

SIOFA Conservation and Management Measure on the Listing of IUU Vessels

Contracting Parties to the Southern Indian Ocean Fisheries Agreement:

RECALLING that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, to deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU). This plan stipulates that the identification of the vessels carrying out illegal, unreported and unregulated (IUU) activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way;

CONCERNED by the fact that IUU fishing activities in the SIOFA Area of Application (the Agreement Area) diminish the effectiveness of the Conservation and Management Measures (CMMs) adopted by the Meeting of the Parties;

DETERMINED to address the challenge of an increase in IUU fishing activities by way of counter-measures to be applied in respect to the vessels, without prejudice to further measures adopted in respect of flag States under the relevant SIOFA instruments;

NOTING that efforts to prevent, deter and eliminate IUU fishing must be addressed in the light of all relevant international fisheries instruments and in accordance with other relevant international obligations, including the rights and obligations established under the World Trade Organization (WTO) Agreement;

Recalling that Article 1(f) of the *Southern Indian Ocean Fisheries Agreement* (the Agreement) requires the Meeting of the Parties to develop and monitor measures to prevent, deter and eliminate illegal, unreported and unregulated fishing.

Adopt the following CMM in accordance with Article 6 of the Agreement:

1. Each Contracting Party, cooperating non-Contracting Party (CNCP) and Participating Fishing Entity (PFE) shall every year, and at least 120 days before each ordinary Meeting of the Parties, transmit to the Secretariat a list of vessels presumed to be carrying out IUU activities in the Agreement Area during the current and previous year, accompanied by the supporting evidence, as provided in paragraph 3, concerning the presumption of this IUU fishing.
2. Prior to, or at the same time as, transmitting a list of presumed IUU vessels to the Executive Secretary, the Contracting Party, CNCP or PFE shall notify, either directly or through the Executive Secretary the relevant flag State of a vessel's inclusion on this list and provide a copy of the pertinent suitably documented information. The Contracting Party, CNCP or PFE shall request that the flag State promptly acknowledge receipt of this notification.
3. At each ordinary Meeting of the Parties, the Meeting of the Parties shall identify those vessels which have engaged in fishing for fishery resources in the Agreement Area in a manner in contravention of SIOFA CMMs and shall establish a list of such vessels (the IUU Vessel List), in accordance with the procedures and criteria set out below.

4. The list of vessels presumed to be carrying out IUU activities shall be based, *inter alia*, on reports from Contracting Parties, CNCPs and PFEs relating to SIOFA CMMs, trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) data, statistical documents and other national or international verifiable statistics, as well as any other information obtained from port States and/or gathered from the fishing grounds which is suitably documented.

5. Vessels engaged in fishing for fishery resources in the Agreement Area are presumed to have carried out IUU fishing in the Agreement Area when a Contracting Party, CNCP and PFE presents evidence that such vessels, have *inter alia*:

- (a) engaged in fishing for fishery resources in the Agreement Area and are not on the SIOFA Record of Authorized Vessels;
- (b) engaged in fishing for fishery resources in the Agreement Area, in contravention of the vessel's fishing licences, authorisations or permits, or after its flag State has exhausted its quota/s, catch limit or effort allocation established by SIOFA CMMs;
- (c) not recorded or reported their catches made in the Agreement Area as required by adopted reporting procedures, or made false reports;
- (d) retained on board, transhipped or landed undersized fish in a way that undermines SIOFA CMMs;
- (e) engaged in fishing ~~fish~~ during a closed fishing period or in closed areas in contravention of SIOFA CMMs;
- (f) used prohibited fishing gear in contravention of SIOFA CMMs;
- (g) transhipped with, or participated in, joint fishing operations with support or re-supply vessels included in the IUU Vessel List;
- (h) engaged in fishing for fishery resources in the Agreement Area as a vessel without nationality;
- (i) engaged in fishing activities contrary to any other SIOFA CMMs; or
- (j) been under the control of the owner of any vessel on the SIOFA IUU Vessel List.

