



CCSBT-EC/0610/04

2. Report from the Secretariat

Purpose

To submit a report to the Extended Commission on the activities of the Secretariat since the 12th Annual Meeting in October 2005.

Secretariat Staff and Office Management

In 2006, the Secretariat's staff has comprised:

- Executive Secretary
- Deputy Executive Secretary
- Database Manager
- Office Administrator
- Data Entry Officer

The Executive Secretary's tenure will expire on 13 October 2006. His replacement, Mr Neil Hermes, will attend CCSBT13 and commence formally on 16 October 2006.

A new Deputy Executive Secretary, Mr Kiichiro Miyazawa, commenced in the Secretariat in May 2006.

The office administrator position is job-shared. Ms Chika Scally, who worked two days per week resigned in August 2006 and was replaced by Ms Rie Connor. The other three days are worked by Ms Mari Warren. Both employees speak Japanese and English.

The Data Entry Officer is a part time position to input the tagging program and Trade Information Scheme data into the database. The position represents about one fifth of a full time position.

If the Extended Commission were to take decisions at CCSBT13, which added to SBT management activities such as catch monitoring, it is unlikely that the Secretariat could manage with existing resources.

Financial

An operating deficit in the general budget of about \$53,500 is estimated for 2006. The main reason for the deficit is the cost of the Special Meeting in Canberra on 18-19 July 2006. The approved budget for 2006 did not include any funding for this purpose and the additional cost could not be absorbed. A comparison between the

approved budget and the estimated outcome is included in meeting document **CCSBT-EC/0610/ 05**. That document also provides a detailed explanation of the reasons for variations from the approved budget.

A proposed budget for 2007 with indicative figures for 2008 has been prepared for Commission consideration taking into account the recommendations of the Extended Scientific Committee. The proposed budget with supporting documentation is set out in meeting document **CCSBT-EC/0610/06**.

Operation of Headquartering Agreement

The Executive Secretary reported at CCSBT12 that he would be writing to the Australian Government concerning a breach of privilege under the Headquartering Agreement. Copies of the Executive Secretary's letter and the reply from the Australian Government were sent to Members.

The exchange of correspondence has been included in this report for the information of Members at Attachment B.

Organisation of CCSBT Meetings

The Secretariat organised and supported the following meetings and workshops:

- | | |
|--|----------------------|
| - ERS Working Group | 20-23 February 2006 |
| - 7 th Stock Assessment Group Meeting | 4-11 September 2006 |
| - Extended Scientific Committee of the 11 th SC | 12-15 September 2006 |
| - 11 th Scientific Committee Meeting | 12-15 September 2006 |
| - Compliance Committee Meeting | 8-9 October 2006 |
| - Extended Commission of CCSBT 13 | 10-13 October 2006 |
| - CCSBT13 | 10-13 October 2006 |

Meetings of Other Organisations

The Secretariat represented the Extended Commission at the following meetings and conferences since CCSBT12:

- First FIRMS Technical Meeting (FAO) December 2005
- Preparatory Conference for the South Pacific Fisheries Commission February 2006
- UN Fish Stocks Agreement Review Meeting March 2006
- Un Fish Stocks Agreement Review Meeting May 2006

Trade Information Scheme

The Secretariat issued the report on TIS exports for the final six months of 2005 in June 2006. The report for the first six months of 2006 is due on 1 December 2006.

A report on compliance with the TIS scheme was provided to the Compliance Committee.

The Scientific Committee recommended that 2 new statistical areas be created for SBT reporting and it is recommended that these new areas be included in the TIS. The new areas are shown in Attachment A as areas 14 and 15.

CCSBT Website

The CCSBT website continues to be an actively updated and used information tool for both CCSBT members and the general public. The Secretariat receives a considerable number of enquiries by e-mail in relation to the material included in the website.

Since CCSBT 12, the public side of the web site has been modified to:

- Incorporate reports from meetings held in the CCSBT 12 calendar year and to ensure that the information presented on the web site was up to date and correct as at the end of CCSBT 12;
- 2005/06. Incorporate updated data sets on the data page, including global catches, catch and effort, catch at size and TIS data;
- Incorporate all updates provided by members and cooperating non-members for the authorised vessel list.

