

CMM 04(2016)

Conservation and Management Measure on Vessels without Nationality (Vessels without Nationality)

The Meeting of the Parties to the Southern Indian Ocean Fisheries Agreement;

RECOGNISING that vessels without nationality operate without governance and oversight;

CONCERNED that fishing in the SIOFA Area of Application (the Agreement Area) by vessels without nationality undermines the objective of the Agreement and the work of the Meeting of the Parties;

NOTING Articles 92 and 94 of the *United Nations Convention on the Law of the Sea* (UNCLOS) relating to the status of ships and the duties of flag States; and

RECALLING that the FAO Council has adopted an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing (IUU fishing) and has recommended that States adopt measures consistent with international law in relation to fishing vessels without nationality involved in IUU fishing on the high seas;

ADOPTS the following Conservation and Management Measure (CMM) in accordance with Article 6 of the Agreement:

1. A vessel without nationality is a vessel that, under international law, is not entitled to fly the flag of any State or, as referred to in Article 92 of UNCLOS, sails under the flag of two or more States, using them according to convenience.
2. Vessels determined under international law to be vessels without nationality that are fishing in the Agreement Area undermine the Agreement and the efforts of the Contracting Parties, cooperating non-Contracting Parties (CNCs) and Participating Fishing Entities (PFEs) to ensure the long-term sustainability of the fishery resources, and are engaged in IUU fishing.
3. Contracting Parties, CNCs and PFEs are encouraged to take effective action in accordance with international law, including, where appropriate, enforcement action, against vessels without nationality that are engaging, or have engaged, in fishing or fishing related activities in the Agreement Area, and to prohibit the landing and transshipment of fish and fish products, and access to port services, by such vessels, except where such access is essential to the safety or health of the crew or the safety of the vessel/s.
4. Contracting Parties, CNCs and PFEs are encouraged to adopt necessary measures, including, where relevant, domestic legislation, to allow them to take the effective action referred to in paragraph 3 to prevent and deter vessels without nationality from engaging in fishing or fishing related activities in the Agreement Area.
5. Contracting Parties, CNCs and PFEs are encouraged to share information about vessels suspected to be without nationality to assist in clarifying the status of such vessels, and about the activities of vessels without nationality to inform decisions about action to prevent and deter such vessels from engaging in fishing or fishing related activities in the Agreement Area. Any sightings of fishing vessels that are suspected of, or confirmed as being, without nationality that may be fishing in the high seas of the Agreement Area

shall be reported to the Secretariat as soon as possible by the appropriate authorities of the Contracting Party, CNCP or PFE whose vessel or aircraft made the sighting. The Secretariat will circulate such information to all Contracting Parties, CNCPs and PFEs as soon as practicable, and will provide a report to the next ordinary meeting of the Compliance Committee of all such information provided.

6. Contracting Parties, CNCPs and PFEs are encouraged to cooperate with all flag States to strengthen their legal, operational and institutional capacity to take action against their flagged vessels that have engaged in IUU fishing or fishing related activities in the Agreement Area, including the imposition of adequate sanctions, as an alternative to de-flagging such vessels, thereby rendering such vessels without nationality.