

CMM 06(2022)¹

Conservation and Management Measure on the Listing of IUU Vessels (IUU Vessel List)

The Meeting of the 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.

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

1. At each ordinary Meeting of the Parties, the Meeting of the Parties shall identify those vessels which have engaged in fishing in the Agreement Area in contravention of SIOFA CMMs and shall establish a list of such vessels (the SIOFA IUU Vessel List, hereafter IUU Vessel List), in accordance with the procedures and criteria set out below.

Transmission of information to establish the Draft IUU Vessel List

2. Each Contracting Party, cooperating non-Contracting Party (CNCP) and participating fishing entity (PFE) shall every year, and at least 90 days before each ordinary Meeting of the Parties, transmit to the Secretariat, using the Reporting Form in Annex I, information on vessels presumed to have engaged in IUU fishing activities in the Agreement Area, accompanied by all available supporting evidence concerning the presumption of the IUU fishing activities.

3. Prior to, or at the same time as, transmitting the information referred to in paragraph 2 to the Secretariat, the notifying Contracting Party, CNCP or PFE shall provide, either directly or through the Executive Secretary, to the relevant flag State a copy of the pertinent suitably documented information and notification of its relevance to the Draft SIOFA IUU Vessel List. The notifying Contracting Party, CNCP or PFE shall request that the flag State promptly acknowledge

¹ CMM 06(2022) (IUU Vessel List) supersedes CMM 2018/06 (IUU Vessel List). Obsolete references have been updated by 2023 technical edits.

receipt of this notification.

4. The information on vessels presumed to have engaged in IUU fishing activities in the Agreement Area transmitted to the Secretariat of paragraph 2 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 which is suitably documented.

5. Vessels engaged in fishing 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, transshipped or landed undersized fish in a way that undermines SIOFA CMMs;
- (e) fished for, retained on board, transshipped or landed fisheries resources subject to a SIOFA moratorium or the retention of which is prohibited by SIOFA;
- (f) engaged in fishing during a closed fishing period or in closed areas in contravention of SIOFA CMMs;
- (g) used prohibited fishing gear or fishing method in contravention of SIOFA CMMs;
- (h) transshipped or participated in other operations, such as joint-fishing, transfers at sea of fuel, crew, gear or any other supplies either as an unloading or receiving vessel, with vessels included in the IUU Vessel List;
- (i) engaged in fishing for fishery resources, transshipment or other operations such as joint-fishing, and transfers at sea of fuel, crew, gear or any other supplies either as an unloading or receiving vessel, in the Agreement Area as a vessel without nationality;
- (j) engaged in fishing for fishery resources, transshipment or other operations such as joint-fishing, resupplying and refueling operations in the Agreement Area having intentionally falsified or concealed their markings, identity or registration;
- (k) engaged in fishing activities in contravention of any SIOFA CMMs; or
- (l) been under the control of the owner of any vessel on the IUU Vessel List.

Draft IUU Vessel List

6. On the basis of the information received pursuant to paragraphs 2 or 26, 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 Vessel 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 60 days before the next ordinary Meeting of the Parties.

7. Any comments related to the Draft IUU list shall be transmitted to the Secretariat, at least 40 days before the ordinary Meeting of the Parties, as appropriate, including verifiable evidence and other supporting information, showing that the vessels included on the Draft IUU vessel list 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, CNCs 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.

Draft and current IUU Vessel Lists

10. On the basis of the information received pursuant to paragraphs 6 and 7, the Secretariat shall update and re-circulate the Draft IUU Vessel List and transmit it, together with the current IUU Vessel List, three weeks in advance of the next ordinary Meeting of the Parties, to Contracting Parties, CNCs and PFEs and any non-Contracting Parties concerned, together with all the evidence provided.

11. Contracting Parties, CNCs and PFEs may at any time submit to the Secretariat any additional information which might be relevant for the Compliance Committee to discuss the Draft IUU Vessel List and the current IUU List. The Secretariat shall promptly circulate the information, together with all the evidence provided, to the Contracting Parties, CNCs and PFEs and to the non-Contracting Parties concerned.

Provisional IUU Vessel List

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 6, 7, 10 and 11, pursuant to paragraph 14 include relevant vessels on 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 11, pursuant to the relevant requirements of paragraph 28 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 5 have been satisfied.