The private section of the CCSBT web site has continued to be actively used for the distribution of meeting documents. It is now also the primary mechanism for sharing data provided for the annual data exchange and for providing validation details for the TIS scheme. The private area has been enhanced since CCSBT12 to provide a bulk downloading facility for easier downloading of multiple documents and data at a single time. Fifty eight people authorised by Members and Cooperating Non-members have accessed the private area of the web site in the past 12 months.

Action Plan

No activity has been undertaken under the Action Plan since CCSBT10.

CCSBT Surface Tagging Program

The Secretariat managed the fifth year of the program, which included tag deployment and recovery activity. Preparations for tag recovery in 2007 have commenced and the costs are included in the general budget proposed for 2007. If the Extended Commission agrees to continue tag deployment in 2007, the Secretariat will manage this activity.

In total, 20,111 fish were tagged in the surface fishery and another 328 fish were tagged and seeded into sea cages this season (since 1 December 2005). Tags from a total of 329 fish, excluding seeded tags, have been recaptured this season at the time of writing this report taking total recaptures to 4,185 or 6.6% of surface fishery releases.

Expenditure on tag deployment for the 2005-06 season was \$574,000.

In addition to the deployment of tags, the Secretariat continued efforts on tag recovery activities. Members have assisted the Secretariat in this activity by publicising the need for recovery of tags with their fleets.

A special budget for the tagging program is presented to the Extended Commission in **CCSBT-EC/0610/06** should the Commission agree to continue the program in 2007.

Database Developments

At the time of finalising this report, the database was up to date for most data received. Exceptions include some data provided in the data exchange that were not required for use at SAG7/SC11 and recently received tag recaptures. These data will be loaded to the database as time permits.

Minor technical modifications were made to the database to incorporate new types of data provided through the 2005 Data Exchange. Enhancements have also been made to the database to provide automated routines for post processing of data requested by the Scientific Committee, including routines to produce the inputs for the operating model and management procedure and the CPUE inputs data (stratified effort and catch at age data) required for assessments. The outputs from these routines were provided to Members as part of the 2006 Data Exchange.

The CCSBT Data CD was updated and provided to Members in January 2006. The data on the CD is an extract of scientific data from the CCSBT database and is accompanied with extensive documentation.

A risk with the CCSBT database continues to be the lack of technical documentation for this database. Development of adequate documentation was considered a high priority for the Secretariat in 2006, but there was no time available for this activity. Technical documentation remains a high priority for the Secretariat in 2007, but again this is subject to time availability.

Participation in FAO's Fisheries Resource Monitoring System (FIRMS)

The CCSBT is a partner in FAO's FIRMS system. During 2004/05, the Secretariat met its obligations to FIRMS by:

- Loading the Scientific Committee's stock status report (incorporating some of CCSBT 11's decisions) into the FIRMS system;
- Supplying agreed data to FIRMS; and
- Contributing to developments of the FIRMS system through e-mail discussion and through participation at, and joint Chairing of, the First FIRMS Technical Meeting.

Development of Discussion Papers

Discussion papers have been prepared by the Secretariat on:

- The CCSBT relationship with CCAMLR
- Management of overcatch and undercatch

- International observer programs

Interaction with Non-members

The Secretariat corresponded with Indonesia concerning cooperating non-membership. No request has emerged from this correspondence for Indonesia to become a Cooperating Non-member

