

IUU FISHING IN THE CONVENTION AREA

Current level of IUU fishing

9.1 The Commission reviewed advice from SCIC and the Scientific Committee on the current level of IUU fishing. Five vessels were reported to have engaged in IUU fishing activities in the Convention Area and three IUU-listed vessels were sighted outside the Convention Area during 2010/11. Six of the identified vessels were reported to be using gillnets; one, the *Sima Qian Baru 22*, was reported to be using longlines and one, the *Koosha 4*, was a refrigerated cargo vessel. The Commission noted the advice from SCIC that the *Koosha 4*, being a refrigerated cargo vessel, should be of particular concern. The Commission noted advice from SCIC that the *Yangzi Hua 44* was active in the Convention Area in Divisions 58.4.1 and 58.4.4 during 2009/10 and 2010/11.

9.2 The Commission noted advice from the Scientific Committee that there is no evidence to suggest that IUU fishing has declined and that it continued at a relatively low level, although it was possible it was increasing and that the spatial distribution of IUU fishing may be changing.

9.3 The Commission noted that only one IUU vessel sighting report from a vessel master of a licensed vessel operating in the Convention Area, and two sighting reports from observers operating under the Scheme of International Scientific Observation, had been received by the Secretariat in 2010/11 and expressed concern at the lack of sighting reports from licensed vessels.

9.4 The Scientific Committee Chair highlighted the advice of the Scientific Committee that the Secretariat should monitor trends in IUU effort rather than estimate IUU catch, but that estimates of total removals are needed for stock assessments, and Members are encouraged to assist the Scientific Committee to develop methodologies to generate these estimates (SC-CAMLR-XXX, paragraphs 6.1 and 6.2).

9.5 The Commission agreed with the Scientific Committee regarding the uncertainty surrounding gillnet catch rates and suggested that information could be gained from other organisations, such as IOTC, where gillnets are reported to be used. The Commission noted that gillnets were of particular concern due to the potential impacts on by-catch species and benthic ecosystems.

9.6 The Commission expressed concern that, despite efforts to combat IUU fishing, it continues to be a problem in the Convention Area. The Commission agreed that there is a need to measure IUU fishing levels and agreed with the advice of the Scientific Committee that the recommendations of the Joint Assessment Group (JAG) on alternate methods to estimate IUU fishing extractions, should be revisited.

9.7 The EU reiterated strong concern with regard to IUU fishing in the Convention Area which continues to threaten the marine resources under CCAMLR's purview and undermine the objectives of the Convention. The EU urged CCAMLR Members to make progress on expanding the array of instruments necessary to combat IUU fishing in the area by adopting a market-related measure and amending the current measure on CCAMLR Port State inspections. The EU believed that without progress in these respects CCAMLR will be unable to effectively fight IUU fishing.

Control of nationals (CM 10-08)

9.8 The Commission noted the report submitted by Chile in relation to new domestic legislation for the control of nationals who engage in IUU fishing. The Commission also noted a report submitted by Spain in relation to the implementation of CM 10-08 during 2010/11 relating to investigations involving Spanish nationals, some of which resulted in sanctions and penalties.

IUU Vessel Lists

9.9 The Commission adopted the recommendation from SCIC that the Iranian-flagged vessel, the *Koosha 4*, be included on the NCP-IUU Vessel List in 2011. The EU noted that it was currently in communication with Iran in relation to the *Koosha 4*.

9.10 The Commission noted the advice from SCIC that most Members had agreed that China had satisfied CM 10-06, paragraph 14, and supported China's request that the *West Ocean* and *North Ocean* be removed from the CP-IUU Vessel List. A number of delegations advised the Commission that they had reviewed the information provided by China and could join the consensus in this matter. The Commission agreed to remove the vessels *West Ocean* and *North Ocean* from the CP-IUU Vessel List.

9.11 China thanked the Commission for supporting its proposal and reiterated its commitment to continue cooperation with Parties in combatting IUU fishing.

9.12 The Commission noted the recommendation from SCIC to include the Korean-flagged vessel, the *Insung No. 7*, on the CP-IUU Vessel List in 2011. The Republic of Korea requested that the Commission reconsider this recommendation. The Commission expressed concern that a consensus decision reached in SCIC was reopened at the Commission.

9.13 Many delegations expressed their appreciation for the cooperation demonstrated by the Republic of Korea in joining the consensus in SCIC to include the *Insung No. 7* on the Proposed CP-IUU Vessel List. They supported that recommendation and were of the view that the Commission should adopt the recommendation of SCIC regarding the inclusion of the *Insung No. 7* on the CP-IUU Vessel List. They noted that the vessel's 339% over-catch of toothfish in SSRU 5842E, including through the setting of two lines after the vessel was aware that the catch limit had been exceeded, represents intentional acts of illegal fishing that should be of major concern to the Commission. In addition, they were of the view that the sanctions that had been applied by Korea to the operator, vessel and master were completely inadequate given the seriousness of the illegal activity.

