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## ADDITIONAL INFORMATION FROM AUSTRALIA CONCERNING ONE VESSEL IN THE 2024 IOTC DRAFT IUU VESSELS LIST

Prepared by IOTC Secretariat, 02 May 2024

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### PURPOSE

To provide additional information, which has been received from Australia by the IOTC Secretariat, to the Compliance Committee to assist it in taking decisions on:

- one vessel included in the 2024 IOTC Draft IUU Vessel List: Attachment 2 of document IOTC-2024-CoC21-07.

### INFORMATION REPORTED TO THE IOTC SECRETARIAT

In response to IOTC Circular 2024-21 on *Draft IOTC IUU Vessels List for 2024*, Australia has provided the additional information reproduced in Appendix 1.

### RECOMMENDATION

That the CoC21:

- **NOTE** the information provided in document IOTC-2024-CoC21-07\_Add1, which will assist it in its deliberations on the fishing vessel, BELMETI, which is listed on the 2024 Draft IOTC IUU Vessels List.

### Draft IOTC IUU List – Additional information provided by Australia

2 May 2024

In accordance with paragraph 12 of Resolution 18/03, Australia provides the following additional information on the Indonesian flagged vessel, BELMETI, relevant to the establishment of the IUU Vessel List. In particular, Australia provides information in response to Indonesia's submission (circulated 25 April 2024), to ensure that CPCs have all required information regarding the Draft IUU Vessel List. Australia's clarification is presented in the table below.

Australia thanks Indonesia for providing its submission in relation to the BELMETI. Upon review of this submission, none of the information or reasons to not include the vessel on the Provisional IUU Vessel List meet the relevant requirements outlined in paragraph 14 of Resolution 18/03:

*14. The Compliance Committee shall not include a vessel in the Provisional IUU Vessel List if:*

*a) the nominating CPC did not follow the provisions of paragraphs 5 and 6; or*

*b) on the basis of the information available, the Compliance Committee is not satisfied that the presumption of IUU fishing activities referred to in paragraph 4 has been established; or*

*c) the flag State of a vessel included in the Draft IUU Vessel List provides information that demonstrates that the vessel has at all relevant times complied with the rules of the flag State and with its authorisation to fish and:*

*i. that the vessel has conducted fishing activities in a manner consistent with the IOTC Agreement and Conservation and Management Measures; or*

*ii. that the vessel has conducted fishing activities within the waters under the jurisdiction of a coastal State in a manner consistent with the laws and regulations of that coastal State; or*

*iii. that the vessel has fished exclusively for species that are not covered by the IOTC Agreement or IOTC Conservation and Management Measures; or*

*d) the flag State of a vessel included in the Draft IUU Vessel List provides information that demonstrates that effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures by vessels that fly its flag.*

Indonesia's response demonstrates that effective flag State action has not been taken to address the specific IUU vessel activity, despite being notified by Australia over 500 days ago of the activity in Australia's waters.

Australia has provided Indonesia and the IOTC with detailed information to demonstrate that the BELMETI meets the criteria for IUU Vessel listing (under paragraphs 4a and 4h, Resolution 18/03). Australia has responded to all of Indonesia's requests for information and provided information sufficient to undertake an investigation of the vessel, master and owner, and take appropriate effective flag State action.

