclause 44.6 prescribes, for the purposes of this clause, that the Five-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-01 and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 applies to a person fishing under this clause.

Clause 45 prescribes the Precautionary catch limitations on *Euphausia superba* (Antarctic Krill) in Statistical Subareas 48.1, 48.2, 48.3 and 48.4 in accordance with CCAMLR Conservation Measure 51-01 (2008).

Subclause 45.1 prescribes what fishing methods are allowed for the purposes of this clause and lists the requirement to use a marine mammal exclusion device (MMED) on any trawl.

The MMED acts like a sieve allowing objects smaller than the distance between the bars, such as the fish, to pass through the grid while diverting larger objects, such as sharks, and seals and other marine mammals, towards the top of the net, where there is an escape hatch. The function of the hatch is to create a visual barrier to deter fish escapement without hindering or preventing the escape of large objects such as seals.

The MMED generally consists of a metal grid fixed inside a netting tube. The grid is inclined at 45° to the water flow, with the top of the grid downstream of the bottom. Floats are attached to the grid inside the netting tube or extension piece so that the overall device is only slightly negatively buoyant. Rope binding around the lower sides and bottom edge protects the device from abrasion.

Clause 46 prescribes the precautionary catch limitation on *Euphausia superba* (Antarctic Krill) in Statistical Division 58.4.1 in accordance with CCAMLR Conservation Measure 51-02 (2008).

Subclause 46.1 prescribes what fishing methods are allowed for the purposes of this clause and lists the requirement to use a marine mammal exclusion device on any trawl and must meet the observer requirements fulfilling the requests of the CCAMLR Scheme of International Scientific Observation, on board during all fishing activities.

Clause 47 prescribes the precautionary catch limitation on *Euphausia superba* (Antarctic Krill) in Statistical Division 58.4.2 in accordance with CCAMLR Conservation Measure 51-03 (2008).

Subclause 47.1 prescribes what fishing methods are allowed for the purposes of this clause and the requirement for one scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, to be on board the boat during all fishing activities.

Clause 48 prescribes the general measure for exploratory fisheries for *Euphausia superba* (Antarctic Krill) in the Convention Area in the 2008-09 season in accordance with CCAMLR Conservation Measure 51-04 (2008).

Subclause 48.1 prohibits fishing for *Euphausia superba* (Antarctic Krill) in the Convention Area in the 2008-09 fishing season if the Commission has announced that the catch limit for *Euphausia superba* (Antarctic Krill) has been exceeded.

Subclause 48.2 prescribes what records must be kept for the purposes of this clause and prescribes the observer requirements in accordance with the CCAMLR Scheme of International Scientific Observation if a person is using a boat in the Convention for fishing for *Euphausia superba* (Antarctic Krill).

Subclause 48.3 would prescribe the requirement for 1 scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, to be on board the boat during all fishing activities.

Clause 49 prescribes the limits on the exploratory fishery for *Euphausia superba* (Antarctic Krill) in Statistical Subarea 48.6 in the 2008-09 season in accordance with CCAMLR Conservation Measure 51-05 (2008).

Subclause 49.1 prohibits fishing for *Euphausia superba* (Antarctic Krill) in Statistical Subarea 48.6 in the 2008-09 fishing season unless the person is fishing in a flagged boat of Norway.

Subclause 49.2 prescribes that the person must use a marine mammal exclusion device on any trawl, must have one scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, to be on board the boat during all fishing activities and must not discharge any offal from the vessel.

Subclause 49.3 prescribes that a person fishing under this clause must meet the following two reporting requirements: the Five-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-01 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000). The person is also required to submit fine-scale data on a haul-by-haul basis.

Subclause 49.4 prescribes, for the purposes of this clause, that the Ten-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-02 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000) applies to a person fishing under this clause.

Clause 50 prescribes the limits on the fishery for crab in Statistical Subarea 48.3 in the 2008-09 season in accordance with CCAMLR Conservation Measure 52-01 (2008).

Subclause 50.1 prescribes what fishing methods are allowed for the purposes of this clause and the requirements that only specific types of crabs must be retained and that

one scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, must be on board the boat during all fishing activities.

Subclause 50.2 defines the fishery for crab in Statistical Subarea 48.3 as any commercial harvest activity in which the target species is any member of the crab group (Order Decapoda, Suborder Reptantia).

Subclause 50.3 prescribes the fishing season for the purposes of this clause.

Subclause 50.4 prescribes that a person fishing under this clause must meet the following two reporting requirements: the Five-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-01 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000). The person is also required to submit fine-scale data on a haul-by-haul basis.

