



CCSBT-CC/1310/06

Consideration of an IUU Vessel List for the CCSBT

INTRODUCTION

One of the recommendations from Kobe 3 was that tuna Regional Fisheries Management Organisations (tRFMOs) should cooperate to harmonise IUU vessel listing criteria and procedures to the maximum extent possible. It was also recommended, that tRFMOs should move towards adopting principles, criteria, and procedures for cross-listing IUU vessels that are listed on the IUU vessel lists of other tRFMOs. The CCSBT is the only tRFMO currently without an IUU vessel list.

The Seventh Meeting of the Compliance Committee (CC7) requested that the Executive Secretary prepare a draft IUU Vessel List measure for the CCSBT which is compatible with those of other RFMOs. CC7 also requested that an indication of the costs and benefits of such a draft measure be provided when circulating this draft for intersessional comment.

In accordance with CC7's request, a draft CCSBT IUU Vessel List Resolution was developed by the Secretariat. This draft was prepared using similar resolutions adopted by other RFMOs such as the IATTC, ICCAT, IOTC, SPRFMO (the most recently adopted) and WCPFC as a base. A discussion of the potential costs and benefits of adopting a CCSBT IUU Vessel List Resolution was also presented. The draft CCSBT Resolution together with the discussion of potential costs and benefits was circulated to Members for comment on 16 May 2013.

Comments on the draft were received from Australia, Indonesia, Japan, New Zealand and Taiwan.

DRAFT CCSBT RESOLUTION

The Secretariat has prepared an updated draft CCSBT Resolution for consideration by CC8. This revised draft is essentially the same document as provided in Circular #2013/022, but now also incorporates intersessional comments received from Members. This updated draft is provided at **Attachment A**.

As in the previous draft, in order to assist Members in determining how the CCSBT's draft Resolution differs from other RFMOs' Conservation and Management Measures (CMMs)/ Recommendations/ Resolutions, the Secretariat has retained its comments and/or tracked changes (comments labelled "SDI") noting where:

- The paragraphs concerned contain significant differences from corresponding paragraphs used in other RFMOs' CMMs/ Recommendations/ Resolutions; or
- The Secretariat has elected to use text from one RFMO in particular.

The following additional items have now also been added to the draft:

- Amendments and comments provided by Australia, Indonesia, Japan, New Zealand and Taiwan in tracked change mode and Member-specific comment boxes,
- Two additional amendments made to the draft by the Secretariat. These additional amendments are indicated by comments labelled "SDI-add1", and
- Minor changes to some comments that do not change their meaning - these changes have not been tracked.

Copies of the other RFMOs' CMMs, Recommendations or Resolutions referenced while developing the CCSBT draft Resolution are provided at **Attachments B to F** as listed in the table below.

Attachment	RFMO	Reference	Title
B	IATTC	Resolution C-05-07	Resolution to Establish a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the Eastern Pacific Ocean
C	ICCAT	Recommendation 11-18	Recommendation by ICCAT further amending recommendation 09-10 establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the ICCAT Convention Area
D	IOTC	Resolution 11/03	Resolution 11/03 on establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence
E	SPRFMO	CMM 1.04	Conservation and Management Measure establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the SPRFMO Convention Area
F	WCPFC	CMM 2010-06	Conservation and Management Measure to establish a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the WCPO

COSTS and BENEFITS

In order to address the second part of CC7's request, some of the potential costs and benefits associated with the adoption of a CCSBT IUU Vessel List Resolution are discussed below.

1.Potential Costs

Intersessional Correspondence and Administration

Additional intersessional administrative tasks will be required of both Members and the Secretariat in terms of managing and responding to the CCSBT IUU Vessel Listing process. Members will be required to review and appraise vessels (and all associated evidence submitted) that appear on Draft, Provisional and/or Final CCSBT IUU Vessel Lists. This will include consideration of any intersessional deletion and potentially also cross-listing requests.

It is not possible to accurately quantify the extent of additional work required, but the Secretariat expects to be able to absorb its component of the additional work within current resourcing levels. However, this will of course be subject to work arising from other decisions and requests made by the Extended Commission and its subsidiary bodies.

Meeting Costs

If an IUU Vessel List Resolution is adopted, a corresponding agenda item will need to be added to each annual meeting of the Compliance Committee so that consideration of Draft, Provisional and Current CCSBT IUU Vessel Lists can occur. Discussions would need to include consideration of any nominated cross-listed vessels for which objections were received, and this could potentially add further to the length of IUU Vessel List agenda items. Depending on whether urgent matters arise, there would probably be sufficient time to include discussion of this new agenda item within the current three day Compliance Committee meeting timeframe. However, it is unlikely that it would be possible to consider reducing the length of Compliance Committee meetings to two days as has sometimes been suggested in the past.

Adoption of the IUU Vessel List would also require annual meetings of the Extended Commission (EC) to consider the List. This could occur under a separate agenda item or within the context of the Report from the Compliance Committee. Provided that the Compliance Committee provides a firm recommendation, neither option should add significantly to the current EC meeting length.

2. Potential Benefits

Restriction of Port Access

The draft CCSBT IUU Vessel List Resolution provides a mechanism for addressing IUU fishing directly by including provisions to deny access to CCSBT IUU-listed vessels into:

- Ports of Parties to any RFMOs that have cross-listed the CCSBT's IUU Vessel List; and
- Ports of Parties to the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing once this agreement has entered into force (refer to Article 9(4) of that Agreement below):

Port State Measures Agreement – Article 9(4)

4. Without prejudice to paragraph 1 of this Article, when a Party has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a relevant regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law, the Party shall deny that vessel entry into its ports, taking into due account paragraphs 2 and 3 of Article 4.

Kobe Process

Adopting a CCSBT IUU Vessel List and Resolution (especially if this includes a cross-listing component) would progress the work of the Kobe process in relation to enhancing the effectiveness of IUU vessel listings as an effective compliance tool. Kobe 3's recommendations encourage RFMOs to cooperate to harmonise IUU vessel listing criteria and procedures to the maximum extent possible, and to move towards adopting principles, criteria and procedures for cross-listing IUU vessels that are listed on the IUU list of other RFMOs.

Recommendation

The Secretariat notes that it would be practical to defer the cross-listing provision contained in the attached draft Resolution until:

- The CCSBT's own IUU Vessel List has been operational for 1-2 years to enable CCSBT Members to become familiar with the listing process before including complexities that might arise through cross-listing;
- Members have decided which RFMOs/organisations to cross-list with, and
- The Secretariat has had the opportunity to hold discussions with both Members and other RFMOs/organisations on the associated operational requirements.

Prepared by the Secretariat

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

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 regional ~~tuna~~ fisheries management organisations (and conservation organisations with the characteristics of an RFMO, e.g. CCAMLR) 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:

Comment [TW1]: Taiwan made one general comment about the draft as follows: "...we still have serious concerns for some paragraphs; therefore, we would like to further discuss this proposal item by item in the Compliance Committee meeting."

Comment [SDI2]: Common to all

Comment [SDI3]: CCSBT-specific

Comment [SDI4]: Common to all – minor wording differences

Comment [SDI5]: Common to all – minor wording differences

Comment [SDI6]: From WCPFC/IATTC

Comment [AU7]: Amendment suggested by Australia to allow for greater cooperation.

Comment [SDI8]: Common to all – except IOTC/ICCAT refer to "large-scale fishing vessels"

Comment [SDI9]: Common to all – minor wording differences

Comment [SDI10]: WCPFC and SPRFMO have something similar which is specific to their Conventions

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 new information received from Members/ Cooperating non-Members (CNMs). 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 agreed updated current CCSBT IUU Vessel List. CCSBT IUU Vessel List definitions are provided at Annex I.
3. For the purposes of this Resolution, the fishing vessels flying the flag of a State or entity 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 registered on the CCSBT list of vessels authorised to fish for SBT, or;

Comment [SDI11]: Only in WCPFC measure – wording has been modified here

Comment [SDI12]: Added as a new paragraph unique to CCSBT's Resolution – to try to clarify the annual process with respect to the various CCSBT IUU Vessel List types. This was added because the Secretariat did not find the process easy to follow in some of the other RFMOs' Resolutions.

Comment [JP13]: The detailed procedure is provided in paragraph 7-19 and Annex 1. We are not sure the necessity of this paragraph.

Comment [AU14]: AU commented; "Suggest aligning this paragraph in accordance with general comment 1 – that the Commission needs to agree, by consensus, the CCSBT IUU Vessel List each year – even if it is simply reconfirming the list from the previous year."

Comment [AU15]: Deleted by Australia with the comment: "Should incorporate all information and not just 'new' information."

Comment [SDI16]: Common to all with wording differences but generally followed the ICCAT wording here; WCPFC is the only one which says "suitably documented" evidence

Comment [AU17]: Multiple small amendments made to the tenses in para 3 to reflect AU's comment: "As the section is referring to evidence we suggest it should change to: vessels have: a) Harvested SBT... c) Not recorded and/or reported... d) used prohibited... etc"

Comment [JP18]: Deleted by Japan with the comment: "In order to include non-flag vessels as a target of the measure, this part should be deleted."

Comment [SDI19]: "SBT" inserted here for clarification instead of referring to a Convention Area – because CCSBT doesn't have a Convention Area; "SBT" is inserted for the same purpose throughout this draft

Comment [SDI20]: Common to all

Comment [ID21]: ID commented : "This paragraph emphasize that the fishing vessels which harvest SBT and are not registered on the CCSBT list of vessels authorized to fish for SBT, are presumed to have carried out SBT IUU fishing activities. This paragraph should be clarified relating to the artisanal vessels, where Indonesia's artisanal vessels are small vessels which are not catch SBT as target but as by-catch, and part of Indonesia's water also cover part of the Indian Ocean where the SBT are, and also Indonesia regulates that the vessels which registered to the CCSBT authorized vessel list are the vessel above 30 GT."