14. The Compliance Committee shall remove a vessel from the Draft 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 5; 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.

IUU Vessel List

15. Paragraph 14 applies *mutatis mutandis* to the Meeting of the Parties in its consideration of the Provisional IUU Vessel List.

16. 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 12 above, and adopt a new IUU Vessel List.

17. 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.

18. Once the Meeting of the Parties adopts the IUU Vessel List, it shall request through the Secretariat that Contracting CNCPs and PFEs and non-Contracting Parties with vessels on the IUU Vessel List:

- (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 IUU Vessel List; and
- (b) take all the necessary measures to eliminate these IUU fishing activities and to inform the Meeting of the Parties of the measures taken in this respect.

19. 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) take all the necessary measures to eliminate the IUU activities, including if necessary, the withdrawal of the fishing licences, authorisations or permits granted to vessels included in the IUU Vessel List, and the refusal of the fishing licences, authorisations or permits to such vessels;
- (b) ensure that its vessels do not participate in any transshipment or other operations such as joint-fishing, transfers at sea of fuel, crew, gear or any other supplies either as an unloading or receiving vessel, with vessels included in the IUU Vessel List;
- (c) ensure that vessels on the IUU Vessel List are denied access to ports unless for the purpose of inspecting them and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing;

- (d) give priority to the inspection of vessels on the IUU Vessel List, if such vessels are found in their ports;
- (e) prohibit the chartering of vessels on the IUU Vessel List;
- (f) refuse to grant their flag to vessels on the IUU Vessel List;
- (g) prohibit commercial transactions, such as imports, exports or re-exports, landings and transshipments of fisheries resources covered by the Agreement, as well as other operations involving such fisheries resources, from vessels on the IUU Vessel List;
- (h) prohibit change of crew on board of vessels on the IUU Vessel List;
- (i) encourage traders, importers and transporters to refrain from transactions in, and transshipment of, fishery resources covered by the Agreement caught by vessels on the IUU Vessel List; and
- (j) collect and promptly exchange with other Contracting Parties, CNCPs and PFEs, any appropriate relevant information on vessels included in the IUU Vessel List.

20. Consistent with paragraph 12 of CMM 08(2020), where a vessel included on the IUU Vessel List is in port for any reason, Contracting Parties, CNCPs and PFEs shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking.

21. Notwithstanding paragraph 20, and in accordance with paragraph 13 of CMM 08(2020), Contracting Parties, CNCPs and PFEs shall not deny a vessel referred to in that paragraph the use of port services essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven or, where appropriate, for the scrapping of the vessel.

22. Nothing in this Conservation and Management Measure affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

23. 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.

Special procedure for cross-listing IUU vessels from other organisations

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

25. Notwithstanding paragraphs 6 to 11 of this CMM, upon receipt of the Final IUU Vessel Lists

established by CCAMLR, CCSBT, ICCAT, IOTC, IATTC, GFCM, NAFO, NEAFC, NPFC, SEAFO, SPRFMO and WCPFC, and any information regarding the Lists, the Secretariat shall circulate this information to Contracting Parties, CNCPs and PFEs for the purpose of amending the SIOFA IUU Vessel List during the intersessional period in accordance with Rule 13 of the Rules of Procedures of the Meeting of the Parties. Vessels that have been added to or deleted from the respective organisations' Final IUU Vessel Lists shall be incorporated into or deleted, as appropriate, from the IUU Vessel List, unless any Contracting Party objects in writing within 30 days of the date of transmittal by the Secretariat.

26. In the event of an objection to a vessel listed by CCAMLR, CCSBT, ICCAT, IOTC, IATTC, GFCM, NAFO, NEAFC, NPFC, SEAFO, SPRFMO or WCPFC, being incorporated into or deleted from the IUU Vessel List, such vessel shall be placed on the Draft IUU Vessel List.

27. 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 paragraph 5, or that have been removed from the IUU Vessel List, pursuant to paragraph 14, on the grounds that such vessels are involved in IUU fishing activities.

Modification of the IUU Vessel List

28. 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, including during the intersessional period, provided that the conditions stipulated in paragraph 14 are met and more specifically by submitting suitably documented information 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 either
- (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; 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.

