



CCSBT-CC/1710/011

## CCSBT IUU Vessel List Resolution: Proposed Revisions

### 1. Introduction

The CCSBT Resolution on Establishing a List of Vessels Presumed to have carried out Illegal, Unreported and Unregulated Fishing Activities for Southern Bluefin Tuna (SBT)<sup>1</sup> was adopted by CCSBT 20 in 2013, and was subsequently revised at CCSBT 21 in 2014, and at CCSBT 23 in 2016.

This paper proposes two small revisions to the CCSBT IUU Vessel List Resolution.

### 2. Proposed Revision of CCSBT's IUU Vessel List Resolution

The Secretariat proposes that revisions are made to the following two areas of the Resolution:

- A clarification with respect to paragraph 2, and
- The removal of one word from the 'chapeau' of paragraph 3, for consistency and clarification purposes.

#### *Paragraph 2*

The proposed revision to paragraph 2 aims to provide clarification that the Executive Secretary should only automatically place the vessels concerned on the CCSBT Draft IUU List if Members/CNMs provide information in accordance with paragraph 4. The Executive Secretary could still include additional vessels on the CCSBT Draft IUU List with agreement from the Extended Commission as allowed for in paragraph 2.

#### *Paragraph 3*

The proposed revision to the 'chapeau' of paragraph 3 (removal of the term "fishing" from the phrase "fishing vessels"), aims to make this paragraph more consistent with paragraph 1 which states that:

*"the Extended Commission will identify those vessels which have engaged in fishing activities for SBT ....."*

It also attempts to provide more clarity that various vessel types may be nominated as presumed to have carried out SBT IUU fishing activities, not just those vessels that actually caught SBT.

A proposed draft revision of this Resolution is provided for Members' consideration at **Attachment A** (revisions are tracked on p2).

### 3. Summary

The Secretariat invites Members to:

- Consider and then decide whether to agree the proposed revisions to the CCSBT IUU Vessel Resolution provided at **Attachment A**.

**Prepared by the Secretariat**

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<sup>1</sup> Hereafter referred to as the "CCSBT IUU Vessel List Resolution"

**Resolution on Establishing a List of Vessels Presumed to have Carried Out Illegal, Unreported and Unregulated Fishing Activities For Southern Bluefin Tuna (SBT)**

*(revised at the 23<sup>rd</sup> Annual Meeting, 10-13 October 2016)*

The Extended Commission for the Conservation of Southern Bluefin Tuna (CCSBT),

*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;

*Recalling* that the Extended Commission adopted the CCSBT Compliance Plan at its Eighteenth Annual Meeting in October 2011;

*Concerned* by the fact that Southern Bluefin Tuna (SBT) IUU fishing activities diminish the effectiveness of CCSBT conservation and management measures,

*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 or entities under the relevant CCSBT instruments;

*Considering* the action undertaken in all other tuna regional fisheries management organisations to address this issue;

*Conscious* of the need to address, as a matter of priority, the issue of fishing vessels conducting IUU fishing activities,

*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 Organisation (WTO) Agreement;

*Recalling* Article 15 (4) of the Convention, which calls on Members to cooperate in taking appropriate action, consistent with international law and their respective domestic laws, to deter fishing activities for SBT by nationals, residents or vessels of any State or entity not party to the CCSBT Convention where such activity could affect adversely the attainment of the objective of the Convention;

*Agrees*, in accordance with paragraph 3(b) of Article 8 of the Convention for the Conservation of Southern Bluefin Tuna, that:

## Definition of SBT IUU Fishing Activities and CCSBT IUU Vessel Lists

1. At each annual meeting, the Extended Commission will identify those vessels which have engaged in fishing activities for SBT in a manner which has undermined the effectiveness of the Convention and the CCSBT measures in force. The Extended Commission shall establish, and amend as necessary in subsequent years, a list of such vessels (the CCSBT IUU Vessel List), in accordance with the procedures and criteria set out in this Resolution (or subsequent revision).
2. As part of the annual process, a Draft IUU Vessel List will first be drawn up by the Executive Secretary based on information received from Members/ Cooperating non-Members (CNMs) pursuant to paragraph 4 and, with agreement from the Extended Commission pursuant to Rule 6(5) of the Rules of Procedure, any other suitably documented information at his/her disposal. The Compliance Committee (CC) will then adopt a Provisional IUU Vessel List based on the initial Draft IUU List and any information provided in relation to the vessels on this Draft List. The CC will also consider the current CCSBT IUU Vessel List and may make recommendations to remove vessels from it as appropriate. Finally, the Extended Commission will consider both the Provisional IUU List and any recommendations made by the CC to amend the current CCSBT IUU Vessel List, and then adopt a final CCSBT IUU Vessel List. CCSBT IUU Vessel List definitions are provided at **Annex I**.
3. For the purposes of this Resolution, the ~~fishing~~ vessels are presumed to have carried out SBT IUU fishing activities, *inter alia*, when a Member or CNM presents suitably documented evidence that such vessels:
  - a. Harvested SBT and were not authorised by a Member or CNM to fish for SBT, or;
  - b. Did not record and/or report their SBT catches or catch-related data in accordance with CCSBT reporting requirements, or made false reports, or;
  - c. Used prohibited or non-compliant fishing gear in a way that undermines CCSBT conservation and management measures, or;
  - d. Transhipped with, or participated in joint operations such as re-supplying or re-fuelling vessels included in the CCSBT IUU Vessel List, or;
  - e. Harvested SBT in the waters under the national jurisdiction of the coastal State or entity without authorisation and/or committed a serious infringement of its laws and regulations directly related to the SBT fishery, without prejudice to the sovereign rights of the coastal State or entity to take measures against such vessels, or;
  - f. Engaged in fishing activities for SBT, including transhipping, re-supplying or re-fuelling, contrary to any other CCSBT conservation and management measures.

### Information on alleged SBT IUU Fishing Activities

4. Members and CNMs shall transmit every year to the Executive Secretary at least 14 weeks before the annual meeting of the CC, a list of vessels presumed to be carrying out SBT IUU fishing activities during the current and/or previous year, accompanied by the suitably documented supporting evidence concerning the presumption of SBT IUU fishing activity. The CCSBT Reporting Form for SBT Illegal Activity (**Annex II**) shall be used.
5. This list and evidence shall be based, *inter alia*, on information collected by Members and CNMs from all relevant sources including but not limited to:
  - a) Relevant resolutions of the CCSBT, as adopted and amended from time to time;
  - b) Reports by Members and CNMs on vessel inspections;
  - c) Reports by Members and CNMs relating to CCSBT conservation and management measures in force;
  - d) Catch and trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organisation of the United Nations (FAO) data, statistical and CDS documents, and other national or international verifiable statistics; and
  - e) Any other information obtained from port States or entities and/or gathered from the fishing grounds that is suitably documented.
6. Before or at the same time as transmitting a list of presumed SBT IUU vessels to the Executive Secretary, the Member or CNM shall notify the relevant flag State or entity, either directly or through the Executive Secretary (using the Reporting Form in **Annex II**), of a vessel's inclusion on this list, and provide that flag State or entity with a copy of the pertinent suitably documented information. Where a vessel will be included on the Draft IUU list and has not been proposed by a Member or CNM, the Executive Secretary shall notify the relevant flag State or entity (using the Reporting Form in **Annex II**), of the vessel's inclusion on this list, and provide that flag State or entity with a copy of the pertinent suitably documented information as early as practicable.

### Draft CCSBT IUU Vessel List

7. On the basis of the information received pursuant to paragraph 4, and any other suitably documented information available, the Executive Secretary shall draw up a Draft IUU Vessel List. This list shall be drawn up in conformity with **Annex III**. The Executive Secretary shall transmit it together with the current CCSBT IUU Vessel List, including any inter-sessional amendments, as well as all the supporting evidence provided, to all Members, and CNMs as well as to those Non-Cooperating Non-Members (NCNMs) whose vessels are included on these lists, at least 10 weeks before the annual CC meeting.
8. The Executive Secretary shall request the flag State or entity to notify the owner of the vessel(s) of its/their inclusion in the Draft IUU Vessel List and of the

consequences that may result from its/their inclusion being confirmed in the CCSBT IUU Vessel List adopted by the Extended Commission.