- b. ~~Harvested SBT whose flag State or entity has exhausted or has no is without sufficient quotas, catch limit or effort is without sufficient allocation of the Total Allowable Catch for SBT, including, if applicable, any additional allocation received from another Member or CNM authorised by the CCSBT, or any CCSBT authorised Research Mortality Allowance for SBT¹, under relevant CCSBT conservation and management measures unless the overcatch is paid back in accordance with CCSBT's Corrective Action Policy or otherwise satisfactorily dealt with~~ or;

Comment [SDI22]: Common to all, except SPRFMO is the only one including "those received from another Member or CNCP under relevant SPRFMO conservation and management measures"

Comment [NZ23]: NZ commented: "We have concerns with the suggestion that vessels should be added to the IUU list if their "flag State or entity has exhausted or has no allocation" (par. 3b). The issue of a vessel harvesting SBT while its flag State or entity has exhausted its allocation is a failure of the administration rather than the vessel while the issue of having no allocation seems unnecessary in light of the requirement for vessels to be on the CCSBT list of authorised vessels. The fact that the paragraph refers to the corrective action policy on payback just further reinforces that this is a country administration issue rather than one that is vessel specific. This requirement would also be difficult to enforce."

Comment [ID24]: Indonesia commented:
 1) "We have a concern regarding the vessel that are presumed to have carried out SBT IUU fishing activities as defined in paragraph 3 point (b) of the draft such as "Harvest SBT whose flag state or entity has exhausted or has no allocation of Total Allowable Catch for SBT. As we have officially reported to CCSBT that in Indonesia longliner fisheries, SBT is presumed as bycatch and not target species. Fishers are not intending to catch SBT but bigeye and yellowfin as primary target species. For that reason, we can not allocate the SBT quota by individual fishing vessel basis, since it is not practicable in our views. In this regards, it is a big concern for Indonesia concerning the fishing vessels to be included into the CCSBT IUU Vessel list in case there is an indication of harvesting SBT when Indonesia has exhausted allocation of TAC for SBT", and
 2) "To implement this paragraph requires considerable monitoring effort in this currently situation, because it's still difficult in monitoring catches against quotas in a timely manner. Regarding to this matter, Indonesia implement the CDS since 2010 and still need to identify how much exactly the catch of SBT in Indonesia. And it's currently seen that the SBT quota for Indonesia is lower than the Indonesia's catch of SBT, so that Indonesia's quota should be increased close to actual catch of SBT by Indonesia."

Comment [JP25]: Amended by Japan with the comment: "Member countries themselves are primarily responsible for the management of the TAC allocated for members. It is inappropriate to blame fishers/vessels for exhaustion of country quotas."

Comment [JP26]: Added by Japan

Comment [AU27]: Deleted by Australia and added as a footnote instead

¹ Unless the overcatch is paid back in accordance with CCSBT's Corrective Action Policy or otherwise satisfactorily dealt with

- c. ~~Did~~ not record and/or report their ~~SBT~~ catches or catch-related data in accordance with ~~CCSBT reporting requirements~~, or ~~make~~ false reports, or;
- ~~d. Take on board, tranship or land undersized fish in a way that undermines CCSBT conservation and management measures, or;~~
- ~~e. Engage in fishing during closed fishing periods or in closed areas, without or after exhaustion of a quota or beyond a closed depth, in contravention of CCSBT conservation and management measures;~~
- d. ~~Use~~ prohibited or non-compliant fishing gear in a way that undermines CCSBT conservation and management measures, or;
- e. ~~Transhipped~~ with, or participated in joint operations such as re-supplying or re-fuelling vessels included in the CCSBT IUU Vessel List, or;
- f. ~~Harvested~~ SBT in the waters under the national jurisdiction of the coastal State or entity without authorisation and/or ~~committed a serious infringement~~s of its laws and regulations ~~directly related to SBT fishery~~, without prejudice to the sovereign rights of coastal State or entity to take measures against such vessels, or;
- g. ~~Are without nationality and engage in fishing for SBT, or;~~
- h. ~~Engaged~~ in fishing activities for SBT, including transshipping, re-supplying or re-fuelling, contrary to any other CCSBT conservation and management measures, or;
- i. ~~Are~~ Were under the control of the owner of any vessel on the CCSBT IUU Vessel List.

- Comment [SDI28]:** Common to all – wording differences
- Comment [JP29]:** In our understanding, Member countries are responsible for the CCSBT data reporting requirements. Does this “reporting requirements” indicate the CDS?
- Comment [SDI30]:** Deleted as not relevant for CCSBT
- Comment [SDI31]:** Deleted as CCSBT doesn't have closed areas
- Comment [SDI32]:** Common to all
- Comment [JP33]:** What does “non-compliant fishing gear” exactly mean?
- Comment [SDI34]:** Common to all
- Comment [SDI35]:** From ICCAT, IOTC
- Comment [JP36]:** Amended by Japan with the comment: “Some coastal members of CCSBT have complicated and detailed rules for SBT fishery operations. Japan has concern about this phrase, since minor breaches of such a detailed rule might be raised as IUU activities.”
- Comment [SDI37]:** Common to all – however, the Secretariat deleted this item as it appears to be effectively covered by paragraph 3a above
- Comment [SDI38]:** Common to all – wording differences
- Comment [SDI39]:** From IATTC, WCPFC

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.~~

- Comment [SDI40]:** Common to all – wording and timing differences
- Comment [NZ41]:** NZ commented: “The requirement for CCMs to have their list into the Secretariat at least 14 weeks prior to the CC meeting (par. 4) seems high when compared to other RMFOs. WCPFC IUU list requires members to have the list in 70 days prior to the TCC meeting, which was changed from 120 days. The 98 day requirement creates a risk that Members/CNMs may miss the opportunity to list vessels because of the timeframe and are then forced to wait a full year before getting the opportunity to redress the issue. Having a shorter timeframe for Members/CNMs to submit their list to the Secretariat admittedly places greater pressure on the Secretariat to process the information and send it back out to members so the 10 week deadline under par. 7 may also need to be amended.”
- Comment [SDI42]:** IOTC and WCPFC use 70 days; ICCAT and SPRFMO use 120 days

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:
- Relevant resolutions/decisions of the CCSBT, as adopted and amended from time to time;
 - a bis) Reports by Members and CNMs on vessel inspections;
 - Reports by Members and CNMs relating to CCSBT conservation and management measures in force;
 - TCatch 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
 - 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.

Comment [SDI43]: a)– d) are from IOTC, SPRFMO; b) -d) are also included in WCPFC's measure in para 2

Comment [AU44]: AU commented: "There is no sub point incorporating information collected from the inspection of vessels. While we understand that there is no boarding and inspections scheme in CCSBT, but vessels can be inspected under other international agreements or in port and IUU fishing for SBT could be determined. We suggest an additional dot point to capture the importance of this relevant source of information."

Comment [SDI45]: The tracked changes are CCSBT-specific additions

Comment [SDI46]: From SPRFMO, WCPFC – wording differences

Draft CCSBT IUU Vessel List

- 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, 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.
- 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.
- 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.
- 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 evidencesuitably documented information as described in paragraph 23, showing that the listed vessels have not fished for SBT in a way that undermines CCSBT conservation

Comment [SDI47]: Common to all – wording differences

Comment [SDI-add148]: Updated to the correct Annex number by the Secretariat based on comments made by Australia

Comment [NZ49]: NZ suggested that this timeframe may need to be amended if the timeframe in para 4 is amended

Comment [SDI50]: IOTC and WCPFC have 55 days, ICCAT and SPRFMO have 90 days. The timing for CCSBT's processes has been set out to allow the final Draft IUU Vessel List 4 weeks before the CC meeting.

Comment [SDI51]: 7 + 8: Common to all – wording differences

Comment [SDI52]: Only sent to Members and CNMs here; not to NCNMs

Comment [SDI53]: Common to all – wording differences; CCSBT-specific changes are tracked

Comment [SDI54]: 30 days is the number used by SPRFMO and ICCAT, 15 days for IOTC, 10 days for WCPFC. The timing for CCSBT's processes has been set out to allow the final Draft IUU Vessel List 4 weeks before the CC meeting.

and management measures.

11. On the basis of the information received pursuant to paragraphs 7 and 10, the Executive Secretary shall re-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.

Comment [SDI55]: Paras 11 and 12 follow more closely with the process described in WCPFC and SPRFMO measures in that the Draft List does not become provisional until adopted as a Provisional list by the CC. For ICCAT, IOTC and IATTC, it is the Exec Sec that draws up the Provisional List based on the Draft list and any additional correspondence in relation to that. The tracked changes represent CCSBT-specific changes.

Comment [SDI56]: IOTC, ICCAT and SPRFMO have 2 weeks; WCPFC has 7 days. The timing for CCSBT's processes has been set out to allow the final Draft IUU Vessel List 4 weeks before the CC meeting.

Comment [SDI57]: Common to all – wording diffs; only IOTC and WCPFC mention that NCNMs concerned can submit additional info at any time

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.

Comment [SDI58]: Generally follows ICCAT, IOTC and SPRFMO except that at this point ICCAT and IOTC call the List a "Provisional IUU List" rather than a "Draft IUU List" even though the content seems not yet to have changed from the Draft List content

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.
 - b) Recommend to the Extended Commission which, if any, vessels should be removed from the current CCSBT IUU Vessel List adopted at the previous CCSBT annual meeting, following consideration of the current List, and of the information and evidence circulated under paragraphs 10 and 12 and the information received in accordance with paragraph 23.

Comment [SDI59]: From ICCAT, IOTC and SPRFMO – wording and paragraph reference differences

Comment [SDI-add160]: Updated to the correct Annex number by the Secretariat based on comments made by Australia

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.

Comment [SDI61]: It didn't appear as though a re-consideration of vessels already removed from the current IUU List was required here, hence the forward reference to considering the information provided in accordance with paragraph 23 has been deleted.