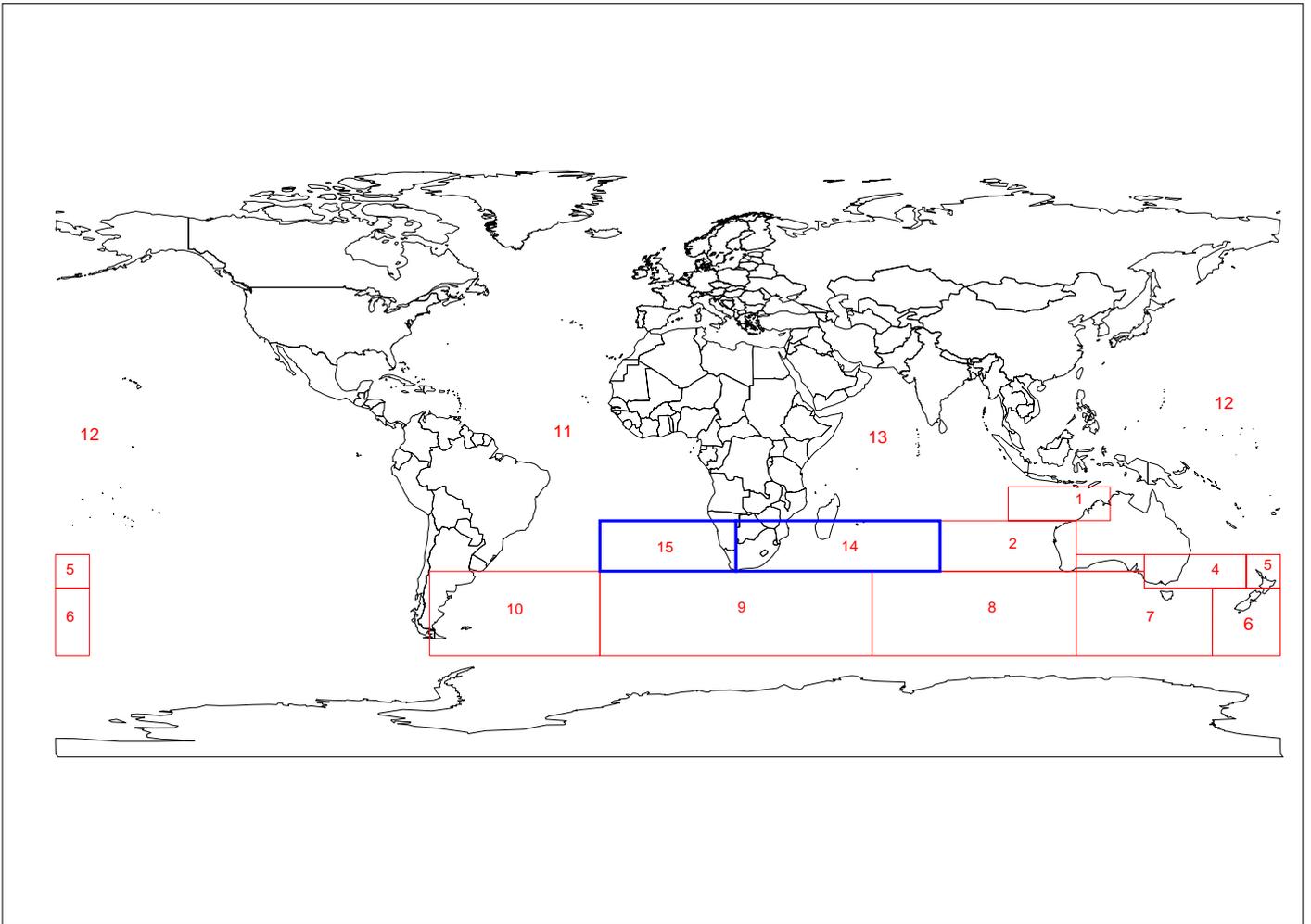
The Executive Secretary wrote to South Africa concerning the CCSBT offer for South Africa to become a Cooperating Non-member. South Africa has responded accepting the CCSBT's offer and will participate in CCSBT as a Cooperating Non-member.

Fiji was asked for information on some minor catch landed by an Indonesian fishing vessel. No reply has been received.

The Belize vessel registering authority contacted the Secretariat concerning the requirements for applying for Cooperating Non-member status. The Secretariat advised the authority of the requirements set out in the CCSBT Resolution and indicated the request would have to be made by the Belize Government.

Prepared by the Secretariat

CCSBT Statistical Areas: Areas 14 and 15 were proposed at SC11.



Commission for the Conservation of
Southern Bluefin Tuna



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27 October 2005

The Hon. Alexander Downer MP
Minister for Foreign Affairs
Parliament House
Canberra ACT 2600

Dear Minister

I have been asked by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) to write to the Australian Government concerning a breach of the Headquarters Agreement the CCSBT has with the Australian Government.

On 20 January 1998 the CCSBT and the Australian Government entered into an agreement to headquarter the CCSBT in Canberra, Australia. The Headquarters Agreement defined the legal capacity, privileges and immunities of the CCSBT and its officers in Australia. Article 6 of the Agreement provides that the CCSBT's property, wherever situated, shall have immunity from any form of restriction or control and shall be immune from any form of administrative or judicial constraint. Article 7 of the agreement provides that the records of the CCSBT shall be inviolable wherever they are.