9. Upon receipt of the Draft IUU Vessel List, Members and CNMs shall closely monitor the vessels included in the Draft IUU Vessel List in order to determine their activities and possible changes of name, flag and/or registered owner.
10. Members, CNMs and NCNMs with vessels included on the Draft IUU and/or current CCSBT IUU Lists will transmit any comments to the Executive Secretary at least 6 weeks before the annual CC meeting, including suitably documented information as described in paragraph 22, showing that the listed vessels have not fished for SBT in a way that undermines CCSBT conservation and management measures.
11. On the basis of the information received pursuant to paragraphs 7 and 10, the Executive Secretary shall circulate the Draft IUU Vessel list and the current CCSBT IUU Vessel List, together with all suitably documented information provided pursuant to paragraph 10 as a CC meeting document to all Members and CNMs 4 weeks in advance of the annual CC meeting.
12. All Members, CNMs, and any NCNMs concerned may at any time submit to the Executive Secretary any additional information, which might be relevant for the establishment of the CCSBT IUU Vessel list. The Executive Secretary shall circulate the information, at the latest before the annual CC meeting, together with all the evidence provided.

#### **Provisional CCSBT IUU Vessel List**

13. Each year the CC shall examine the Draft IUU Vessel List and current CCSBT IUU Vessel list, as well as the information referred to in paragraphs 7, 11 and 12.
14. The CC shall remove a vessel from the Draft IUU Vessel List if the flag State or entity demonstrates that:
  - a) The vessel did not take part in any SBT IUU fishing activities described in paragraph 3, or
  - b) Effective action has been taken in response to the SBT IUU fishing activities in question, including, *inter alia*, prosecution and/or imposition of sanctions of adequate severity. Members and CNMs will report any actions and measures taken to promote compliance by their flagged vessels with CCSBT conservation and management measures.
15. Following this examination, the CC shall:
  - a) Adopt a Provisional IUU Vessel List in conformity with **Annex III** following consideration of the Draft IUU Vessel List and information and evidence circulated under paragraphs 7, 11 and 12. The Provisional IUU Vessel List shall be submitted to the Extended Commission for approval, and
  - b) Recommend to the Extended Commission which, if any, vessels should be removed from the current CCSBT IUU Vessel List, following consideration of the current List and of the information and evidence circulated under paragraphs 10 and 12.

**CCSBT IUU Vessel List**

16. At its annual meeting the Extended Commission 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 CCSBT IUU Vessel List made pursuant to paragraph 15 above. The Extended Commission will then adopt a new CCSBT IUU Vessel List.
17. Upon adopting the new CCSBT IUU Vessel List, Members, CNMs and NCNMs with vessels on the CCSBT IUU Vessel List are requested to:
  - a) Notify the owner of the vessel of its inclusion on the CCSBT IUU Vessel List and the consequences that result from being included on the CCSBT IUU Vessel List, as referred to in paragraph 18, and
  - b) Take all the necessary measures to eliminate these IUU fishing activities, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Extended Commission of the measures taken in this respect.
18. Members and CNMs shall take all necessary non-discriminatory measures subject to, and in accordance with their applicable laws and regulations, international law and each Member's/ CNM's international obligations to:
  - a) Remove or withdraw any SBT fishing authorisations for the vessel or impose alternative sanctions consistent with domestic laws and regulations of the flag State;
  - b) Ensure that the fishing vessels, flying their flag do not assist in any way, engage in fishing processing operations or participate in any transhipment or joint fishing operations with vessels included on the CCSBT IUU Vessel List;
  - c) Ensure that vessels on the CCSBT IUU Vessel List are not authorised to land, tranship, re-fuel, re-supply, or engage in other commercial transactions in their ports, except in case of *force majeure*;
  - d) Ensure that foreign flagged vessels included on the CCSBT IUU Vessel List do not enter into their ports, except in case of *force majeure*, unless vessels are allowed entry into port for the exclusive purpose of inspection and/or effective enforcement action;
  - e) Ensure that a vessel included in the CCSBT IUU Vessel List is not chartered based on its license;
  - f) Ensure that foreign-flagged vessels included in the CCSBT IUU Vessel List are not granted their flag, except if the vessel has changed owner and the new owner has provided sufficient evidence demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account all relevant facts, the flag Member or CNM determines that granting the vessel its flag will not result in IUU

fishing;

- g) Ensure that SBT from vessels included in the CCSBT IUU Vessel List are not landed, farmed, transhipped and/or traded internationally and and/or domestically; and
  - h) Collect and exchange with other Members and CNMs any appropriate information with the aim of searching for, controlling and preventing false CDS documents and/or false import/export certificates of SBT from vessels included in the CCSBT IUU Vessel List.
19. The Executive Secretary will take any necessary measure to ensure publicity of the CCSBT IUU Vessel List adopted by CCSBT, in a manner consistent with any applicable confidentiality requirements, and through electronic means, by placing it on the CCSBT web site. Furthermore, the Executive Secretary will transmit the CCSBT IUU Vessel List to appropriate regional fisheries organisations for the purposes of enhanced co-operation between CCSBT and these organisations in order to prevent, deter and eliminate IUU fishing.