Comment [SDI62]: From WCPFC and SPRFMO

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 under their applicable legislation, international law and each Member/ CNMs' international obligations to:

- a) ~~Remove or withdraw any fishing authorisations for harvesting SBT fisheries resources under the competence of CCSBT granted to vessels on the CCSBT IUU Vessel List and not to grant SBT fishing licenses, or permits or licenses to those vessels;~~
- b) Ensure that the fishing vessels, ~~support vessels, re-fuelling vessels, mother ships and the cargo vessels~~ flying their flag do not assist in any way, engage in fishing processing operations or participate in any transshipment 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) ~~Prohibit~~ Ensure that the foreign flagged vessels included on the CCSBT IUU Vessel List do not enter into their ports ~~of vessels included on the CCSBT IUU Vessel List~~, 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) ~~Prohibit~~ Ensure that the chartering of a vessel included in the CCSBT IUU Vessel List ~~are not chartered based on its license~~;
- f) ~~Refuse~~ Ensure that to grant their flag to 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 ~~Prohibit the~~ are not imported, or landed and/or transhipped, of SBT from vessels included in the CCSBT IUU Vessel List;

Comment [SDI63]: From WCPFC, SPRFMO; also appears in ICCAT Measure but only with respect to non-Members

Comment [SDI64]: Para 18 sub-clauses b) – i) are generally common to IATTC, ICCAT, IOTC, SPRFMO and most are also common to WCPFC - wording differences

Comment [NZ65]: NZ commented: " Par. 18 has a number of punitive measures to apply to SBT IUU vessels which aren't limited to SBT (e.g. deny access to port to refuel) and some that are SBT specific (e.g. no landing of SBT and cancelling permit for SBT). It is preferable to have consistency across the measures and their application so that we either make all punitive measures SBT specific or take a more proactive wider IUU approach. New Zealand would prefer the latter position especially when considering the links between this resolution and the draft PSM resolution along with the need to take a holistic view of the IUU fisheries trade. It would also be difficult to justify allowing a vessel that was listed on the CCSBT IUU list to continue fishing for other species – if the vessel is truly a risk for IUU fishing then it stands to reason that the risk is unlikely to be limited to a single species."

Comment [SDI66]: Sub-clause a) only included in SPRFMO's measure

Comment [JP67]: Deleted by Japan with the comment: "Effective enforcement actions not limited to removal of fishing authorization should be taken in accordance with the domestic legislation of each members. In that case, it overlaps with paragraph 17b) so this item should be deleted."

Comment [JP68]: Deleted by Japan with the comment: "The CCSBT Convention defines the term "fishing" as including direct support for direct fishing activities. In our understanding, the term "fishing vessel" in this draft is used in the same context. Thus this phrase should be deleted to avoid confusion."

Comment [JP69]: Amended by Japan with the comment: "Whether or not imposing direct prohibition, necessary measures to ensure substantial effect must be implemented. In this regard, subparagraph d), e), f), and g) are changed."

Comment [JP70]: Amended by Japan with the comment: "It is impossible to prohibit entry into ports of domestic vessels. The target of this paragraph should be explicitly limited to foreign vessels."

Comment [JP71]: Amended by Japan

Comment [JP72]: Amended by Japan

Comment [JP73]: Amended by Japan

- h) ~~Encourage the importers, transporters and other sectors concerned, to refrain from transaction and transshipment of SBT harvested by vessels included in the CCSBT IUU Vessel List; and~~
- i) 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.

Comment [NZ74]: Deleted by NZ with the comment:
" Par. 18h seemed unnecessary in light of 18g and the use of "encourage" rather than "prohibit" somewhat undermines the prohibition found in 18g."

Comment [SDI75]: The tracked changes indicate a CCSBT-specific item that was added in

Comment [SDI76]: Common to all – wording differences

- 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 will decide which Regional Fisheries Management Organisations (RFMOs) it wishes to cross-list IUU Vessel lists with. The Executive Secretary will maintain and publish a list of RFMOs that CCSBT has agreed to cross-list IUU vessel lists with on the CCSBT website.~~

~~The Executive Secretary will request that these RFMOs will cross-list CCSBT's IUU Vessel List.~~

Comment [AU77]: AU provided the following general comment:
"Suggest the inclusion of cross-listing be discussed amongst RFMO secretariats, due to this being a new concept. However my understanding of the cross-listing takes the measure away from just fishing for SBT (which might require some more work around the wording throughout the measure), but allows all vessels which have acted in contravention to an RFMO's conservation and management measures can be listed creating greater exposure worldwide for IUU vessels."

- 21. ~~Upon receipt of a request to cross-list of the final IUU Vessel List established by another RFMO that the CCSBT has decided to cross-list with managing tuna or tuna-like species, as well as supporting information considered by that RFMO, and any other information regarding the listing determination, the Executive Secretary shall circulate this information to Members and CNMs. Vessels that have been included on or deleted from the respective lists shall be included on or deleted from the CCSBT IUU Vessel List as appropriate, unless any Member objects to the inclusion on ~~deletion from~~ the final CCSBT IUU list within 30 days of the date of transmittal by the Executive Secretary ~~on the grounds that:~~~~

Comment [SDI78]: This is a new paragraph inserted by CCSBT

Comment [AU79]: AU commented:
"Suggest that this text could be slightly altered to align with those RFMOs/organisations in which the CCSBT currently have an MOU/Arrangement with."

Comment [SDI80]: Para 21 comes from the ICCAT measure only– the modifications added in by CCSBT are tracked

~~For inclusions, a Member may object on the grounds that:~~

- a) There is satisfactory information to establish that:
 - i) The vessel did not engage in the SBT IUU fishing activities identified by the other RFMO, or
 - ii) That effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity,

Comment [JP81]: Deleted by Japan with the comment:
"For a vessel listed through cross-list scheme, decisions of the RFMO that originally list it should be respected."

Comment [SDI82]: Added by CCSBT for clarity

Comment [JP83]: Deleted by Japan

or

- b) There is insufficient supporting information and other information regarding the listing determination to establish that ~~none of~~ the conditions in subparagraph a) above have been met,

or

For deletions, a Member may object on the grounds that:

i) the vessel was independently listed by CCSBT and there is not sufficient documented evidence to overturn the independent CCSBT listing,

or

ii) the vessel remains independently listed by at least one other RFMO that the CCSBT has decided to cross-list with.

In the event of an objection to a vessel listed by another RFMO that the CCSBT has decided to cross-list with managing tuna or tuna like species being included on the final CCSBT IUU Vessel List pursuant to this paragraph, such that vessel shall be placed on the Draft IUU Vessel List and considered by the CC pursuant to paragraph 14.

Trade Measures/ Sanctions

22. 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 paragraph 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 23 - 27, on the grounds that such vessels are involved in SBT IUU fishing activities.

Deletion from the CCSBT IUU Vessel List

23. A Member, CNM or NCNM whose vessel appears on the CCSBT IUU Vessel List may request the removal of the vessel from the list 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;

Comment [SDI84]: Added by CCSBT for clarity

Comment [JP85]: Deleted by Japan with the comment: "In these cases the vessel obviously should not be deleted from the list. The provision of "may object to deletion" is not appropriate."

Comment [NZ86]: NZ commented: "We would suggest the addition of another potential reason for objecting to a deletion and that would simply be that CCSBT members/CNMs don't agree with the decision of the other RFMO. The scenario this would look to avoid is one where breaches in the other RFMO have been resolved but evidence of SBT IUU fishing remains. For that same reason, we would also have the CC review suggested deletions in the same way that the current proposal has it review additions."

Comment [SDI87]: Common to all

Comment [SDI88]: Paragraph 22 may be better located immediately before the sub-header "CCSBT IUU Vessel List". However, other tRFMOs have this paragraph located here, i.e. directly before the "Deletion from/ Modification of the CCSBT IUU Vessel List" sub-header.

Comment [SDI89]: The wording for para 23 is similar for IOTC, SPRFMO and WCPFC; ICCAT has similar clauses but only for Non-contracting parties

- 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.
24. On the basis of the information received in accordance with paragraph 23, 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.
25. 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 24.
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.
26. 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.
27. 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.
28. If Members disagree with the request for the removal of the vessel from the CCSBT IUU Vessel List, the vessel will be maintained on the CCSBT IUU Vessel List and the Executive Secretary will inform the Members, CNMs as well as any NCNMs that made the removal request.
- Comment [SDI90]:** Only WCPFC has this clause
- Comment [SDI91]:** Common to all except IATTC – differences in wording
- Comment [SDI92]:** Follows ICCAT, except ICCAT allows 30 days; 21 days is specified here to match the number of days specified in the Rules of Procedure
- Comment [SDI93]:** Follows SPRFMO and WCPFC which have inserted references to the Rules of Procedure (ROP) here – ICCAT does not refer to the ROP
- Comment [SDI94]:** General paragraph here is common to all – differences in wording
- Comment [SDI95]:** Similar clauses in ICCAT, IOTC, SPRFMO and WCPFC
- Comment [SDI96]:** Follows WCPFC
- Comment [NZ97]:** NZ commented: “It may be helpful to clarify how many Members exactly need to disagree”.

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 23 to 28.

ANNEX II: CCSBT Reporting Form for SBT Illegal Activity

~~Recalling the CCSBT Resolution *On establishing a list of vessels presumed to have carried out illegal, unregulated and unreported fishing for SBT*, attached are details of illegal activity recorded in~~

Comment [SDI198]: Generally used IOTC and SPRFMO as a base for this Annex. Tracked changes denote CCSBT-specific amendments to the text used by those RFMOs.