Draft IUU Vessel List

6. On the basis of the information received pursuant to paragraph 1 and any other information at its disposal, the Secretariat shall draw up a draft SIOFA IUU Vessel List and shall transmit it, together with the current IUU List, with all the supporting evidence provided, to all Contracting Parties, CNCPs and PFEs, as well as to non-Contracting Parties with vessels on the List, at least 90 days before the next ordinary Meeting of the Parties.

7. Any comments related to paragraph 5 shall be transmitted to the Secretariat, at least 30 days before the ordinary Meeting of the Parties, as appropriate, including verifiable evidence and other

supporting information, showing that the vessels have neither operated in contravention of SIOFA CMMs nor had the possibility of engaging in fishing for fishery resources in the Agreement Area.

8. The Secretariat shall request each flag State with vessels on the draft IUU Vessel List notify the owner of the vessels of their inclusion in that List, and of the consequences of their inclusion being confirmed in the IUU Vessel List.

9. Upon receipt of the draft IUU Vessel List, Contracting Parties, CNCPs and PFEs shall closely monitor the vessels included in that List in order to determine their activities and possible changes of name, flag or registered owner.

Provisional IUU Vessel List

10. On the basis of the information received pursuant to paragraph 6, the Secretariat shall circulate the draft SIOFA IUU Vessel List and the current IUU list, and transmit it, three weeks in advance of the next ordinary Meeting of the Parties, to Contracting Parties, CNCPs and PFEs and the non-Contracting Parties concerned, together with all the evidence provided.

11. Contracting Parties, CNCPs and PFEs may submit to the Secretariat any additional information which might be relevant for the establishment of the IUU Vessel List. The Secretariat shall circulate the information, together with all the evidence provided, to the Contracting Parties, CNCPs and PFEs and to the non-CPs concerned, at least two weeks before the ordinary Meeting of the Parties.

12. At each ordinary meeting, the Compliance Committee shall:

(a) following consideration of the draft IUU Vessel List and information and evidence circulated under paragraphs 5, 9 and 10, adopt a Provisional IUU Vessel List and submit it to the Meeting of the Parties for approval; and

(b) following consideration of the current IUU Vessel List and the information and evidence circulated under paragraph 9, recommend to the Meeting of the Parties which, if any, vessels should be removed from the current IUU Vessel List.

13. A vessel shall be included in the provisional IUU Vessel List only if one or more of the criteria in paragraph 4 have been satisfied.

14. The Meeting of the Parties shall remove a vessel from the provisional SIOFA IUU Vessel List if is demonstrated, notably by the flag State, that:

(a) the vessel did not engage in any of the IUU fishing described in paragraph 4; or

(b) effective action has been taken in response to the IUU fishing in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity; and

(c) the vessel is able to comply with all relevant and adopted SIOFA CMMs.

15. At each ordinary Meeting of the Parties the Meeting of the Parties shall review the Provisional IUU Vessel List, taking into account any new suitably documented information related to vessels on the Provisional IUU Vessel List, and any recommendations to amend the current IUU

Vessel List made by Compliance Committee pursuant to paragraph 11 (b) above, and adopt a new IUU Vessel List.

16. The Draft IUU Vessel List, Provisional IUU Vessel List and the IUU Vessel List shall contain the following details for each vessel:

- (a) name and previous names, if any;
- (b) flag and previous flags, if any;
- (c) owner and previous owners, including beneficial owners, if any;
- (d) operator and previous operators, if any;
- (e) call sign and previous call signs, if any;
- (f) IMO number, if any;
- (g) photographs, where available;
- (h) date first included on the IUU Vessel List; and
- (i) summary of activities which justify inclusion of the vessel on the IUU Vessel List, together with references to all relevant documents informing of and evidencing those activities.