29. The Meeting of the Parties may take a decision to remove a vessel from the IUU Vessel List providing it is satisfied that the requirements of paragraph 28 have been met. In order to remove a vessel from the IUU Vessel List in the intersessional period, Rule 13 of the Rules of Procedures of the Meeting of the Parties shall apply.

Involvement of Nationals in IUU fishing activities

30. Without prejudice to the primacy of the responsibility of the flag State, each Contracting Party, CNCP and PFE shall take appropriate measures, subject to, and in accordance with, their applicable laws and regulations:

- (a) to verify if any of their nationals or any natural or legal persons subject to their jurisdiction are engaged in the activities described in paragraph 5;
- (b) to verify if any of their nationals or any natural or legal persons subject to their

jurisdiction are responsible for, benefiting from, supporting or engaging in the activities described in paragraph 5 (e.g. as operators, effective beneficiaries, owners, logistics and service providers, including insurance providers and other financial service providers);

(c) to take appropriate action in response to any verified activities referred to in sub-paragraphs 30 (a) and (b). Such action may include measures to effectively deprive any of the participants in such activities of the benefits obtained and effectively dissuade the actors of further illegal activities.

31. Contracting Parties, CNCPs and PFEs shall cooperate, including by seeking reciprocal and cooperative arrangements for exchange of information, for the purpose of implementing this CMM. To this end, relevant agencies of Contracting Parties, CNCPs and PFEs shall designate a contact point through which information on reported activities described in sub-paragraphs 30 (a) and (b), including information regarding vessel identification, ownership including beneficial ownership, crew and catch, as well as information regarding relevant domestic legislation and the results of actions taken with regard to the implementation of this CMM can be exchanged.

32. To assist with the implementation of this CMM, Contracting Parties, CNCPs and PFEs shall include in their annual implementation reports of the actions and measures taken in accordance with this CMM.

ANNEX I

SIOFA Reporting form for Vessels Presumed to be Carrying Out IUU Activities

A. Details of Vessel

Please provide the following details for each vessel presumed to have carried out IUU fishing in the Agreement Area:

Item	Description	Details
(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, if applicable	
(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 Please also complete Section B below	

B. IUU fishing activities

Please indicate which IUU activities, as listed in paragraph 5 of CMM 06(2022), the vessel identified in Section A is presumed to have carried out in the Agreement Area:

Item	Description	Indicate
(a)	engaged in fishing for fishery resources in the Agreement Area and are not on the SIOFA Record of Authorized Vessels;	<input type="checkbox"/>
(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	<input type="checkbox"/>
(c)	not recorded or reported their catches made in the Agreement Area as required by adopted reporting procedures, or made false reports	<input type="checkbox"/>
(d)	retained on board, transshipped or landed undersized fish in a way that undermines SIOFA CMMs	<input type="checkbox"/>
(d bis)	fished for, retained on board, transshipped or landed fisheries resources subject to a moratorium or the retention of which is prohibited by SIOFA	<input type="checkbox"/>
(e)	engaged in fishing fish during a closed fishing period or in closed areas in contravention of SIOFA CMMs	<input type="checkbox"/>
(f)	used prohibited fishing gear or fishing methods in contravention of SIOFA CMMs	<input type="checkbox"/>
(g)	transshipped or participated in other operations, such as joint-fishing, transfers at sea of fuel, crew, gear or any other supplies, either as an unloading or receiving vessel, with vessels included in the IUU Vessel List	<input type="checkbox"/>
(h)	engaged in fishing for fishery resources, transshipment or other operations such as joint-fishing, resupplying and refueling operations in the Agreement Area having intentionally falsified or concealed their markings, identity or registration	<input type="checkbox"/>
(i)	engaged in fishing activities contrary to any other SIOFA CMMS	<input type="checkbox"/>
(j)	been under the control of the owner of any vessel on the SIOFA IUU Vessel List	<input type="checkbox"/>

C. Supporting Evidence

List here the associated documents that are appended.

D. Recommended Actions

Recommended Actions	Indicate
a Notification to SIOFA Secretariat only. No further action is recommended.	<input type="checkbox"/>
b Notification of IUU activity to SIOFA Secretariat. Recommend notification of activity to flag State.	<input type="checkbox"/>
c Recommended for inclusion on SIOFA IUU list	<input type="checkbox"/>