Subclause 50.5 prescribes, for the purposes of this clause, that the Ten-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-02 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000) applies to a person fishing under this clause.

Clause 51 prescribes the limits on the exploratory fishery for crab in Statistical Subarea 48.4 in the 2008-09 season in accordance with CCAMLR Conservation Measure 52-03 (2008).

Subclause 51.1 prohibits fishing for crab in Statistical Subarea 48.4 in a fishing season unless the person is fishing for crab in a flagged boat of Russia.

Subclause 51.2 prescribes what fishing methods are allowed and release and tagging requirements for the purposes of this clause and the requirements that only specific types of crabs must be retained and that one scientific observer, appointed in accordance with the CCAMLR Scheme of International Scientific Observation, must be on board the boat during all fishing activities.

Subclause 51.3 prescribes the fishing season for the purposes of this clause.

Subclause 51.4 prescribes that a person fishing under this clause must meet the following two reporting requirements: the Five-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-01 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000). The person is also required to submit fine-scale data on a haul-by-haul basis.

Subclause 51.5 prescribes, for the purposes of this clause, that the Ten-day Catch and Effort Reporting System set out in CCAMLR Conservation Measure 23-02 (2005) and the Monthly Fine-scale Catch and Effort Reporting System set out in CCAMLR Conservation measures 23-04 (2000) applies to a person fishing under this clause.

Clause 52 provides for the protection of the Cape Shirreff CEMP site in accordance with CCAMLR Conservation Measure 91-02 (2004).

Subclause 52.1 prevents a person from operating a boat in a CCAMLR Ecosystem Monitoring Program (CEMP) site unless the person has a permit issued by the person's Flag State that authorises activities which are consistent with a management plan for the CEMP site.

Schedule 2 Prescribed measures – Indian Ocean Tuna Commission (IOTC)

Clause 1 provides for the definitions of terms relevant to the prescribed measures in Schedule 2.

Subclause 1.1 provides that in this schedule the:

- term **Commission** means the Indian Ocean Tuna Commission;
- term **IOTC area** means the area of competence of the IOTC as defined in Article II of the *Agreement for the Establishment of the Indian Ocean Tuna Commission*, done at Rome on 25 November 1993;
- **Note** explains where the electronic copy of the agreement can be found;
- term **IOTC Secretariat** means the Secretariat of the Commission;
- term **IUU Vessels List** means the *List of Vessels Presumed to have conducted illegal, unregulated and unreported fishing* established by the IOTC;
- **Note** explains where to find the electronic copy of the list;
- term **Tuna and Tuna-like species** means the species listed in Annex B to the *Agreement for the Establishment of the Indian Ocean Tuna Commission*; and
- **Note** explains where to find the electronic copy of the agreement.

Clause 2 provides for the control of fishing activities in accordance with IOTC Resolution 01/02.

Subclause 2.1 prescribes what documents and/or information must be carried on board a boat authorised to fish in the IOTC Area.

Subclause 2.2 prescribes for documents listed in subclause 2.1 to be appropriately verified no less than once in any period of 12 months.

Subclause 2.3 prescribes how fishing gear to be used by a person is to be marked in the manner prescribed by this subclause.

Subclause 2.4 prescribes how each fish aggregating device to be used by a person should be clearly marked.

Subclause 2.5 prescribes how fishing activity is to be recorded by a person using a fishing vessel that is greater than 24 metres in overall length.

Subclause 2.6 prescribes how a boat operating in the IOTC Area must be marked in accordance with internationally-recognised standards.

Clause 3 provides for the conservation of sharks caught in association with fisheries managed by IOTC in accordance with IOTC Resolution 05/05.

Subclause 3.1 prescribes what procedures must be complied with by a person using a boat for fishing in the IOTC Area if sharks are caught.

Clause 4 provides for the establishment of a vessel monitoring system programme in accordance with IOTC Resolution 06/03.

Subclause 4.1 prescribes the requirement for a boat, greater than 15 metres in length overall, to have a fully compliant vessel monitoring system device while fishing in the IOTC Area and how such a device is to be operated and stowed.

Subclause 4.2 prescribes what a person must not do when using the vessel monitoring system device while fishing in the IOTC Area.

Subclause 4.3 prescribes what a person must do in the event of a technical failure or non-operation of the vessel monitoring system device.

Clause 5 provides for the establishment of an IOTC record of vessels authorised to operate in the IOTC Area in accordance with IOTC Resolution 07/02.

Subclause 5.1 prescribes the obligation for a person to ensure that the name of the vessel is included on the IOTC record of Vessels if the person uses the vessel in a way prescribed in this clause.