IUU Vessel List

17. Once the Meeting of the Parties adopts the IUU Vessel List, it shall request Contracting CNCPs and PFEs and non-Contracting Parties with vessels on the SIOFA IUU Vessel List to:

- (a) notify the owner of the vessels of its inclusion on the IUU Vessel List and the consequences which result from being included in the List; and
- (b) take all the necessary measures to eliminate these IUU fishing, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Meeting of the Parties of the measures taken in this respect.

18. Contracting Parties, CNCPs and PFEs shall take all necessary measures under their applicable legislation and pursuant to paragraphs 56 and 66 of the IPOA-IUU, to:

- (a) ensure that its vessels do not participate in any transshipment with, support or re-supply vessels on the IUU Vessel List;
- (b) ensure that vessels on the IUU Vessel List that enter ports voluntarily are not authorized to land, tranship, refuel or re-supply therein but are inspected upon entry;
- (c) prohibit the chartering of a vessel on the IUU Vessel List;
- (d) refuse to grant their flag to vessels on the IUU Vessel List;
- (e) prohibit commercial transactions, imports, landings and/or transshipment of fisheries resources covered by the Agreement from vessels on the IUU Vessel List;

(f) encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, fishery resources covered by the Agreement caught by vessels on the IUU Vessel List; and

(g) collect, and exchange with other Contracting Parties, CNCPs and PFEs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for fishery resources covered by the Agreement from vessels on the IUU Vessel List.

19. The Secretariat shall take any measure necessary to ensure publicity of the IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the SIOFA website, once developed.

20. The Secretariat shall transmit the IUU Vessel List and any relevant information regarding the list to the FAO and to the secretariats of other regional fisheries management organisations for the purposes of enhancing co-operation between SIOFA and these organizations aimed at preventing, deterring and eliminating IUU fishing. Such organisations include: the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Northwest Atlantic Fisheries Organization (NAFO), the North East Atlantic Fisheries Commission (NEAFC), the South Pacific Regional Fisheries Management Organisation (SPRFMO), the General Fisheries Commission for the Mediterranean (GFCM), the South East Atlantic Fisheries Organisation (SEAFO), the International Commission for the Conservation of Atlantic Tunas (ICCAT), The Indian Ocean Tuna Commission (IOTC), the Inter American Tropical Tuna Commission (IATTC), the Western and Central Pacific Fisheries Commission (WCPFC), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) and the North Pacific Fisheries Commission (NPFC).

21. Without prejudice to the rights of Contracting Parties, CNCPs, PFEs and coastal states to take proper action, consistent with international law, the Contracting Parties, CNCPs and PFEs shall not take any unilateral trade measures or other sanctions against vessels on the draft or provisional IUU Vessel Lists, pursuant to paragraphs 5 or , or that have been removed from the IUU Vessel List, pursuant to paragraph 13, on the grounds that such vessels are involved in IUU fishing activities.

Modification of the IUU Vessel List

22. A Contracting Party, CNCP, PFE and a non-Contracting Party with a vessel on the IUU Vessel List may request the removal of the vessel from the IUU Vessel List during the intersessional period providing conditions provided in paragraph 13 are met and more specifically by providing information demonstrating that:

(a) it has adopted measures that will ensure that the vessel complies with all relevant and adopted CMMs; and

(b) it is and will continue to assume effectively its responsibilities as regards the monitoring and control of the vessel's fishing activities in the Area; and

(c) it has taken effective action in response to the IUU fishing that resulted in the vessel's inclusion in the IUU Vessel List, including prosecution and imposition of sanctions of adequate severity; and/or

(d) the vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not participated in IUU fishing.

23 A vessel shall only be removed from the IUU list in the intersessional period following a decision from Parties to do so, taken in accordance with Rule 13 of the SIOFA Rules of Procedures for the MoP.

24 The Meeting of the Parties may take a decision to remove a vessel from the IUU list providing it is satisfied that the requirements of paragraph 22 have been met. A vessel may be removed from the IUU list in the intersessional period in accordance with Rule 13 of the Rules of Procedures of the Meeting of the Parties.