#### **Cross-Listing**

20. The Extended Commission may consider cross-listing IUU vessel lists with all other tuna Regional Fisheries Management Organisations and relevant organisations on a case by case basis as agreed by the Extended Commission.

#### **Trade Measures/ Sanctions**

21. Without prejudice to the rights of flag States or entities and coastal States or entities to take proper action consistent with international law, including applicable WTO obligations, Members and CNMs shall not take any unilateral trade measures or other sanctions against vessels provisionally included in the Draft and Provisional IUU Vessel Lists, pursuant to paragraphs 7 and 15, or which have been already removed from the CCSBT Draft, Provisional or Current IUU Vessel Lists, pursuant to paragraphs 14 or 16 or 22 - 26, on the grounds that such vessels are involved in SBT IUU fishing activities.

#### **Deletion from the CCSBT IUU Vessel List**

22. A Member, CNM or NCNM whose vessel appears on the CCSBT IUU Vessel List may request the removal of the vessel from the list through the Compliance Committee or at any time during the inter-sessional period by submitting to the Executive Secretary suitably documented information demonstrating that:
- a) It has adopted measures so that this vessel complies with all CCSBT conservation and management measures; and
  - b) It is and will continue to assume effectively its responsibilities with respect to this vessel in particular as regards the monitoring and control of the SBT fishing activities executed by this vessel; and
  - c) One or more of the following:
    - i) It has taken effective action in response to the SBT IUU fishing activities that resulted in the vessel's inclusion in the CCSBT IUU Vessel List,

including prosecution or the imposition of sanctions of adequate severity;

ii) 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 SBT IUU fishing activities;

iii) The case regarding the vessel that conducted SBT IUU fishing activities has been settled to the satisfaction of the Member(s)/ CNM(s) that originally submitted the vessel for listing and the flag State or entity involved.

23. On the basis of the information received in accordance with paragraph 22, the CCSBT Executive Secretary will transmit electronically the removal request, with all the supporting information to each Member within 15 days following the notification of the removal request.
24. Each Member of the Extended Commission will examine the request to remove the vessel and notify the Executive Secretary in writing of their conclusion regarding either the removal from, or the maintenance of the vessel on the CCSBT IUU Vessel List within 21 days following the notification by the Executive Secretary referred to in paragraph 23.  
Decisions on any inter-sessional requests to remove the vessel shall be made in accordance with Rule 6(5) of the Rules of Procedure, such that no response is considered to be support for the request.
25. The Executive Secretary shall communicate the result of the decision to all Members and CNMs and to any NCNM which requested the removal of its vessel from the CCSBT IUU Vessel List.
26. If Members agree to the removal of the vessel from the CCSBT IUU Vessel List, the Executive Secretary will take the necessary measures to remove the vessel concerned from the CCSBT IUU Vessels List, as published on the CCSBT web site. Moreover, the Executive Secretary will forward the decision of removal of the vessel to appropriate regional fisheries organisations.
27. If a Member does not agree with the request for the removal of the vessel from the CCSBT IUU Vessel List, the vessel will be referred to the Compliance Committee for further consideration and the Executive Secretary will inform the Members, CNMs as well as any NCNMs that made the removal request.



## **ANNEX I: CCSBT IUU Vessel List Definitions**

The format of all CCSBT IUU Vessel Lists must conform to **Annex III**.

### **Draft CCSBT IUU Vessel List**

This list is drawn up by the Executive Secretary in accordance with paragraph 7, and based on information submitted by Members and CNMs on the CCSBT Reporting Form for SBT Illegal Activity (**Annex II**), and any other suitably documented information about vessels presumed to be carrying out SBT IUU fishing activities during the current and/or previous year. This list is then examined each year by the Compliance Committee (CC).

### **Provisional CCSBT IUU Vessel List**

This list is derived from the Draft IUU Vessel List.