Subclause 5.2 prescribes the criteria for vessels that must be included on the IOTC record of Vessels. The note would prescribe that the electronic copy of the IOTC Record of Vessels may be found at <http://www.iotc.org>

Clause 6 provides for the recording of catch by fishing vessels in the IOTC Area in accordance with IOTC Resolution 07/03.

Subclause 6.1 prescribes the circumstances in which catch by fishing vessels should be recorded in a manner prescribed in subclause 6.3.

Subclause 6.2 prescribes that subclause 6.1 does not apply to boats with a length over all of less than 24 metres operating within the exclusive economic zone of a foreign country.

Subclause 6.3 prescribes what catch information should be included in a bound or electronic logbook. The note would prescribe that the logbook template is available at Annex 1 of IOTC Resolution 07/03 at <http://www.iotc.org>.

Clause 7 provides for the establishment of a programme for transshipment by large-scale fishing vessels in accordance with IOTC Resolution 08/02.

Subclause 7.1 prohibits the carrying out of transshipment operations of tuna and tuna-like species in the IOTC Area unless the person is authorised to do so.

Subclause 7.2 prohibits a person from receiving tuna and tuna-like species in an at-sea transshipment operation unless all of the three listed criteria are met.

Subclause 7.3 prescribes for an IOTC observer to be on board a boat during each transshipment operation provided that the three criteria listed in this subclause are complied with.

Subclause 7.4 prescribes what the IOTC observer must have access to while on board the boat.

Subclause 7.5 prescribes what on-board facilities must be provided to the IOTC observer by the person using the boat.

Subclause 7.6 imposes an obligation on the person using the boat to ensure that the IOTC observer is not hindered in the performance of his/her duties.

Clause 8 provides for the reduction of the incidental bycatch of seabirds in longline fisheries in accordance with IOTC Resolution 08/03

Subclause 8.1 imposes an obligation on the person fishing for tuna or tuna-like species to ensure that each hookline used sinks beyond the reach of seabirds. The note would refer to the definition of hookline in IOTC Resolution 08/03 which is available online at <http://www.iotc.org>.

Subclause 8.2 provides for the use of mitigation measures to ensure that the incidental bycatch of seabirds is reduced. The note would prescribe the weblink for IOTC Resolution 08/03, Annex 1 and Annex 2 as <http://www.iotc.org>.

Clause 9 prescribes for the recording of catch by longline fishing vessels in the IOTC Area in accordance with IOTC Resolution 08/04.

Subclause 9.1 lists the criteria for vessels that must record catch and comply with subclause 9.2.

Subclause 9.2 prescribes what records must be kept by vessels referred to in subclause 9.1.

Clause 10 provides for the establishment of a list of vessels presumed to have carried out illegal, unregulated and unreported fishing in the IOTC area in accordance with IOTC Resolution 09/03.

Subclause 10.1 prohibits a person from using a boat for fishing in the IOTC Area in a joint operation with a vessel included in the IUU Vessels List. The note would provide examples of what constitutes joint operations for the purposes of subclause 10.1.

Clause 11 provides for the regional observer scheme in accordance with IOTC Resolution 09/04.

Subclause 11.1 prescribes the obligations of a person using a boat to fish in the IOTC Area towards an observer if the observer is placed on the boat.

Clause 12 provides for the prohibition of the use of large-scale driftnets on the high seas in the IOTC Area in accordance with Resolution 09/05.

Subclause 12.1 prescribes that for the purposes of this clause, unless subclause 12.5 applies, a person using a boat to fish for tuna and tuna-like species in the IOTC Area must comply with subclauses 12.2, 12.3 and 12.4.

Subclause 12.2 prohibits the person from having on board the boat a gillnet that satisfies all of the criteria listed in this subclause.

Subclause 12.3 prohibits the person from having on board the boat a net other than a gillnet that meets all of the criteria listed in this subclause.

Subclause 12.4 prohibits the person from having on board the boat a combination of nets that meets all of the criteria listed in this subclause.

Subclause 12.5 prescribes that if the boat is authorised to use large-scale driftnets in the economic exclusive zone of its flag state, the person must ensure that if any net of a type mentioned in subclauses 12.2, 12.3 and 12.4 is on board the boat, those are to be stowed and secured as prescribed in this subclause.

Clause 13 is a clause on marine turtles in accordance with IOTC Resolution 09/06.

Subclause 13.1 prescribes that a person using a boat to fish for tuna or tuna-like species in the IOTC Area that has onboard or is using gillnets must record all incidents involving marine turtles during fishing operations in the boat's logbooks.