	Flag State's Submission (25 April submission)	Australia's Response
	<p><i>Having had an investigation on the IUU Fishing activity by KM BELMETI in Australia's EEZ, Indonesia would like to provide comments and information as follows:</i></p>	<p>Australia has not received any information regarding an investigation into the activity of the BELMETI.</p>
<p>1.</p>	<p><i>The case Australia reported occurred on 22 July 2022 and was first informed to Indonesia's Commissioner for IOTC on 16 February 2024.</i></p>	<p>Australia advised Indonesia, via its official contacts in the RPOA IUU MCS Subregional Group Information Sharing, of the IUU activity on 4 October 2022 (74 days after the illegal fishing activity) in combination with notification of 44 other Indonesian vessels operating illegally in Australian waters.</p> <p>In addition to the initial notification, Australia provided information to the IOTC in accordance with the time frames stipulated in Resolution 18/03. To support Indonesia's consideration, Australia also notified Indonesia's IOTC Commissioner (on 16 February 2024) prior to submitting information to IOTC.</p>
<p>2.</p>	<p><i>Australia provided limited information on the identity of the vessels and the owner. No documentation of the vessel's and crew's identity documents was provided. The vessel's name did not appear on the vessel, and it is difficult to recognize the crew from the provided photo.</i></p>	<p>Australia provided a range of information in its submission to the IOTC on 25 February 2024 regarding the vessel, master, owner and crew, sufficient for the flag State to investigate and take appropriate action, including:</p> <ul style="list-style-type: none"> <li>a) Name of the vessel;</li> <li>b) Photos of the vessel;</li> <li>c) Name of vessel master/owner; and</li> <li>d) Name of vessel's home fishing port.</li> </ul> <p>In addition, in April 2024, Australia separately provided Indonesia:</p> <ul style="list-style-type: none"> <li>e) Photos of all crew, alongside their names and dates of birth. These photos clearly show the faces of the master and crew members.</li> </ul> <p><b>Note</b> – <i>These photos have been provided directly to Indonesia. Australia has not shared these photos with IOTC to ensure appropriate personal privacy requirements are maintained as required under Australian law.</i></p>
<p>3.</p>	<p><i>From the photo provided, it can only be recognized that the vessel is an artisanal fishing vessel with a size under 5 GT.</i></p>	<p>Australian inspectors estimated the length of the BELMETI as approximately 13m.</p> <p>Australia notes that the application of IOTC Resolution 18/03 is not dependent on vessel size/tonnage or classification of vessels as artisanal vs industrial:</p> <p><i>Paragraph 2, Resolution 18/03:</i></p>

		<p><i>Application of this measure: This Resolution applies to vessels, together with their Owners, Operators and Masters that undertake fishing and fishing related activities, for species covered by the IOTC Agreement, or by IOTC Conservation and Management Measures, within the IOTC area of competence (IOTC Area).</i></p> <p>Australia notes that paragraph 1 of Resolution 19/04 Concerning the IOTC Record of Vessels Authorised to Operate in the IOTC area of competence provides: The Commission shall maintain an IOTC Record of fishing vessels that are: <i>a) 24 metres in length overall or above; or b) in case of vessels less than 24 meters, those operating in waters outside the Economic Exclusive Zone of the flag State; and that are authorised to fish for tuna and tuna-like species in the IOTC area of competence (hereinafter referred to as ‘authorised fishing vessels’, or AFVs</i></p> <p>The BELMETI was operating outside of the Indonesian EEZ and had tuna (IOTC species) on board and therefore its activities have contravened Resolution 18/03 (paragraphs 4a and 4h).</p> <p><i>4. For the purposes of this Resolution a vessel is presumed to have engaged in IUU fishing activities when a [CPC] has provided information that such a vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:</i></p> <p><i>a: Engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04 [superseded by Resolution 19/04], nor recorded in the Active list of vessels;</i></p> <p><i>h: engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel).</i></p>
4.	<p><i>The small number of tuna found on the KM BELMETI cannot be assumed as a target for commercial purposes; they are only supplies for self-consumption. At the time of the arrest, the KM BEMELTI was not carrying out fishing activities.</i></p>	<p>Australia notes that Resolution 18/03 does not contain a threshold amount of IOTC species catch to constitute IUU fishing, nor does Resolution 18/03 differentiate between IOTC species caught for commercial purposes or for crew consumption. The Resolution defines fishing, fishing activity and IUU fishing activity.</p> <p>Australia notes that the BELMETI had tuna (IOTC species) on board, within the IOTC Area and within Australia’s EEZ and was not on the IOTC Record of Authorised Vessels. Australia notes that while direct fishing activity was not witnessed, the BELMETI was found to be undertaking fishing related activities (as per</p>