9.14 The USA also noted that, how the Commission responds to these illegal acts will send a strong signal about the value that this organisation places on transparency, compliance and the objectives of the Convention. It added that the world is watching to see whether CCAMLR will stand for those objectives, by applying its conservation measures to Members and non-Members alike, or whether it will turn a blind eye when it is convenient to do so. If the Commission chooses the latter, it will be complicit in the illegal fishing of the *Insung No. 7* and call into question the Commission's credibility.

9.15 The Commission noted SCIC's advice that highlighted the seriousness of the actions by the *Insung No. 7* and that it had engaged in intentional illegal activity. The Commission reiterated the comments by SCIC that the inclusion of the *Insung No. 7* on the CP-IUU Vessel List was an important demonstration of the Commission's commitment to the objectives of the CAMLR Convention and that the vessel had clearly met the requirements for IUU listing as outlined in CM 10-06.

9.16 Russia reiterated that the incident regarding the *Insung No. 7* demonstrated the urgency for a compliance evaluation procedure, particularly in terms of evaluating the severity of such incidents, and was of the view that the IUU listing of the *Insung No. 7* should not be considered in the future as a precedent for categorising the seriousness of conservation measure violations and bypassing DOCEP. Several Members noted that, even with a compliance evaluation procedure to evaluate the *Insung No. 7*'s actions, IUU listing would still be the appropriate action.

9.17 The Republic of Korea advised the Commission that it had received advice that, in the event of its domestic legislation being amended to provide for the application of commensurate sanctions, this legislation could not be applied to the case involving the *Insung No. 7* as the event occurred before the legislation would be in place. Korea advised the Commission that it intended to withdraw all Insung Corp. vessels from new and exploratory fisheries in 2011/12 which includes the *Insung No. 3* (Subareas 88.1 and 88.2), the *Insung No. 5* (Subareas 88.1 and 88.2) and the *Insung No. 66* (Subareas 48.6 and 88.2 and Division 58.4.1), and that there would be no replacement of these vessels. Korea considered this was a severe sanction on Insung Corp. and represented a significant financial penalty to the company (approximately 10 times higher than the value of fish taken illegally by the *Insung No. 7*). Korea noted that this demonstrated its desire to uphold the CAMLR Convention and punish those vessels flying its flag for engaging in IUU fishing.

9.18 The Commission noted that the issue of listing a vessel on the IUU Vessel List was separate from the notification of vessels for exploratory fisheries. The application of sanctions is a factor to be considered in the delisting process. A number of Members thanked the Republic of Korea for considering the application of alternative sanctions and noted the constraints of its domestic legislation, but expressed that it was still necessary to include the *Insung No. 7* on the CP-IUU Vessel List.

9.19 Some Members requested information on the relationship of Insung Corp. and Hong Jin Corp. and Korea responded that there are no legal, financial and/or beneficial linkages between the two companies. Korea also advised that no substitution of vessels would take place for the exploratory fisheries in 2011/12.

9.20 Some Members noted the Insung Corp. may not suffer economically if these vessels fished elsewhere and the Commission was provided with no information in this respect.

9.21 A number of Members noted that the decision before the Commission related to the adoption of the recommendation made by SCIC to include the *Insung No. 7* on the CP-IUU Vessel List, and recalled that this decision was made by consensus at SCIC and included the Republic of Korea.

9.22 Ukraine reminded Members of a decision taken by the Commission in 2006 in relation to a similar issue which it considered as a precedent for how these issues should be dealt with. Ukraine noted that SCIC only makes recommendations to the Commission.

9.23 New Zealand and the UK noted that it was not appropriate to draw a linkage between the discussion this week and what had occurred in 2006, and that the circumstances were very different. New Zealand noted that it recalled the discussion that took place in 2006 and that the official record of the Commission did not necessarily reflect all the nuances of that discussion and it was dangerous to attempt to retrospectively reinterpret history.

9.24 New Zealand expressed its appreciation to the Republic of Korea for the honest, transparent and fulsome approach it had taken in informing the Commission of all the details associated with this issue. New Zealand noted that this transparent approach by Korea did not temper New Zealand's disappointment with the position of Korea to not support the inclusion of the *Insung No. 7* on the Commission's CP-IUU Vessel List.

9.25 The Republic of Korea stated that it respected the integrity of the CAMLR Convention and felt it had applied a significant financial penalty on Insung Corp. by the withdrawal of all its vessels from fishing in 2011/12.

9.26 The Republic of Korea noted that its agreeing on the listing of the *Insung No. 7* on the proposed list at SCIC was the most feasible option at that time because there was no alternative way in terms of domestic sanctions, while at the Commission, Korea indicated that having to withdraw three Insung Corp. vessels from all the CCAMLR area would in its view provide adequate sanctions. Korea further noted that by withdrawing these vessels it had taken all the measures it could against the vessels' non-compliance. Korea advised that this was why it did not support at the Commission the listing of the vessel on the CP-IUU Vessel List.

9.27 The Chair concluded that there was no consensus for including the *Insung No. 7* on the CP-IUU Vessel List.

9.28 Several delegations indicated that they were disappointed that the Republic of Korea did not accept the advice of SCIC to include the *Insung No. 7* on the CP-IUU Vessel List. In their view, the *Insung No. 7* committed serious violations of CCAMLR's conservation measures, and the correct action, as SCIC advised following a consensus decision supported by Korea, would have been to list the vessel.