Comment [SDI199]: Deleted by the Secretariat as this introductory paragraph seemed un-necessary

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) ~~and Master/Fishing Master;~~
- i Master/Fishing master name and nationality;
- j~~h~~ Date of alleged SBT IUU fishing activities;
- k~~j~~ Position (as accurately identified as possible)² of the alleged SBT IUU fishing activities (if available);
- l~~k~~ 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~~m~~ Outcome of actions taken.

Comment [SDI100]: UVI is only included by SPRFMO

Comment [SDI101]: From ICCAT, SPRFMO

Comment [NZ102]: Item h) split into two separate items by NZ with the comment:
 "Many countries now have control of nationals provisions in their legislation (including NZ) so information on the Master's nationality is important."

² 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

~~Indicate with~~Place a "X" ~~next to~~ the individual elements of paragraph 3 of this Resolution ~~on establishing a List of Vessels Presumed to have Carried Out Illegal, Unreported and Unregulated Fishing Activities For Southern Bluefin Tuna (SBT) 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.

<u>Parag raph Refer ence# em</u>	<u>Definition</u> <u>SBT IUU Fishing Activity</u>	<u>Indicate</u>
<u>3a</u>	Harvest <u>SBT</u> and are not registered on the CCSBT list of vessels authorised to fish for SBT	
<u>3b</u>	Harvest <u>SBT</u> whose flag State or entity has exhausted or has no is <u>without sufficient quotas, catch limit or effort is without sufficient</u> allocation <u>of the Total Allowable Catch for SBT</u> , including, if applicable, <u>any additional allocation</u> received from another Member or CNM <u>authorised by the CCSBT, or any CCSBT authorised</u> <u>Research Mortality Allowance for SBT, under relevant CCSBT</u> conservation and management measures unless the overcatch is paid back in accordance with CCSBT's Corrective Action Policy or otherwise satisfactorily dealt with	
<u>3c</u>	Do not record and/or report their <u>SBT</u> catches or catch-related data in accordance with CCSBT reporting requirements, or make false reports	
<u>3d</u>	Take on board, tranship or land undersized fish in a way that undermines in contravention of CCSBT conservation and management measures	
<u>3e</u>	Engage in fishing during closed fishing periods or in closed areas, in contravention of CCSBT conservation and management measures	
<u>3d</u>	Use prohibited or non-compliant fishing gear in a way that undermines CCSBT conservation and management measures	
<u>3e</u>	Tranship with, or participate in joint operations such as re-supplying or re-fuelling vessels included in the CCSBT IUU Vessel List	
<u>3f</u>	Harvest <u>SBT</u> in the waters under the national jurisdiction of the coastal State or entity without authorisation and/or infringes its laws and regulations, without prejudice to the sovereign rights of coastal State or entity to take measures against such vessels	
<u>3g</u>	Are without nationality and engage in fishing for SBT	
<u>3h</u>	Engage in fishing activities for <u>SBT</u> , including transshipping, re-supplying or re-fuelling, contrary to any other CCSBT conservation and management measures	

Comment [JP103]: Amended by Japan with the comment: "Same as the comment on paragraph 3b."

Comment [SDI104]: Deleted in line with deleted paragraph 3d)

Comment [SDI105]: Deleted in line with deleted paragraph 3e)

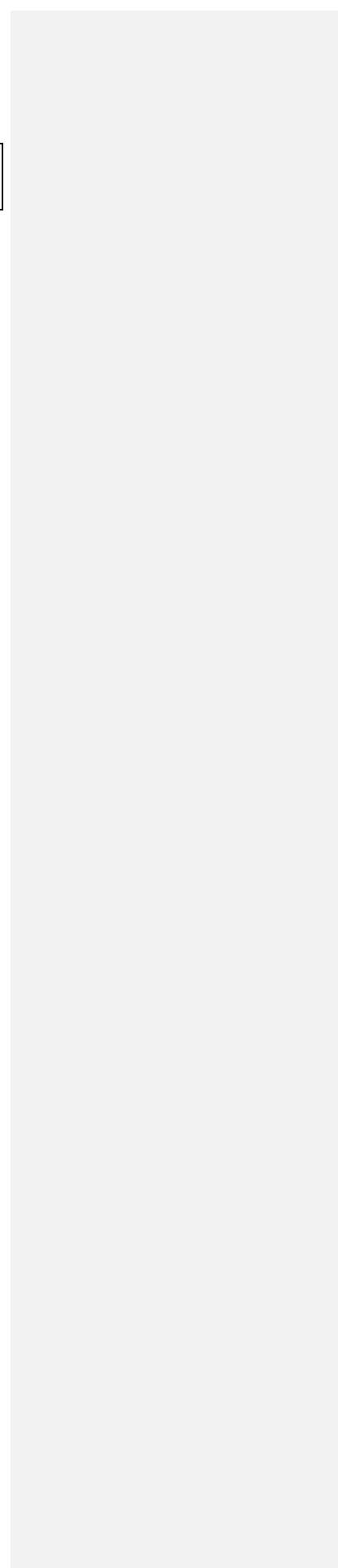
Comment [SDI106]: Deleted in line with deleted paragraph 3g)

<u>3i</u>	Are under the control of the owner of any vessel on the CCSBT IUU Vessel List	
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3. Associated Documents

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

DRAFT



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) Master/Fishing master name and nationality
- vi) Call sign of the vessel and previous call sign/s, if any;
- vii) Lloyds/IMO and UVI number, if available;
- viii) Photograph(s) of the vessel, where available;
- ~~ix~~ix) Date vessel was first included on the CCSBT IUU Vessel List;
- x) Summary of the activities which justify inclusion of the vessel on the List, together with references to all relevant supporting documents and evidences;-
- xi) Date and location of any subsequent sightings of the vessel, if any;
- xii) Summary of any other related activities performed by the vessel contrary to CCBST conservation and management measures, if any.

Comment [SDI107]: Used ICCAT, IOTC, SPRFMO and WCPFC as a base for this Annex

Comment [SDI108]: From ICCAT, SPRFMO

Comment [NZ109]: Added by NZ

Comment [SDI110]: Only included by SPRFMO

Comment [AU111]: Added by AU with the comment:
"This is based on the CCAMLR list and we have found this information quite useful"

INTER-AMERICAN TROPICAL TUNA COMMISSION
COMISIÓN INTERAMERICANA DEL ATÚN TROPICAL

73RD MEETING

LANZAROTE (SPAIN)
20-24 JUNE 2005

RESOLUTION C-05-07

**RESOLUTION TO ESTABLISH A LIST OF VESSELS PRESUMED TO
HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED
FISHING ACTIVITIES IN THE EASTERN PACIFIC OCEAN**

The Inter-American Tropical Tuna Commission (IATTC):

Recalling that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, 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) fishing activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

Concerned that IUU fishing activities in the Convention area undermine the effectiveness of the IATTC conservation and management measures.

Further concerned that there is a possibility that vessel owners engaged in such fishing activities may have re-flagged their vessels to avoid compliance with IATTC management and conservation measures.

Determined to address the challenge of an increase in IUU fishing activities by way of counter-measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of flag States under the relevant IATTC instruments.

Considering the action undertaken in other regional tuna fisheries organizations to address this issue;

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

Noting that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreement;

Resolves as follows:

1. For the purposes of this resolution, vessels fishing for species covered by the IATTC Convention are presumed to have carried out IUU fishing activities in the EPO, *inter alia*, when an IATTC Party, cooperating non-Party, fishing entity or regional economic integration organization (collectively "CPCs") presents evidence that such vessels:
 - a. Harvest species covered by the IATTC Convention in the EPO and are not on the IATTC Regional Vessel Register, or
 - b. Do not record or report their catches made in the EPO, or make false reports, or
 - c. Take or land undersized fish in contravention of IATTC conservation measures, or
 - d. Fish during closures in contravention of IATTC conservation measures, or
 - e. Use prohibited fishing gear in contravention of IATTC conservation measures, or
 - f. Transship with vessels included in the IATTC IUU Vessel List, established by this resolution, or
 - g. Are without nationality and harvest species covered by the IATTC Convention in the EPO, or

- h. Engage in fishing activities contrary to any other IATTC conservation and management measures, or
 - i. Are under the control of the owner of any vessel on the IATTC IUU Vessel List.
2. Each CPC shall transmit to the Director, before 1 February of every year, a list of any vessels presumed to have carried out IUU fishing activities in the EPO during the current and previous years, accompanied by the evidence supporting the presumption of IUU fishing activity.

The IATTC IUU Vessel List shall be based on information collected by CPCs and from any other relevant sources. Information from CPCs should be provided in the format approved by the Parties.

3. On the basis of the information received pursuant to paragraph 2, the Director shall draw up a draft IATTC IUU Vessel List and shall transmit it, together with all the supporting evidence provided, to all CPCs, as well as to non-parties with vessels on the List, before 1 March of each year. CPCs and non-parties shall, before 15 April, transmit their comments to the Director, as appropriate, including evidence showing that the vessels neither have fished in contravention of IATTC conservation and management measures nor had the possibility of fishing for species covered by the IATTC Convention in the EPO.

Upon receipt of the draft IATTC IUU Vessel List, CPCs shall closely monitor the vessels included in the draft List in order to determine their activities and possible changes of name, flag and/or registered owner.

4. On the basis of the information received pursuant to paragraph 3, the Director shall draw up a provisional IATTC IUU Vessel List, and transmit it, two weeks in advance of the Annual Meeting of the Commission, to the CPCs and the non-parties concerned, together with all the evidence provided.
5. CPCs may at any time submit to the Director any additional information which might be relevant for the establishment of the IATTC IUU Vessel List. The Director shall circulate the information, together with all the evidence provided, to the CPCs and to the non-parties concerned, at least two weeks before the Annual Meeting of the Commission.
6. The IATTC-AIDCP Joint Working Group on Fishing by Non-Parties (Joint Working Group) shall each year examine the provisional IATTC IUU Vessel List, as well as the information referred to in paragraphs 3 and 5. The results of this examination may, if necessary, be referred to the Permanent Working Group on Compliance.