		<p>Resolution 18/03 definition) at the time of interception and inspection as it had IOTC species on board (transport of fish or fish products that have not been previously landed at a port).</p> <p>Resolution 18/03 defines ‘fishing related activities’ <i>any operation in support of, or in preparation for, fishing, including landing, packaging, processing, transshipment or transport of fish and/or fish products that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear, food and other supplies at-sea</i></p>
5.	<p><i>The almost two-year gap in reporting on the KM BEMELTI by Australia has consequences, adding more difficulty in tracking the vessel, because over a relatively long period of time, some changes or modifications could happen to the vessel's identity. The Provincial Government of Nusa Tenggara Timur and the District Government of Rote could not find the name of BELMETI in the vessel registration list under their authorities.</i></p>	<p>Australia advised Indonesia of the IUU activity on 4 October 2022 (74 days after the illegal fishing activity) and 439 days prior to Australia notifying Indonesia of its intent to submit the information to IOTC.</p> <p>Australia provided information to the IOTC in accordance with the timeframes stipulated in Resolution 18/03 (paragraph 5) (i.e. within a 24 month period and 70 days prior to the annual meeting of the Compliance Committee).</p>
6.	<p><i>Due to the lack of information provided by AFMA on KM BELMETI, Indonesia has difficulty investigating the owner of KM BELMETI further.</i></p>	<p>The inability to take effective action strongly supports the need to have this vessel placed on the IUU Vessel List.</p>
7.	<p><i>The Australian Government has taken a punitive sanction toward the vessel by seizing the vessel's fishing gear and catch in accordance with Australian Law (Legislative Forfeiture). The catch was discarded at sea in accordance with Australian law. The Australian authorities informed the crew that they were not permitted to fish in Australia's waters and directed them</i></p>	<p>Australia did not apprehend or prosecute the vessel. Due to the volume of illegal Indonesian fishing vessels entering and operating in the Australian EEZ (337 interdicted in 2021-22, 125 in 2022-23 and 221 in 2023-24, as of 29 April 2024), Australia was not able to apprehend or prosecute this vessel.</p> <p>Instead, the action taken by Australia was to confiscate the catch and fishing gear. Australia communicated this information on 4 October 2022, in a report including the activity of 45 Indonesian fishing vessels (including the BELMETI) found to be fishing illegally in Australian waters. Australia requested that Indonesia investigate each matter.</p>

	<i>to return directly to their home port, Rote, Indonesia.</i>	
8.	<i>Australia has provided detailed information, such as that AFMA sent a letter to Indonesia's Commissioner for RPOA IUU fishing on 4 October 2022 regarding information observed fishing illegally in the Australian Fishing Zone, including BELMETI's case.</i>	As noted by Indonesia in this response, Australia has provided detailed information on 4 October 2022 regarding the IUU fishing activity of Indonesian fishing vessels operating illegally in the Australia EEZ, including the BELMETI. Australia also requested that Indonesia investigate the illegal fishing identified in the document provided, including the information on the BELMETI.
9.	<i>Based on Indonesian law, The Indonesian Government cannot take punitive sanctions on illegal fishing outside of Indonesian waters by an Indonesian vessel if the respected coastal state has sanctioned the vessel.</i>	While catch was confiscated from the vessel, Australia was not in a position to take "effective action" as outlined in paragraph 14(d) of Resolution 18/03 due to the high number of fishing vessels encountered. In particular, the crew was not prosecuted, and the sanction was not of adequate severity.
10.	<i>However, the Indonesian Government has taken preventive measures regarding the reported cases, such as:</i> <ul style="list-style-type: none"> <li><i>a. Public Information Campaign (PIC) by the Indonesian Government and AFMA</i></li> <li><i>b. Indonesia – Australia Coordinated Patrol in the border area (Gannet Operation) in May 2023</i></li> </ul>	Australia continues to collaborate closely with Indonesia on cooperative efforts to strengthen Indonesia's compliance efforts and responses in relation to the current high rate of IUU fishing involving its vessels and nationals.
	<i>Based on the comment and information above, Indonesia believes that the BELMETI cannot be included in the Draft IUU Vessel List for reasons as follows:</i>	None of the reasons cited by Indonesia meet the flag State requirements for the Compliance Committee determining to not include a vessel on the Provisional IUU List (Resolution 18/03 paragraph 14 (c) and (d)).

