



Conservation of Antarctic Marine Living Resources (Port Inspection and Control) Regulation, Cap. 635B

Guidelines for Submission of Pre-arrival Notification for Fishing Vessels Carrying Antarctic Marine Organisms

1. Introduction

The Convention on the Conservation of Antarctic Marine Living Resources (“CAMLR Convention”)¹ is an international convention with the objective to conserve Antarctic marine organisms (“AMOs”) including toothfish. The Commission for the Conservation of Antarctic Marine Living Resources (“CCAMLR”) adopts a comprehensive set of Conservation Measures (“CMs”) to support the conservation of AMOs and the management of fisheries in the Convention Area.

1.2 To determine if harvesting activities were carried out in accordance with the relevant CMs and if the catch of toothfish (*Dissostichus* spp.) to be unloaded or transshipped is accompanied by a *Dissostichus* catch document (DCD), CCAMLR adopted Conservation Measure 10-03 “*Port Inspections of fishing vessels carrying Antarctic marine living resources*” (CM10-03), which requires all Contracting Parties to the CAMLR Convention to undertake inspections of fishing vessels carrying *Dissostichus* species and other AMOs harvested in the Convention Area which enter their ports.

1.3 The CAMLR Convention is implemented in Hong Kong through the Conservation of Antarctic Marine Living Resources Ordinance (Cap. 635) (“CAMLR Ordinance”) which has come into operation on 1st July 2020. The Conservation of Antarctic Marine Living Resources (Toothfish Catch Documentation Scheme) Regulation (Cap. 635A) and the Conservation of Antarctic Marine Living Resources (Port Inspection and Control) Regulation (Cap. 635B) (“PI Regulation”) were made pursuant to the CAMLR Ordinance to implement the CMs relevant to Hong Kong². The main purpose of the PI Regulation is to implement CM10-03 adopted by CCAMLR.

1.4 Under the PI Regulation and in accordance with CM10-03, the master or the owner or an agent³ of the owner of the fishing vessel⁴ carrying toothfish or other AMOs seeking to enter Hong Kong waters

¹ Details of the CAMLR Convention are available at www.ccamlr.org.

² To view the full text of the CAMLR Ordinance and its Regulations, please visit the Hong Kong e-Legislation website (www.elegislation.gov.hk).

³ An agent means a person acting as an agent for the owner for the handling of vessel pre-arrival notification matters.

⁴ For the purposes of the PI Regulation and of this guideline, a “fishing vessel” means a fishing vessel within the meaning of CM10-03, in which a “fishing vessel” means any vessel of any size used for, equipped to be used for or intended for use for the purposes of fishing or fishing related activities, including support ships, fish-processing vessels, vessels engaged in transshipment

will need to notify the Director of Agriculture, Fisheries and Conservation (“the Director”) at least 48 hours before the expected arrival; to provide the requested information of the vessel and the catch; and to give written declarations that the vessel has not engaged in illegal, unreported and unregulated (“IUU”) fishing activities and has complied with the relevant requirements of CCAMLR. A fishing vessel carrying any AMO (including toothfish) must not enter Hong Kong waters, unless a notification of the intended entry is given to the Director.

1.5 This guideline⁵ aims to provide assistance to the master, the owner or an agent of the owner of a fishing vessel carrying any AMO and seeking entry into Hong Kong waters in giving the Director a pre-arrival notification as required by the PI Regulation.

2. Pre-arrival Notification

2.1 For any fishing vessel carrying AMOs and seeking entry into Hong Kong waters, a pre-arrival notification must be made to the Director using the specified form (“Notification Form”) (AF 635B F001), in which all the information as specified in Annex 10-03/A of CM10-03 must be provided by the master of the fishing vessel. The notification must also contain a declaration to be made by the master of the fishing vessel that the vessel has not engaged in, or supported, any IUU fishing activities in the Convention Area (“CCAMLR IUU Fishing Declaration”) and has complied with the relevant requirements of CCAMLR (“CCAMLR Compliance Declaration”).

2.2 The notification must contain all information as required in Annex 10-03/A of CM10-03 in respect of the following matters:

- a. Purpose of entry into Hong Kong waters;
- b. Port and arrival details;
- c. Vessel details;
- d. Vessel master’s details;
- e. Fishing master’s details;
- f. Vessel owner’s details;
- g. Beneficial owner’s details;
- h. Vessel operator’s details;
- i. Agent’s details;
- j. Fishing authorisations;
- k. Catch information;
- l. Transshipment information; and
- m. *Dissostichus* catch document (DCD) number and a copy of the DCD (if there is toothfish on board).

and carrier vessels equipped for the transportation of fishery products except container vessels and excluding CCAMLR Members’ marine science research vessels.

⁵ This guideline is not a legal document.

2.3 The Notification Form, which includes the CCAMLR IUU Fishing Declaration and CCAMLR Compliance Declaration, must be made and signed by the master of the vessel. Relevant supporting document/evidence/information should be provided with the Notification Form, including:

- (a) documentary or photographic evidence including photographs which identify the vessel and show the catch on the vessel; and
- (b) a crew list with the name, nationality and passport number (or equivalent identification document) of each member on the vessel.

2.4 The Director may request any further information or documents to be provided by the master or the owner or an agent of the owner of the vessel if deemed necessary.