The Joint Working Group shall remove a vessel from the provisional IATTC IUU Vessel List if the vessel's flag State demonstrates that:

- a. The vessel did not engage in any of the IUU fishing activities described in paragraph 1, or
 - b. Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity.
7. Following the examination referred to in paragraph 6, the Joint Working Group shall recommend that the Commission approve the provisional IATTC IUU Vessel List, as amended by the Joint Working Group.
 8. Once the provisional IATTC IUU Vessel List is adopted by the Commission, the Commission shall ask non-parties with vessels on the IATTC IUU Vessel List to 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 Commission of the measures taken in this respect.
 9. CPCs shall take all necessary measures, under their applicable legislation and pursuant to paragraphs 56 and 66 of the IPOA-IUU, to:

- a. ensure that vessels flying their flag do not transship with vessels on the IATTC IUU Vessel List;
 - b. ensure that vessels on the IATTC IUU Vessel List that enter ports voluntarily are not authorized to land or transship therein;
 - c. prohibit the chartering of a vessel on the IATTC IUU Vessel List;
 - d. refuse to grant their flag to vessels on the IATTC IUU Vessel List, unless the vessel has changed owner, and the new owner has provided sufficient evidence demonstrating that 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 CPC determines that granting the vessel its flag will not result in IUU fishing;
 - e. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the IATTC Convention from vessels on the IATTC IUU Vessel List;
 - f. encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, species covered by the IATTC Convention caught by vessels on the IATTC IUU Vessel List;
 - g. collect, and exchange with other CPCs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the IATTC Convention from vessels on the IATTC IUU Vessel List.
10. The Director shall take any measure necessary to ensure publicity of the IATTC IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the IATTC website. Furthermore, the Director shall transmit the IATTC IUU Vessel List to other regional fisheries organizations for the purposes of enhancing co-operation between the IATTC and these organizations aimed at preventing, deterring and eliminating IUU fishing.
 11. This resolution shall apply to any fishing vessel greater than 24 meters overall length.
 12. Without prejudice to the rights of CPCs and coastal states to take proper action, consistent with international law, the CPCs shall not take any unilateral trade measures or other sanctions against vessels on the draft or provisional IATTC IUU Vessel Lists, pursuant to paragraphs 3 or 4, or that have been removed from the IATTC IUU Vessel List, pursuant to paragraph 6, on the grounds that such vessels are involved in IUU fishing activities.
 13. This resolution replaces Resolution C-04-04.

11-18

GEN

**RECOMMENDATION BY ICCAT FURTHER AMENDING RECOMMENDATION 09-10
ESTABLISHING A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT
ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN
THE ICCAT CONVENTION AREA**

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 Unregulated and Unreported (IUU) activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

RECALLING that ICCAT has already adopted measures against IUU fishing activities and, in particular, against large-scale tuna longline vessels,

CONCERNED by the fact that IUU fishing activities in the ICCAT area continue, and these activities diminish the effectiveness of ICCAT conservation and management measures,

FURTHER CONCERNED that there is evidence of a large number of vessel owners engaged in such fishing activities which have re-flagged their vessels to avoid compliance with ICCAT management and conservation measures, and to evade the ICCAT-adopted non discriminatory trade 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 under the relevant ICCAT instruments.

CONSIDERING the results of the ICCAT *Ad Hoc* Working Group on Measures to Combat IUU Fishing, which was held in Tokyo from May 27 to 31, 2002,

CONSCIOUS of the urgent need to address the issue of large-scale fishing vessels as well as other vessels conducting IUU fishing and fishing related activities in support of IUU fishing,

NOTING that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreement.

**THE INTERNATIONAL COMMISSION FOR THE CONSERVATION
OF THE ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:**

Definition of IUU Activities

1. For the purposes of this recommendation, the fishing vessels flying the flag of a non-Contracting Party, or a Cooperating non-Contracting Party, Entity or Fishing Entity, or a Contracting Party are presumed to have carried out illegal, unreported and unregulated fishing activities in the ICCAT Convention area, *inter alia*, when a Contracting Party or a Cooperating non-Contracting Party, Entity or Fishing Entity (hereafter referred to as CPC) presents evidence that such vessels:
 - a) Harvest tunas and tuna-like species in the Convention area and are not registered on the ICCAT list of vessels authorized to fish for tuna and tuna-like species in the ICCAT Convention area;
 - b) Harvest tuna and tuna-like species in the Convention area, whose flag State is without quotas, catch limit or effort allocation under relevant ICCAT conservation and management measures;
 - c) Do not record or report their catches made in the ICCAT Convention area, or make false reports;
 - d) Take or land undersized fish in contravention of ICCAT conservation measures;
 - e) Fish during closed fishing periods or in closed areas in contravention of ICCAT conservation measures;

- f) Use prohibited fishing gear in contravention of ICCAT conservation measures;
- g) Transship with, or participate in joint operations such as re-supply or re-fuelling vessels included in the IUU vessels list;
- h) Harvest tuna or tuna-like species in the waters under the national jurisdiction of the coastal States in the Convention area without authorization and/or infringes its laws and regulations, without prejudice to the sovereign rights of coastal States to take measures against such vessels,
- i) Are without nationality and harvest tunas or tuna-like species in the ICCAT Convention area, and/or
- j) Engage in fishing activities contrary to any other ICCAT conservation and management measures.

Information on alleged IUU activities

2. CPCs shall transmit every year to the Executive Secretary at least 120 days before the annual meeting, the list of vessels flying the flag of a non-Contracting Party presumed to be carrying out IUU fishing activities in the Convention Area during the current and previous year, accompanied by the supporting evidence concerning the presumption of IUU fishing activity.

This list shall be based on the information collected by CPCs, *inter alia*, under relevant ICCAT recommendations and resolutions.

Draft IUU List

3. On the basis of the information received pursuant to paragraph 2, the ICCAT Executive Secretary shall draw up a Draft IUU List. This list shall be drawn up in conformity with **Annex 1**. The Secretary shall transmit it together with the current IUU List as well as all the evidence provided to CPCs, and to non-Contracting Parties whose vessels are included on these lists before at least 90 days before the annual meeting. CPCs and non-Contracting Parties, shall transmit their comments, as appropriate, including evidence showing that the listed vessels have neither fished in contravention to ICCAT conservation and management measures nor had the possibility of fishing tuna and tuna-like species in the Convention area, at least 30 days before the annual meeting of ICCAT.

The Commission shall request the flag State to notify the owner of the vessels of its inclusion in the Draft IUU List and of the consequences that may result from their inclusion being confirmed in the IUU list adopted by the Commission.

Upon receipt of the Draft IUU List, CPCs shall closely monitor these vessels included in the Draft IUU List in order to determine their activities and possible changes of name, flag and/or registered owner.

Provisional IUU List

4. On the basis of the information received pursuant to paragraph 3, the Executive Secretary shall draw up a Provisional List which he will transmit two weeks in advance to the Commission meeting to the CPCs and to the non-Contracting Parties concerned, together with all the evidence provided. This list shall be drawn up in conformity with **Annex 1**.
5. CPCs may at any time submit to the ICCAT Executive Secretary any additional information, which might be relevant for the establishment of the IUU list. The ICCAT Executive Secretary shall circulate the information, at latest before the annual meeting, to the CPCs and to the non-Contracting Parties concerned, together with all the evidence provided.
6. The Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (PWG) shall examine, each year, the Provisional List, as well as the information referred to in paragraphs 3 and 5. The results of this examination may, if necessary, be referred to the Conservation and Management Measures Compliance Committee.

The PWG shall remove a vessel from the Provisional List if the flag State demonstrates that:

- The vessel did not take part in any IUU fishing activities described in paragraph 1, or

- Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution and imposition of sanctions of adequate severity.
7. Following the examination referred to in paragraph 6, at each ICCAT annual meeting, the PWG shall:
- i) Adopt a Provisional IUU Vessel List following consideration of the Draft IUU List and information and evidence circulated under paragraphs 3 and 5. The Provisional IUU Vessel List shall be submitted to the Commission for approval.
 - ii) Recommend to the Commission which, if any, vessels should be removed from the IUU Vessel List adopted at the previous ICCAT annual meeting, following consideration of that List, of the information and evidence circulated under paragraph 5 and the information received in accordance with paragraph 14.

IUU List

8. On adoption of the list, the Commission shall request non-Contracting Parties, whose vessels appear on the IUU List:
- To notify the owner of the vessel identified on the IUU Vessels List of its inclusion on the list and the consequences which result from being included on the list, as referred to in paragraph 9.
 - To take all the necessary measures to eliminate these IUU fishing activities, including if necessary, the withdrawal of the registration or of the fishing licenses of these vessels, and to inform the Commission of the measures taken in this respect.
9. CPCs shall take all necessary measures, under their applicable legislation:
- So that the fishing vessels, support vessels, refueling vessels, the mother-ships and the cargo vessels flying their flag do not assist in any way, engage in fishing processing operations or participate in any transshipment or joint fishing operations with vessels included on the IUU Vessels List;
 - So that IUU vessels are not authorized to land, tranship re-fuel, re-supply, or engage in other commercial transactions;
 - To prohibit the entry into their ports of vessels included on the IUU list, except in case of *force majeure*, unless vessels are allowed entry into port for the exclusive purpose of inspection and effective enforcement action;
 - To give priority to the inspection of vessels on the IUU list, if such vessels are otherwise found in their ports;
 - To prohibit the chartering of a vessel included on the IUU vessels list;
 - To refuse to grant their flag to vessels included in the IUU list, 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 CPC determines that granting the vessel its flag will not result in IUU fishing;
 - To prohibit the imports, or landing and/or transshipment, of tuna and tuna-like species from vessels included in the IUU list;
 - To encourage the importers, transporters and other sectors concerned, to refrain from transaction and transshipment of tuna and tuna-like species caught by vessels included in the IUU list;
 - To collect and exchange with other CPCs any appropriate information with the aim of searching for, controlling and preventing false import/export certificates regarding tunas and tuna-like species from vessels included in the IUU list.
10. The ICCAT Executive Secretary will take any necessary measure to ensure publicity of the IUU vessels list adopted by ICCAT pursuant to paragraph 7, in a manner consistent with any applicable confidentiality requirements, and through electronic means, by placing it on the ICCAT web site. Furthermore, the ICCAT Executive Secretary will transmit the IUU Vessels List to other regional fisheries organizations for the purposes of enhanced co-operation between ICCAT and these organizations in order to prevent, deter and eliminate illegal, unreported and unregulated fishing.