Subclause 13.2 prescribes that a person using a boat to fish in the IOTC Area that has longlines onboard must carry line cutters, de-hookers and dip-nets, and must record all incidents involving marine turtles in the boat's logbooks.

Subclause 13.3 prescribes that a person using a purse seine boat to fish in the IOTC must undertake the prescribed steps if a marine turtle is caught in a net and must record all incidents involving marine turtles in the boat's logbooks.

Schedule 3 Prescribed measures — Western and Central Pacific Fisheries Commission

Clause 1 provides for the definitions of terms relevant to the prescribed measures in Schedule 3.

Subclause 1.1 prescribes that for the purposes of this schedule the:

- term **Commission** means the Western and Central Pacific Fisheries Commission;
- term **Convention Area** means the waters defined in Article 3 of the *Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean* dated 5 September 2000 [2004] ATS 15;
- **Note** explains that the treaty is electronically available through the Australian Treaties Library;
- term **IUU Vessels List** means the List of vessels presumed to have conducted illegal, unregulated and unreported fishing activities in the Western and Central Pacific Ocean that can be found on the prescribed weblink.

Clause 2 provides for the recording of fishing vessels and authorisation to fish in accordance with WCPFC Conservation Measure 2004-01.

Subclause 2.1 prohibits a person from using a boat in the Convention Area to fish for highly migratory fish stocks unless the boat is recorded on the WCPFC Record of Fishing Vessels.

Subclause 2.2 prohibits the transshipment of highly migratory fish stocks caught in the Convention Area to a boat which is not recorded on the WCPFC Record of Fishing Vessels.

Clause 3 provides the specification for the marking and identification of fishing vessels, the recording of fishing vessels and the authorisation to fish in accordance with WCPFC Conservation Measure 2004-03.

Subclause 3.1 prohibits a person from using a boat to fish in the Convention Area unless the WCPFC Identification number for the boat is the number that is recorded for the boat in the WCPFC Register, is in English and is prominently displayed on the boat at all times.

Clause 4 provides for the establishment of the Western and Central Pacific Fisheries Commission Boarding and Inspection Procedures in accordance with WCPFC Conservation Measure 2006-08.

Subclause 4.1 provides for an authorised inspector to board and inspect a boat that is licensed to operate in the Convention Area.

Clause 5 provides for the establishment of a Regional Observer Programme in accordance with WCPFC Conservation Measure 2007-01.

Subclause 5.1 provides for an observer to be allowed on board a boat licensed to operate in the Convention Area and would prescribe what the obligations of the person using such a boat are towards the observer.

Clause 6 provides for a Commission Vessel Monitoring System in accordance with WCPFC Conservation Measure 2007-02.

Subclause 6.1 prescribes that a boat that is licensed to fish in the Convention Area south of latitude 20°N and east of longitude 175°E must have an *ALC* (the term *ALC* would be defined in subclause 6.2) that enables the Commission to monitor the location of the boat, while the boat remains on the High Seas in that area.

Subclause 6.2 prescribes that for the purposes of this clause, the term *Automatic Location Communicator (ALC)* would mean a near real-time satellite position fixing transmitter.

Clause 7 provides for the establishment of a list of vessels presumed to have carried out illegal, unreported and unregulated (IUU) fishing activities in the WCPFC in accordance with WCPFC Conservation Measure 2007-03.

Subclause 7.1 lists the activities that a person must not carry out in order to give effect to this conservation measure. The note includes a reference on where to find the electronic copy of the WCPFC IUU vessels list.

Clause 8 provides for the mitigation of the impact of fishing for highly migratory fish stocks on seabirds in accordance with WCPFC Conservation Measure 2007-04.

Subclause 8.1 prescribes what two or more of the listed mitigation measures must be used by a person using longline fishing gear while operating the Convention Area.

Subclause 8.2 prescribes that the measures listed in the table in subclause 8.1 must be implemented in accordance with the minimum technical specifications set out in Annex 1 of WCPFC CMM 2007-04.

Clause 9 provides for the conservation and management of Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean in accordance with WCPFC Conservation Measure 2008-01.

Subclause 9.1 prohibits a person using a purse seine boat to fish for highly migratory fish stocks, on or after 1 July 2010, from fishing on fish aggregating devices between 0000 hours on 1 July and 2400 hours on 30 September in a year.

Subclause 9.2 prescribes that unless subclause 9.3 applies, a person using a purse seine boat to fish for highly migratory fish stocks in the area specified in this subclause, must retain on board and then land or tranship at port all bigeye, skipjack and yellowfin tuna.