2.5 The Notification Form must be given to the Director **not less than 48 hours** before the intended entry⁶. If, due to an emergency, a fishing vessel carrying any AMO enters Hong Kong waters is not able to provide the Notification Form at least 48 hours before its entry, the master, the owner or the agent of the owner of the fishing vessel must give the Notification Form to the Director as early as practicable before the intended entry or, if that is impracticable, the Notification Form must be given to the Director as soon as practicable and in any event no later than 48 hours after the entry.

2.6 If the master, the owner or an agent of the owner of the fishing vessel fails to comply with the notification requirements mentioned in paragraphs 2.1 to 2.5 above, each of them commits an offence and is liable on conviction to a fine of HK\$50 000 and to imprisonment for 6 months.

3. Submission of Notification

3.1 The Notification Form can be submitted to the Director by the master of the vessel, the owner of the vessel or an agent of the owner via one of the following channels.

- Online* : Electronic Business System administered by Marine Department
(<https://ebs.mardep.gov.hk>) (Pre-registration for a user account is required)
- Email* : ccamlr@afcd.gov.hk
- In person or by post* : Fisheries Technical Services Division
Agriculture, Fisheries and Conservation Department
5/F, Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road, Kowloon
- Fax* : (852) 2314 2866

⁶ The pre-arrival notification requirement under the PI Regulation does not preclude the application of any provision of any Ordinance in relation to a vessel. A vessel intends to enter Hong Kong waters shall also comply with the relevant marine legislation and other port formality requirements in Hong Kong. For more information about port control and services, please visit www.mardep.gov.hk.

3.2 If a Notification Form is submitted via the Electronic Business System (“eBS”) or by an email, electronic copies (in pdf, jpeg, tiff or bmp format) of the CCAMLR IUU Fishing Declaration and CCAMLR Compliance Declaration made and signed by the master of the vessel shall be uploaded onto eBS or attached to the email.

4. Denial of Port Entry

4.1 The Director may, by giving a direction to the master or the owner of a fishing vessel that is not a Hong Kong vessel⁷, deny the entry into Hong Kong waters of the vessel if:

- (a) the vessel is an IUU vessel⁸;
- (b) no Notification Form is given to the Director at least 48 hours before entry of the vessel into Hong Kong waters; or
- (c) the information provided to the Director in the Notification Form shows that the vessel has been involved in IUU fishing⁹.

4.2 Such a direction may be given to the master or the owner of the vessel that is not a Hong Kong vessel via all possible means including but not limited to email, fax or very high frequency radiotelephone. If a fishing vessel that is denied entry enters the Hong Kong waters, the master and the owner of the fishing vessel each commits an offence and is liable on conviction to a fine of HK\$100,000 and to imprisonment for 1 year, and a further fine of HK\$10,000 for each day during which the vessel remains in Hong Kong waters.

4.3 The Director’s power to deny entry of fishing vessel does not affect any other power to refuse to permit a vessel to enter Hong Kong waters under any other Ordinance. A vessel master or owner is advised to check and comply with the requirements of other relevant Ordinances in Hong Kong before entering Hong Kong waters.

5. Inspection of Fishing Vessel

5.1 In order to determine if a fishing vessel which enters Hong Kong has complied with the requirements of the relevant CMs, an authorized officer will board a fishing vessel and conduct an inspection on board the vessel carrying *Dissostichus* spp. in accordance with CM10-03. An authorized officer may also board and inspect a fishing vessel carrying any AMOs other than *Dissostichus* spp. for the said purpose. Before an authorized officer conducts the inspection, any AMOs must not be removed from the vessel. The master or the owner of the fishing vessel must provide the authorized officer reasonable assistance for boarding the vessel and conducting the inspection.

⁷ A Hong Kong vessel means a vessel flying the regional flag of the Hong Kong Special Administrative Region.

⁸ IUU vessel means a vessel included in the list established by CCAMLR under CM10-06 or CM10-07. For the list(s) of the IUU vessels, please visit www.afcd.gov.hk/ccamlr or www.ccamlr.org/compliance/iuu.

⁹ If a fishing vessel meets the criteria for being included in the list established by CCAMLR under CM10-06 (for Contracting Party vessel) or CM10-07 (for Non-Contracting Party vessel), the vessel is treated as engaged in IUU fishing, whether or not the vessel has been included in the IUU list in paragraph 4.1(a).

5.2 The intended location where the vessel is to be berthed, moored, anchored or secured after its entry should be stated clearly in the Notification Form. The Director may give a direction to the master or the owner of the fishing vessel as to the place and way in which the vessel is to be berthed, moored, anchored or secured, and for the removal of the vessel from any berth, mooring or anchorage to another berth, mooring or anchorage.

5.3 If the master or the owner of the fishing vessel fails to comply with the requirements stipulated in paragraphs 5.1 or 5.2 above, each of the master and the owner of the vessel commits an offence and is liable on conviction to a fine of HK\$100 000 and to imprisonment for 6 months.

6. Restriction on Removal of AMO

6.1 No AMO is allowed to be removed from the vessel if it is an IUU vessel or has been used to fish in contravention of any CM. If this requirement is contravened, each of the master and the owner of the vessel commits an offence and is liable on conviction to a fine of HK\$100 000 and to imprisonment for 1 year.

7. Enquiries

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