Proceedings are currently before the Australian Administrative Appeals Tribunal concerning an application by the Humane Society International against a decision of the Australian Minister for Environment and Heritage where confidential documents of the CCSBT were tendered as evidence. The documents were the reports of the 10th Meeting of the Scientific Committee and the 6th Meeting of the Stock Assessment Group held in September of this year.

Both reports were, at the time, confidential records of the CCSBT and subject to the protections guaranteed by the Australian Government in the Headquarters Agreement. While Australia, as a member of the CCSBT, had copies of the documents and under CCSBT rules was able to use the documents for domestic consultations under prescribed confidentiality provisions, they remained the property of the CCSBT.

On behalf of the CCSBT I attended the Tribunal hearing on 26 September 2005 and made submissions concerning the documents' privileged status. I sought their return.

The Tribunal did not agree with my submission and decided to proceed with the CCSBT's documents in evidence with confidentiality provisions attached to them. This course was supported by counsel representing the Australian Minister for the Environment and Heritage.

Attachment B

The CCSBT is gravely concerned over the operation of the Headquarters Agreement and its apparent inability to afford protection to CCSBT property and records. This concern is amplified by the expressed position of counsel representing a Minister of the Australian Government that possession of confidential CCSBT documents by Australia means that they are subject to Australian legal process.

The CCSBT Secretariat headquartered in Canberra maintains confidential material supplied by other members of the CCSBT and some of this material can come into Australia's possession. In the context of the decisions taken in the current case before the Administrative Appeals Tribunal, the CCSBT is concerned that this material may also be at risk.

I would be grateful if Australia could provide its formal position on the protections afforded to the CCSBT by the Headquarters Agreement and is it the Australian Government's view that CCSBT documents or data in the possession of Australia are subject to Australian legal process. Also, I would be grateful if I could have the formal view of the Australian Government on how it would respond to the CCSBT seeking to have its privileges honoured should a similar event occur in the future.

Yours sincerely

A handwritten signature in blue ink that reads "Brian Macdonald". The signature is written in a cursive, slightly slanted style.

Brian Macdonald
Executive Secretary



THE HON ALEXANDER DOWNER MP

MINISTER FOR FOREIGN AFFAIRS
PARLIAMENT HOUSE
CANBERRA ACT 2600

25 NOV 2005

Mr Brian Macdonald
Executive Secretary
Commission for the Conservation of Southern Bluefin Tuna
PO Box 37
DEAKIN WEST ACT 2600

Dear Mr Macdonald

Thank you for your letter of 27 October 2005 concerning the operation of the Headquarters Agreement between Australia and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT).

I note your assessment that Australia has been involved in a breach of the Headquarters Agreement. The Australian Government has been pleased to host the CCSBT in Canberra since its inception and places the highest regard on its work in conserving and managing this important marine resource. Furthermore, the Australian Government takes this issue seriously and remains fully committed to respecting, and complying with, the terms of its Headquarters Agreements with international organisations in Australia.

I am advised by my Department that, in this instance, a number of issues need to be taken into account in considering the application of the CCSBT Headquarters Agreement, including the question whether the documents at issue belonged to, or were held by, the CCSBT at the relevant time.

The Headquarters Agreement is implemented domestically through the *International Organisations (Privileges and Immunities) Act 1963* and the *Commission for the Conservation of Southern Bluefin Tuna (Privileges and Immunities) Regulations 1996*. It is a matter for the Commission to assert its privileges and immunities before the courts and tribunals in Australia, and the interpretation and application of this legislation is a matter for them.

Following the situation highlighted in your letter, my Department has reinforced with other agencies the critical importance of appropriate handling of documents that may be inviolable under the Headquarters Agreement. The CCSBT can be assured of the Government's commitment to rigorous compliance with the Headquarters Agreement.

I have copied your letter and my response to my colleagues the Attorney-General, the Minister for the Environment and Heritage and the Minister for Fisheries, Forestry and Conservation.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Alexander Downer', with a wavy underline.

Alexander Downer

CC: Attorney-General, Minister for the Environment and Heritage and Minister for Fisheries, Forestry and Conservation