<p><i>The BELMETI is an artisanal vessel, and the tuna found on the vessel cannot be assumed for commercial purposes but as supplies for self-consumption</i></p>	<p>The application of IOTC Resolution 18/03 is not dependent on vessel size/tonnage or classification as artisanal vs industrial and does not contain a threshold for an amount of IOTC species:</p> <p>The BELMETI is an Indonesian fishing vessel that is under 24m and was fishing outside of Indonesia’s EEZ, and within the IOTC Area and Australian EEZ. It was not on the IOTC Authorised Vessel List, nor the IOTC list of Active vessels. It had tuna (IOTC species) on board. The information provided by Australia demonstrates that the vessel’s activities contravened Resolution 18/03 (paragraphs 4a and 4h).</p>
<p><i>Limited information provided by Australia is insufficient for Indonesia to trace the vessel and crew for further investigation</i></p>	<p>The information Australia has provided is sufficient to:</p> <ul style="list-style-type: none"> <li>a) Establish that the vessel in question conducted IUU fishing in contravention of Resolution 18/03 <ul style="list-style-type: none"> <li>- Paragraph 4a (engaged in fishing or fishing related activities and is neither registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, nor recorded in the Active list of vessels;</li> <li>- And Paragraph 4h (engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel)</li> </ul> </li> <li>b) Identify and investigate the master/owner of the vessel and take necessary effective flag State action; and</li> <li>c) Notify the owner/operator/master of the vessel’s inclusion in the Draft IUU and the associated consequences.</li> </ul>
<p><i>Almost two-year gap of reporting from Australia to Indonesia’s Commissioner for IOTC</i></p>	<p>Australia advised Indonesia of the IUU activity:</p> <ul style="list-style-type: none"> <li>- On 4 October 2022 (74 days after the illegal fishing activity) along with information on 44 other Indonesian fishing vessels intercepted in Australia’s waters and operating illegally.</li> <li>- Australia requested that Indonesia investigate the illegal fishing activity.</li> </ul> <p>Australia provided information to the IOTC in accordance with the time frames stipulated in Resolution 18/03 (e.g. within 24 months of the fishing activity). There was no gap in reporting by Australia. Australia has responded to all requests from Indonesia for information or clarification.</p>
<p><i>The Australian Government has taken sanction toward the vessel</i></p>	<p>Australia did not apprehend or prosecute the vessel. Australia only confiscated the catch and fishing gear. Australia then communicated this to Indonesia on 4 October 2022 seeking Indonesia’s action in relation to the illegal activity.</p>

<p><i>Indonesia has already taken several actions on the incident after being reported by AFMA to Indonesia's Commissioner of RPOA IUU fishing in 2022</i></p>	<p>None of the actions cited relate to the specific IUU activity of the vessel in question.</p> <p>Resolution 18/03 (paragraph 14d) requires <i>'the flag State of a vessel included in the Draft IUU Vessel List provides information that demonstrates that effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures by vessels that fly its flag.'</i></p>
<p><i>Therefore, Indonesia would like to request to take out KM BEMELTI from the Draft IUU Vessel List.</i></p>	<p>The Compliance Committee can decide to not include a vessel on the Provisional IUU list if one of the following have been met: Resolution 18/03 (paragraph 14)</p> <p>14. The Compliance Committee shall not include a vessel in the Provisional IUU Vessel List if:</p> <ul style="list-style-type: none"> <li>a) the nominating CPC did not follow the provisions of paragraphs 5 and 6; or</li> <li>b) on the basis of the information available, the Compliance Committee is not satisfied that the presumption of IUU fishing activities referred to in paragraph 4 has been established; or</li> <li>c) the flag State of a vessel included in the Draft IUU Vessel List provides information that demonstrates that the vessel has at all relevant times complied with the rules of the flag State and with its authorisation to fish and: <ul style="list-style-type: none"> <li>i. that the vessel has conducted fishing activities in a manner consistent with the IOTC Agreement and Conservation and Management Measures; or</li> <li>ii. that the vessel has conducted fishing activities within the waters under the jurisdiction of a coastal State in a manner consistent with the laws and regulations of that coastal State; or</li> <li>iii. that the vessel has fished exclusively for species that are not covered by the IOTC Agreement or IOTC Conservation and Management Measures; or</li> </ul> </li> <li>d) the flag State of a vessel included in the Draft IUU Vessel List provides information that demonstrates that effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures by vessels that fly its flag.</li> </ul>



		<p>Australia notes that none of the information provided by Indonesia meets the above criteria of paragraph 14 (a) to (d). Furthermore, the response provided by Indonesia does not provide any information to demonstrate whether the vessel has or has not, as per Resolution 18/03 (paragraph 10):</p> <ul style="list-style-type: none"><li>a) conducted fishing activities in a manner consistent with IOTC Conservation and Management Measures in force; or</li><li>b) conducted fishing activities in a manner consistent with the laws and regulations of a coastal State when fishing in the waters under the jurisdiction of that State, and with the law and regulations of the flag State and the Authorisation to Fish; or</li><li>c) conducted fishing activities exclusively for species that are not covered by the IOTC Agreement or IOTC Conservation and Management Measures.</li></ul> <p>None of these requirements have been demonstrated or met. Therefore, the Compliance Committee must include the vessel on the Provisional IUU vessel list and recommend to the Commission that the vessel be included on the IUU Vessel List (Resolution 18/03 paragraph 15).</p>
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