11. Upon receipt of the final IUU vessel list established by another regional fisheries management organization (RFMO) managing tuna or tuna-like species and supporting information considered by that RFMO, and any other information regarding the listing determination, the Executive Secretary shall circulate this information to the CPCs. Vessels that have been included on or deleted from the respective lists shall be included on or deleted from the ICCAT IUU Vessel List as appropriate, unless any Contracting Party objects to the inclusion on the final ICCAT IUU list within 30 days of the date of transmittal by the Executive Secretary on the grounds that:
- i) there is satisfactory information to establish that:
 - a) The vessel did not engage in the IUU fishing activities identified by the other RFMO, or
 - b) That effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity,or
 - ii) There is insufficient supporting information and other information regarding the listing determination to establish that none of the conditions in sub-paragraph i) above have been met.

In the event of an objection to a vessel listed by another RFMO managing tuna or tuna-like species being included on the final ICCAT IUU Vessel List pursuant to this paragraph, such vessel shall be placed on the Draft IUU Vessel List and considered by the PWG pursuant to paragraph 6.

12. This recommendation shall apply to fishing vessels 12 meters or greater in length overall and, *mutatis mutandis*, fish processing vessels, tug and towing vessels, vessels engaged in transshipment, and support vessels. The Commission shall, at its annual meeting in 2013, review and, as appropriate, revise this recommendation with a view to its extension to other types of IUU fishing activities.
13. Without prejudice to the rights of flag States and coastal States to take proper action consistent with international law, CPCs shall not take any unilateral trade measures or other sanctions against vessels provisionally included in the Draft IUU List, pursuant to paragraph 3, or which have been already removed from the list, pursuant to paragraph 6, on the grounds that such vessels are involved in IUU fishing activities.

Deletion from the IUU vessels list

14. A non-Contracting Party whose vessel appears on the IUU List may request the removal of this vessel from the list during the inter-sessional period by providing the following information:
- It has adopted measures so that this vessel conforms with ICCAT conservation measures,
 - 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 fishing activities executed by this vessel in the ICCAT Convention area,
 - It has taken effective action in response to the IUU fishing activities in question including prosecution and imposition of sanctions of adequate severity; and/or
 - The vessel has changed ownership and that the new owner can establish 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 IUU fishing.

Inter-sessional modification of the IUU Vessels List

15. The non-Contracting Party shall send its request for the removal of a vessel from the IUU Vessels List to the ICCAT Executive Secretary accompanied by the supporting information referred to in paragraph 14.
16. On the basis of the information received in accordance with paragraph 14, the ICCAT Executive Secretary will transmit the removal request, with all the supporting information to the Contracting Parties within 15 days following the notification of the removal request.

17. The Contracting Parties will examine the request to remove the vessel and arrive at a conclusion on either the removal from, or the maintenance of the vessel on the IUU Vessels List by mail within 30 days following the notification by the Executive Secretary. The result of the examination of the request by mail will be checked by the Executive Secretary at the end of the 30-day period following the date of the notification by the Executive Secretary referred to in paragraph 16.
18. The Executive Secretary will communicate the result of examination to all Contracting Parties.
19. If the result of the exercise indicates that there is a majority of the Contracting Parties in favor of removal of the vessel from the IUU List, the Chairperson of ICCAT, on behalf of ICCAT, will communicate the result to all the Contracting Parties and to the non-Contracting Party which requested the removal of its vessel from the IUU list. In the absence of a majority, the vessel will be maintained on the IUU List and the Executive Secretary will inform the non-Contracting Party accordingly.
20. The ICCAT Executive Secretary will take the necessary measures to remove the vessel concerned from the ICCAT IUU Vessels List, as published on the ICCAT web site. Moreover, the ICCAT Executive Secretary will forward the decision of removal of the vessel to other regional fishery organizations.

General dispositions

21. This recommendation replaces Recommendation 09-10.
22. This Recommendation shall apply *mutatis mutandis* to vessels referred to in paragraph 12 flying the flag of CPCs.

Information to be included in all IUU Lists (Draft, Provisional and Final)

The Draft IUU List, as well as the Provisional IUU List shall contain the following details, where available:

- i) Name of vessel and previous names;
- ii) Flag of vessel and previous flag;
- iii) Name and address of owner of vessel and previous owners, including beneficial owners, and owner's place of registration;
- iv) Operator of vessel and previous operators;
- v) Call sign of vessel and previous call sign;
- vi) Lloyds/IMO number;
- vii) Photographs of the vessel;
- viii) Date vessel was first included on the IUU List;
- ix) Summary of activities which justify inclusion of the vessel on the List, together with references to all relevant documents informing of and evidencing those activities

RESOLUTION 11/03
**ON ESTABLISHING A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL,
UNREPORTED AND UNREGULATED FISHING IN THE IOTC AREA OF COMPETENCE**

The Indian Ocean Tuna Commission (IOTC),

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 IUU activities should follow agreed procedures and be applied in an equitable, transparent and non discriminatory way;

RECALLING that the IOTC adopted Resolution 01/07 concerning its support of the IPOA-IUU;

RECALLING that IOTC has already adopted measures against IUU fishing activities and, in particular, against large-scale tuna longline vessels engaged in IUU fishing;

RECALLING that the IOTC adopted Resolution 07/01 to promote compliance by nationals of Contracting Parties and Cooperating Non-contracting Parties with IOTC conservation and management measures;

RECALLING ALSO that the IOTC adopted Resolution 07/02 to enhance the implementation of IOTC conservation and management measures through establishing a Record of fishing vessels authorised to operate in the IOTC area of competence;

CONCERNED by the fact that IUU fishing activities in the IOTC area of competence continue, and these activities diminish the effectiveness of IOTC conservation and management measures;

FURTHER CONCERNED that there is evidence of a large number of vessel owners engaged in such fishing activities who have re-flagged their vessels to avoid compliance with IOTC management and conservation measures;

DETERMINED to address the challenge of an increase in IUU fishing activities by way of countermeasures to be applied in respect of the vessels engaged in IUU fishing, without prejudice to further measures adopted in respect of flag States under the relevant IOTC instruments;

CONSCIOUS of the need to address, as a matter of priority, the issue of large-scale fishing vessels conducting IUU fishing activities,

NOTING that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organisation (WTO) Agreement;

ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, that:

Definition of IUU Fishing Activities

1. For the purposes of this resolution, fishing vessels are presumed to have carried out illegal, unreported and unregulated fishing activities in the IOTC area of competence, inter alia, when a Contracting Party or Cooperating non-Contracting Party (hereinafter referred to as "CPCs") presents evidence that such vessels:
 - a) Harvest tuna or tuna-like species in the IOTC area of competence and are neither registered on the IOTC Record of Vessels authorised to fish for tuna and tuna-like species in the IOTC area of competence, in accordance with Resolution 07/02, nor recorded in the Active list of Vessels of IOTC, or
 - b) Harvest tuna or tuna-like species in the IOTC area of competence, when their flag State is without sufficient quotas, catch limit or effort allocation under IOTC conservation and management measures where applicable, or



- c) Do not record or report their catches made in the IOTC area of competence in accordance with IOTC reporting requirements, or make false reports, or
- d) Take or land undersized fish in contravention of IOTC conservation measures, or
- e) Fish during closed fishing periods or in closed areas in contravention of IOTC conservation measures, or
- f) Use prohibited fishing gear in contravention of IOTC conservation measures, or
- g) Tranship with, or participate in joint operations such as re-supplying or re-fuelling, vessels included in the IUU Vessels List, or
- h) Harvest tuna or tuna-like species in the waters under the national jurisdiction of a coastal State in the IOTC area of competence without authorisation and/or infringe the coastal State's laws and regulations, (this is without prejudice to the sovereign rights of coastal States to take measures against such vessels), or
- i) Are without nationality and harvest tuna or tuna-like species in the IOTC area of competence, or
- j) Engage in fishing, including transshipping, re-supplying or re-fuelling, contrary to any other IOTC conservation and management measures.

Information on Alleged IUU Fishing Activities

2. CPCs shall transmit every year to the Secretary at least 70 days before the Annual Meeting, a list of the vessels presumed to have been carrying out IUU fishing activities in the IOTC area of competence during the current and previous year, accompanied by evidence supporting the presumption of IUU fishing activity. The IOTC Reporting Form for Illegal Activity (Annex I) shall be used.
3. This list and evidence shall be based on information collected by CPCs from all relevant sources including but not limited to:
 - a) Relevant resolutions of the IOTC, as adopted and amended from time to time;
 - b) Reports from CPCs Parties relating to IOTC conservation and management measures in force;
 - c) Trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) data, statistical documents and other national or international verifiable statistics; and
 - d) Any other information obtained from port States and/or gathered from the fishing grounds that is suitably documented.