Subclause 9.3 prescribes in what circumstances subclause 9.2 will not apply.

Subclause 9.4 prescribes that on or after 1 January 2010, a person using a purse seine boat to fish for highly migratory fish stocks in the area specified in this subclause has an obligation to carry on board the boat an observer from the Regional Observer Programme.

Subclause 9.5 lists the areas within the Convention Area where a person using a purse seine boat to fish for highly migratory fish stocks will not be allowed to fish in on or after 1 January 2010.

Clause 10 provides for the conservation and management of sea turtles in accordance with WCPFC Conservation Measure 2008-03.

Subclause 10.1 prescribes that in the circumstance where a person is using a boat to target species covered by the Convention and in doing so catches a sea turtle that is comatose or inactive, the person must, if possible, perform each of the actions listed in subclause 10.2.

Subclause 10.2 prescribes for a person, mentioned in subclause 10.1, who catches a sea turtle that is comatose or inactive to perform each of the following actions:

- bring the sea turtle on board the boat as soon as practicable after the sea turtle is caught; and
- revive the sea turtle; and
- immediately after the sea turtle is revived, return the sea turtle to the water.

Subclause 10.3 prescribes that if a sea turtle is caught by a person using a longline fishing boat to fish in the Convention Area, or the sea turtle becomes entangled in the longline or is caught on a hook, the person must without delay release the sea turtle by using line cutters or de-hookers or if appropriate carry and use dip-nets

Subclause 10.4 prescribes that all incidents involving sea turtles that occur during fishing operations must be recorded as of 1 January 2010 by any person using a longline fishing boat in the Convention Area to fish for swordfish in a shallow-set manner.

Subclause 10.5 prescribes what actions must be taken by a person using a purse seine boat to fish in the Convention Area if sea turtles are caught during the fishing operations.

The Purse Seine method involves the use of nets to encircle a school of fish. Pursing refers to a wire thread along the bottom of the net, which is drawn tight to stop the school of fish escaping down under the net. Purse seines may be different lengths, varying mesh sizes and the operation may involve one or two vessels.

Subclause 10.6 prescribes that all incidents involving sea turtles must be recorded if a person is using a purse seine boat to fish in the Convention Area.

Clause 11 prohibits the use of large scale driftnets on the high seas in the Convention Area in accordance with WCPFC Conservation Measure 2008-04.

Subclause 11.1 prohibits the carrying and usage of large-scale driftnets by a person using a boat to fish in the Convention Area for the purposes of this clause.

Subclause 11.2 prescribes that for subclause 11.1 not to apply, a person must demonstrate that the requirements listed in this subclause are satisfied.

Subclause 11.3 prescribes that for the purposes of this clause, the term:

- **Large-Scale Driftnets** means gillnets, other nets, or a combination of nets that are more than 2.5 kilometres in length and would be used to enmesh, entrap or entangle fish by drifting on the surface of the water or in the water column; and
- **Configure** means to have on board fishing gear, either assembled or unassembled, that collectively would enable a person using the boat to deploy and retrieve large-scale driftnets.

Clause 12 provides for the conservation and management of sharks in accordance with WCPFC Conservation Measure 2008-06.

Subclause 12.1 prescribes what actions must be taken after sharks have been caught by a person operating in the Convention Area.

Schedule 4 Prescribed Arrangements

This schedule lists the prescribed arrangements referred to in Part 3, Regulation 3.1. These are: the *Convention for the Conservation of Southern Bluefin Tuna* (CCSBT), the *Agreement for the Establishment of the Indian Ocean Tuna Commission* (IOTC), the *Convention on the Conservation of Antarctic Marine Living Resources* (CCAMLR) and the *Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean* (WCPFC).

The note states that the listed agreements or conventions are part of the Australian Treaty Series that are available online at AUSTLII on the specified weblink.

Schedule 5 Prescribed Organisations

This schedule lists the prescribed arrangements referred to in Part 3, Regulation 3.2. These are: the Commission for the Conservation of Antarctic Marine Living Resources, established in accordance with the *Convention on the Conservation of Antarctic Marine Living Resources* (CCAMLR); the Commission for the Conservation of Southern Bluefin Tuna, established in accordance with the *Convention for the Conservation of Southern Bluefin Tuna* (CCSBT); the Indian Ocean Tuna Commission, established in accordance with the *Agreement for the Establishment of the Indian Ocean Tuna Commission* (IOTC); the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, established in accordance with the *Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean* (WCPFC).

The note explains that the listed agreements or conventions are part of the Australian Treaty Series that are available online at AUSTLII on the specified weblink.