

Submission from ClientEarth (29 October 2020) and Defra's response (2 November 2020)

Q1: Regulation 4(3)(b) removes the power to amend the quantity of "Dissostichus spp" that can be caught as bycatch on the high seas by trawlers as a result of obligatory Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) conservation measures. Similarly, Regulations 4(11)(c), 4(13)(c), 4(20)(b) and 4(21)(b) remove the power to amend the information required to be recorded on landing as a result of obligatory CCAMLR conservation measures. It is not clear why these changes have been made.

A1: These delegated powers (which have never been used by the EU since the adoption of this Regulation in 2001) have been omitted because the government anticipates being able to use other powers (in particular, what is now clause 36 of the Fisheries Bill) in order to implement international obligations relating to the CCAMLR catch documentation scheme for Antarctic and Patagonian Toothfish.

Q2: Regulation 4(24) removes Article 22 of Council Regulation (EC) No 1035/2001, which requires Member States to communicate to the Commission a summary list of the catch documents issued in or received into their territory in respect of landings, imports, exports, re-exports and transshipments. This requirement is not replaced with a similar requirement for the Secretary of State to make this list publicly available.

A2: The obligation in Article 22 of Regulation 1035/2001 (in EU law) simply requires Member States to communicate this information to the Commission (and nothing further). This provision is inoperable and it was considered appropriate simply to omit it. The United Kingdom will comply with all of its reporting and data sharing requirements under the CCAMLR Scheme.

Q3: Regulation 5(3)(f)(ii) removes the requirement for third countries to provide a catch certificate if the third country fishing vessel carries on board fishery products. It is unclear why this change has been made.

A3: Fishing vessels flying the flag of non-EU third countries will still to be required to provide catch certificates when using ports in Northern Ireland. That requirement comes from Article 6 of the EU's IUU regulation, as it applies to the United Kingdom in respect of Northern Ireland under the Protocol on Northern Ireland/Ireland. These regulations do not affect that requirement. When using ports in Great Britain, fishing vessels flying the flag of all third countries (including EU Member States) will be required to provide catch certificates under the retained IUU regulation. Again, these regulations do not affect that requirement. EU vessels landing into Northern Ireland do not currently have to provide catch certificates. These regulations do not change that position.

Q4: Regulation 5(3)(l)(i) and 5(3)(l)(iii) remove certain restrictions that are intended to apply to the fishing vessels that conduct illegal, unreported and unregulated fishing activities (IUU fishing vessels), including that fishing authorisations are withdrawn and that IUU fishing vessels flying the flag of a third country shall not be authorised to fish in Member State waters and shall be prohibited to be chartered.

A4: These regulations relate to the application of the retained EU law version of the IUU regulation in Northern Ireland, and only apply that regulation to the extent necessary to

meet international obligations under the Port State Measures Agreement. Northern Ireland will continue to apply the corresponding EU law restrictions (Article 37 of the EU's IUU regulation, as it applies to the United Kingdom in respect of Northern Ireland under the Protocol on Northern Ireland/Ireland). These regulations do not affect that position.