Draft IUU Vessels List

4. On the basis of the information received pursuant to paragraph 2, the Secretary shall draw up a Draft IUU Vessels List. This list shall be drawn up in conformity with Annex II. The Secretary shall transmit it together with the current IUU Vessels List as well as all the evidence provided to CPCs and to non-Contracting Parties whose vessels are included on these lists at least 55 days before the Annual Meeting. CPCs and non-Contracting Parties will transmit any comments to the Secretary at least 15 days before the Annual Meeting of the IOTC, including evidence showing that the listed vessels have neither fished in contravention to IOTC conservation and management measures nor had the possibility of fishing tuna and tuna-like species in the IOTC area of competence.
5. The Flag State shall notify the owner of the vessels of their inclusion in the Draft IUU Vessels List and of the consequences that may result from their inclusion being confirmed in the IUU Vessels List adopted by the Commission.



6. Upon receipt of the Draft IUU Vessels list, CPCs shall closely monitor the vessels included in the Draft IUU Vessels List in order to determine their activities and possible changes of name, flag and or registered owner.

Provisional IUU Vessels List

7. On the basis of the information received pursuant to paragraph 2, the Secretary shall draw up a Provisional IUU Vessels List and transmit it two weeks in advance of the Commission Meeting to the CPCs and to the non-Contracting Parties concerned together with all the evidence and any comments provided. This list shall be drawn up in conformity with Annex II.
8. CPCs and non-Contracting Parties may at any time submit to the Secretary any additional information, which might be relevant to the establishment of the IUU Vessels List. The Secretariat shall circulate the information before the annual meeting to CPCs concerned, together with all the evidence provided.
9. The Compliance Committee shall examine each year the Provisional IUU Vessels List, as well as the information referred to in paragraphs 2, 3, 4, 7 and 8.
10. The Compliance Committee shall remove a vessel from the Provisional IUU Vessels List if the Flag State demonstrates that:
- a) The vessel did not take part in any IUU fishing activities described in paragraph 1, or
 - b) It has taken effective action in response to the IUU fishing activities in question, including, inter alia, prosecution and imposition of sanctions of adequate severity. CPCs will report any actions and measures they have taken in accordance with Resolution 07/01, in order to promote compliance by vessels of CPCs with IOTC conservation and management measures.
11. Where flag State evidence provided to support the details referred to in paragraphs 10a or 10b is submitted after the 15 day deadline referred to in paragraph 4 (including any submission of evidence made during the Compliance Committee's annual meeting) the vessel shall remain on the Provisional IUU List to allow consideration to occur by the relevant authorities inter-sessionally as described in paragraph 14. In cases where no evidence has been provided by the flag State, the Compliance Committee shall recommend to the Commission that the vessel be included on the IOTC IUU Vessel list.
12. Following the examination referred to in paragraph 9, at each IOTC Annual meeting, the IOTC Compliance Committee shall:
- a) Adopt a Provisional IUU Vessels List following consideration of the Draft IUU Vessels List and information and evidence circulated under paragraphs 4, 7 and 8.
 - b) Recommend to the Commission which, if any, vessels should be removed from the IUU Vessels List adopted at the previous IOTC Annual meeting, following consideration of that List, of the information and evidence circulated under paragraph 8 and the information supplied by flag States in accordance with paragraph 19.

IUU Vessels List

13. Taking into account the recommendations and the Provisional IUU Vessels List adopted by the Compliance Committee, and the information provided under paragraph 2, 3, 4, 7 and 8, the Commission shall adopt the IOTC IUU Vessels List.
14. If the Commission is unable to decide, on the basis of the information provided under paragraphs 2, 3, 4, 7 and 8, whether or not a vessel should be included on the IOTC IUU Vessels List, the Commission may suspend its decision and request that supplementary information or evidence be submitted both by the relevant States, including the CPC that transmitted evidence on presumed IUU fishing activities by that vessel and the flag State. The consideration of that vessel's inclusion on the IOTC IUU Vessels list shall continue inter-sessionally by electronic means as follows:



- a) Relevant CPC and the flag State are invited to submit supplementary information or evidence to the IOTC Secretary within 90 days;
 - b) Immediately following this period of 90 days, the Secretary will transmit the proposal to put the vessel on the IOTC IUU Vessels list to all CPCs, along with all the supplementary information or evidence received under paragraph 14(a);
 - c) The CPCs will examine the proposal and supplementary information or evidence to put the vessel on the IOTC IUU Vessels List and notify the Secretary, within 30 days following this transmission, whether or not they support the vessel being included on the IOTC IUU Vessels List;
 - d) At the end of the 30 days period, the Chairperson shall ascertain the outcome of the CPC's decision on the proposal in accordance with the following:
 - i) A majority of the Members of the Commission shall constitute the quorum
 - ii) If a two-thirds majority of the Members of those which have expressed their position and cast affirmative or negative votes are in favour of putting the vessel on the IOTC IUU Vessels List, the vessel shall be included on this list.
 - iii) If the two-thirds majority of the Members of those which have expressed their position and cast affirmative or negative votes is not met, the vessel should remain in the Provisional IUU Vessels List
 - e) The Secretary shall communicate the result of the decision, along with a copy of the amended IOTC IUU Vessels List or the confirmed Provisional IOTC Vessel List, to all CPCs, the flag State of the vessels (if is not a CPC), and any non-Contracting Party that may have an interest. The amended IOTC IUU Vessels List will have effect immediately after the Secretary communicates the result of the decision.
15. On adoption of the IOTC IUU Vessels List, the Secretary shall request CPCs, whose vessels appear on the list:
- a) To notify the owner of the vessel identified on the IUU Vessels List of its inclusion on the list and the consequences which result from being included on the list, as referred to in paragraph 16;
 - b) To take all the necessary measures to eliminate these IUU fishing activities, including if necessary, the withdrawal of the registration or of the fishing licences of these vessels, and to inform the Commission of the measures taken in this respect.
16. CPCs shall take all necessary measures, under their applicable legislation:
- a) So that the fishing vessels, the mother-ships and the cargo vessels flying their flag do not participate in any transshipment with vessels on the IUU Vessels list;
 - b) So that IUU vessels that enter ports voluntarily are not authorized to land, tranship, refuel, re-supply, or engage in other commercial transactions;
 - c) To prohibit the chartering of a vessel included on the IUU Vessels List;
 - d) To refuse to grant their flag to vessels included in the IUU Vessels List, 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 State determines that granting the vessel its flag will not result in IUU fishing;
 - e) To prohibit the imports, landing or transshipment, of tuna and tuna-like species from vessels included in the IUU Vessels List;
 - f) To encourage the importers, transporters and other sectors concerned, to refrain from transaction and transshipment of tuna and tuna-like species caught by vessels included in the IUU Vessels List;



- g) To collect and exchange with other Contracting Parties or Co-operating non-Contracting Parties any appropriate information with the aim of detecting, controlling and preventing false import/export certificates for tunas and tuna-like species from vessels included in the IUU Vessels List.
17. The Secretary will take any necessary measure to ensure publicity of the IUU Vessels List adopted by IOTC pursuant to paragraph 13 or 14, in a manner consistent with any applicable confidentiality requirements, and through electronic means, including placing it on the IOTC website. Furthermore, the Secretary will transmit the IUU Vessels List to other regional fisheries management organisations for the purposes of enhanced co-operation between IOTC and these organisations in order to prevent, deter and eliminate illegal, unreported and unregulated fishing.
18. Without prejudice to the rights of flag States and coastal States to take proper action consistent with international law, the CPCs should not take any unilateral trade measures or other sanctions against vessels provisionally included in the Draft IUU Vessels List, pursuant to paragraph 4, or which have been already removed from the Provisional IUU Vessels List, pursuant to paragraph 10, on the grounds that such vessels are involved in IUU fishing activities.

Deletion from the IUU Vessels List

19. A CPC whose vessel appears on the IUU Vessels List may request the removal of this vessel from the list during the inter-sessional period by providing the following information and supporting evidence:
- It has adopted measures such that the vessel conforms with all IOTC conservation measures;
 - 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 fishing activities executed by this vessel in the IOTC area of competence;
 - It has taken effective action in response to the IUU fishing activities in question including prosecution and imposition of sanctions of adequate severity;
 - The vessel has changed ownership and that the new owner can establish 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 IUU fishing.

Inter Sessional removal of vessels from the IUU Vessels List

20. The CPC shall send its request for the removal of a vessel from the IUU Vessels List to the IOTC Secretary accompanied by the supporting information referred to in paragraph 19.
21. On the basis of the information received in accordance with paragraph 19, the Secretary will transmit the removal request, with all the supporting information to all CPCs within 15 days following the notification of the removal request.
22. The CPCs will examine the request to remove the vessel and notify the Secretariat of their conclusion to either remove the vessel from, or keep the vessel on, the IUU Vessels List, by mail within 30 days following the notification by the Secretary. At the end of the 30 day period, the Chairperson shall ascertain the outcome of the CPCs' decision on the proposal in accordance with the following:
- A majority of the Members of the Commission shall constitute the quorum
 - If a two-thirds majority of the Members of those which have expressed their position and cast affirmative or negative votes are in favour of removing a vessel from the IOTC IUU Vessels List, the vessel shall be removed from this list.
 - If the two-thirds majority of the Members of those which have expressed their position and cast affirmative or negative votes is not met, the vessel remains in the IOTC IUU Vessels list.



23. The Secretary shall communicate the result of the decision, along with a copy of the amended IOTC IUU Vessels List, to all CPCs, the flag State of the vessels (if is not a CPC), and any non-Contracting Party that may have an interest. The amended IOTC IUU Vessels List will have effect immediately after the Secretary communicates the result of the decision.
24. Where the Commission decides to remove a vessel from the IUU Vessels list pursuant to paragraph 23, the Secretary will take the necessary measures to remove the vessel concerned from the IOTC IUU Vessels List, as published on the IOTC website. Moreover, the Secretary will forward the decision of removal of the vessel to other regional fishery management organisations.
25. Resolution 09/03 *On Establishing A List Of Vessels Presumed To Have Carried Out Illegal, Unreported And Unregulated Fishing In The IOTC Area* is superseded by this Resolution.