It is created when the CC has completed its consideration of the Draft IUU Vessel List and the associated evidence circulated, and has made any appropriate amendments to the Draft List. At this point, the appropriately amended Draft List is adopted by the CC as a Provisional IUU Vessel List.

### **Current CCSBT IUU Vessel List**

This list is created from a combination of considering the agreed Provisional IUU Vessel List and the Current CCSBT IUU Vessel List.

The Extended Commission reviews the Provisional IUU Vessel List at its annual meeting, taking into account any new suitably documented information related to vessels on the Provisional list, as well as any recommendations to amend the current CCSBT IUU Vessel List made by the CC. This process will result in a CCSBT IUU Vessel List which is agreed and adopted by the Extended Commission as the current CCSBT IUU Vessel List.

The current CCSBT IUU Vessel List can be modified inter-sessionally according to paragraph 20 by cross-listing additions and/or removals from other RFMOs, or through requests from Members/CNMs/NCNMs according to paragraphs 22 to 27.

## **ANNEX II: CCSBT Reporting Form for SBT Illegal Activity**

### **1. Details of Vessel**

- a Current Name of Vessel (Previous name/s, if any);
- b Current Flag (previous flag/s, if any);
- c Date first included on CCSBT IUU Vessel List (if applicable);
- d Lloyds, IMO and UVI Number (if available);
- e Photo(s) (if any);
- f Call Sign (previous call sign, if any);
- g Owner / Beneficial Owner/s (previous owner/s, if any), and owner's place of registration (if any);
- h Operator (previous operator/s, if any);
- i Master/Fishing master name and nationality;
- j Date of alleged SBT IUU fishing activities;
- k Position (as accurately identified as possible)<sup>1</sup> of the alleged SBT IUU fishing activities (if available);
- l Summary of alleged SBT IUU activities (see section 2 for more detail);
- m Summary of any actions known to have been taken in respect of the alleged SBT IUU fishing activities;
- n Outcome of actions taken.

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<sup>1</sup> Positional information may include latitudes/ longitudes, geographic location name(s) and/or CCSBT statistical area number (s), etc

## 2. Details of CCSBT Resolution Elements Contravened

Place a "X" next to the individual elements of paragraph 3 of this Resolution that were contravened, and provide relevant details including date, location and source of information. Additional information can be provided in an attachment if necessary, and listed under section 3.

<b>Parag raph Refer ence</b>	<b>SBT IUU Fishing Activity</b>	<b>Indicate</b>
3a	Harvested SBT and were not authorised by a Member or CNM to fish for SBT	
3b	Did not record and/or report their SBT catches or catch-related data in accordance with CCSBT reporting requirements, or made false reports	
3c	Used prohibited or non-compliant fishing gear in a way that undermines CCSBT conservation and management measures	
3d	Transhipped with, or participated in joint operations such as re-supplying or re-fuelling vessels included in the CCSBT IUU Vessel List	
3e	Harvested SBT in the waters under the national jurisdiction of the coastal State or entity without authorisation and/or committed a serious infringement of its laws and regulations directly related to the SBT fishery, without prejudice to the sovereign rights of the coastal State or entity to take measures against such vessels	
3f	Engaged in fishing activities for SBT, including transshipping, re-supplying or re-fuelling, contrary to any other CCSBT conservation and management measures	

## 3. Associated Documents

List here the associated documents that are appended e.g. boarding reports, court proceedings, and photographs.

**ANNEX III: Information to be Included in all CCSBT IUU Vessel Lists**  
(Draft, Provisional and Current)

The Draft, Provisional and Current CCSBT IUU Vessel Lists shall contain the following details, where available:

- i) Name of the vessel and previous name/s, if any;
- ii) Flag of the vessel and previous flag/s, if any;
- iii) Owner of the vessel and previous owner/s, including beneficial owners, if any, and owner's place of registration (if any);
- iv) Operator of the vessel and previous operator/s, if any;
- v) Call sign of the vessel and previous call sign/s, if any;
- vi) Lloyds/IMO and UVI number, if available;
- vii) Photograph(s) of the vessel, where available;
- viii) Date vessel was first included on the CCSBT IUU Vessel List;
- ix) Summary of the activities which justify inclusion of the vessel on the List, together with references to all relevant supporting documents and evidences;
- x) Date and location of any relevant sightings of the vessel, if any;
- xi) Summary of any other related activities performed by the vessel contrary to CCBST conservation and management measures, if any.