CMM 1.04

CONSERVATION AND MANAGEMENT MEASURE ESTABLISHING A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE SPRFMO CONVENTION AREA

The Commission of the South Pacific Regional Fisheries Management Organisation,

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.

CONCERNED by the fact that IUU fishing activities in the Convention area diminish the effectiveness of SPRFMO 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 under the relevant SPRFMO instruments.

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 Organization (WTO) Agreement.

RECALLING Article 27 of the Convention, which calls on Members to address IUU fishing activities and to establish appropriate cooperative procedures for effective monitoring, control and surveillance of fishing and to ensure compliance with the Convention.

ADOPTS the following conservation and management measure in accordance with Articles 8 and 20 of the Convention:

Definition of IUU Activities

1. For the purposes of this conservation and management measure, the fishing vessels flying the flag of a non-Member, or a Member or a Cooperating non-Contracting Party (hereafter CNCP), are presumed to have carried out IUU activities in the Convention Area, *inter alia*, when a Member or a CNCP presents evidence that such vessels:
 - a) Engage in fishing for fishery resources and are not registered on the SPRFMO list of vessels authorized to fish in the Convention Area;
 - b) Engage in fishing for fishery resources whose flag State has exhausted or has no quotas, catch limit or effort allocation, including, if applicable, those received from another Member or CNCP under relevant SPRFMO conservation and management measures;
 - c) Do not record and/or report their catches or catch related data made in the Convention Area, or make false reports;
 - d) Take on board, tranship or land undersized fish in a way that undermines SPRFMO conservation and management measures;

- e) Engage in fishing during closed fishing periods or in closed areas, without or after exhaustion of a quota or beyond a closed depth, in contravention of SPRFMO conservation and management measures;
- f) Use prohibited or non-compliant fishing gear in a way that undermines SPRFMO conservation and management measures;
- g) Tranship with, or participate in joint operations such as re-supply or re-fuelling vessels included in the IUU vessels list;
- h) Are without nationality and engage in fishing for fisheries resources in the Convention Area, and/or
- i) Engage in fishing activities contrary to any other SPRFMO conservation and management measures.

Information on alleged IUU activities

2. Members and CNCPs shall transmit every year to the Executive Secretary at least 120 days before the annual meeting, their list of vessels presumed to be carrying out IUU fishing activities in the Convention Area over the past two years¹, accompanied by suitably documented evidence concerning the presumption of IUU fishing activity.

This list shall be based, *inter alia*, on reports by Members and CNCPs relating to SPRFMO conservation and management measures in force, trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organisation of the United Nations (FAO) data, statistical documents and other national and international verifiable statistics, as well as any other information obtained from port states and/or gathered from the fishing grounds that is suitably documented. Information from Members and CNCPs should be provided in the SPRFMO Reporting Form of Illegal Activity (**Annex I**).

- 2 (bis). Before or at the same time as transmitting a list of presumed IUU vessels to the Executive Secretary, the Member or CNCP shall notify, either directly or through the Executive Secretary using the Reporting Form in Annex I, the relevant flag State of a vessel's inclusion on this list and provide a copy of the pertinent suitably documented information. The flag State shall promptly acknowledge receipt of the notification.

Draft IUU List

3. On the basis of the information received pursuant to paragraph 2 and any other suitably documented information at his disposal, the SPRFMO Executive Secretary shall draw up a Draft IUU List. This list shall be drawn up in conformity with **Annex II**. The Secretary shall transmit it together with the current IUU List, including any inter-sessional amendments, as well as all the supporting evidence provided, to Members and CNCPs whose vessels are included on these lists at least 90 days before the annual meeting.
4. Members and CNCPs, shall transmit their comments, as appropriate, including evidence showing that the listed vessels have neither fished in contravention to SPRFMO conservation and management measures, nor had the possibility of fishing for fishery resources in the Convention Area, at least 30 days before the annual meeting of SPRFMO.
5. The Commission shall request the flag State to notify the owner of the vessel of its inclusion in the Draft IUU List and of the consequences that may result from its inclusion being confirmed in the IUU List adopted by the Commission.

¹ Beginning with the entry into force of this CMM

Upon receipt of the Draft IUU List, Members and CNCPs shall closely monitor these vessels included in the Draft IUU List in order to determine their activities and possible changes of name, flag and/or registered owner.

Provisional and current IUU List

6. On the basis of the information received pursuant to paragraph 3 and 4, the Executive Secretary shall re-circulate to the Members and CNCPs two weeks in advance of the Commission meeting the Draft IUU list and the current IUU List, including any intersessional modifications to the current IUU List in the sense of paragraphs 17-19, together with all suitably documented information provided pursuant to paragraph 4 .
7. Members and CNCPs may at any time submit to the Executive Secretary any additional information, which might be relevant for the establishment of the IUU list. The Executive Secretary shall circulate the information, at the latest before the annual meeting, to the together with all the evidence provided.
8. The Compliance and Technical Committee of the SPRFMO (CTC) shall examine each year the Draft IUU List and current IUU list, as well as the information referred to in paragraphs 4 and 7.

The CTC shall remove a vessel from the Draft IUU list if the flag State demonstrates that:

- i) The vessel did not take part in any IUU fishing activities described in paragraph 1, or
 - ii) Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution and/or imposition of sanctions of adequate severity. Members and CNCPs will report any actions and measures taken to promote compliance by their flagged vessels with SPRFMO conservation and management measures.
9. Following this examination, the CTC shall:
 - i) Adopt a Provisional IUU List in conformity with **Annex II** following consideration of the Draft IUU List and information and evidence circulated under paragraphs 4 and 7. The Provisional IUU List shall be submitted to the Commission for approval.
 - ii) Recommend to the Commission which, if any, vessels should be removed from the current IUU List adopted at the previous SPRFMO annual meeting, following consideration of that List, of the information and evidence circulated under paragraph 7 and the information received in accordance with paragraph 16.

IUU List

10. At its annual meeting the Commission shall review the Provisional IUU List, taking into account any new suitably documented information related to vessels on the Provisional IUU list, and any recommendations to amend the current IUU list made by CTC pursuant to paragraph 9 above, and adopt a new IUU list.
11. On adoption of the list, the Commission shall request Members, CNCPs and non-Members, whose vessels appear on the IUU List:
 - To notify the owner of the vessel identified on the IUU List of its inclusion on the List and the consequences which result from being included on the List, as referred to in paragraph 12.
 - To take all the necessary measures to eliminate these IUU fishing activities, including if necessary, the withdrawal of the registration or of the fishing licenses of these

vessels, and to inform the Commission of the measures taken in this respect.

12. Members and CNCPs shall take all necessary non-discriminatory measures, under their applicable legislation and international law:
 - To remove or withdraw any fishing authorizations for fisheries resources under the competence of SPRFMO granted to vessels on the IUU List and not to grant fishing licenses, permits or licenses to those vessels;
 - So that the fishing vessels, support vessels, refueling vessels, the mother-ships and the cargo vessels flying their flag do not assist in any way, engage in fishing processing operations or participate in any transshipment or joint fishing operations with vessels included on the IUU Vessels List;
 - So that vessels on the IUU List are not authorized to land, tranship re-fuel, re-supply, or engage in other commercial transactions in their ports, except in case of *force majeure*;
 - To prohibit the entry into their ports of vessels included on the IUU List, except in case of *force majeure*;
 - To prohibit the chartering of a vessel included on the IUU List;
 - To refuse to grant their flag to vessels included in the IUU List, 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 CNCP determines that granting the vessel its flag will not result in IUU fishing;
 - To prohibit the imports, or landing and/or transshipment, of species covered by the Convention from vessels included in the IUU List;
 - To encourage the importers, transporters and other sectors concerned, to refrain from transaction, transshipment and processing of species covered by the Convention caught by vessels included in the IUU List;
 - To collect and exchange with other Members and CNCPs any appropriate information with the aim of searching for, controlling and preventing false import/export certificates regarding species covered by the Convention from vessels included in the IUU List.
13. The Executive Secretary will take any necessary measure to ensure publicity of the IUU List adopted by SPRFMO, in a manner consistent with any applicable confidentiality requirements, and through electronic means, by placing it on the SPRFMO web site. Furthermore, the Executive Secretary will transmit the IUU List to the FAO and to appropriate regional fisheries organizations for the purposes of enhanced co-operation between SPRFMO and these organizations in order to prevent, deter and eliminate IUU fishing.
14. Upon receipt of the final IUU vessel list established by another regional fisheries management organization (RFMO), and any other information regarding the list, including its modification, the Executive Secretary shall circulate it to the Members and CNCPs and shall place it on the SPRFMO web site.
15. Measures referred to in paragraph 12 shall apply *mutatis mutandis* to fishing vessels included in the final IUU list established by another RFMO and operating in the SPRFMO

Convention area.

16. Without prejudice to the rights of flag States and coastal States to take proper action consistent with international law, including applicable WTO obligations, Members and CNCPs shall not take any unilateral trade measures or other sanctions against vessels provisionally included in the Draft and Provisional IUU List, pursuant to paragraph 3 and 9, or which have been already removed from the IUU List, pursuant to paragraph 10 or paragraphs 17-19, on the grounds that such vessels are involved in IUU fishing activities.

Modification of the IUU List

17. A Member, CNCP or non-Member whose vessel appears on the IUU List may request the removal of this vessel from the list during the inter-sessional period by providing to the Executive Secretary suitably documented information demonstrating that:
 - It has adopted measures so that this vessel conforms with SPRFMO conservation measures, and
 - 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 fishing activities executed by this vessel in the SPRFMO Convention area, and
 - It has taken effective action in response to the IUU fishing activities in question including prosecution and/or imposition of sanctions of adequate severity; and/or
 - The vessel has changed ownership and that the new owner can establish 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 IUU fishing.
18. On the basis of the information received in accordance with paragraph 16, the SPRFMO Executive Secretary will transmit electronically the removal request, with all the supporting information to the official contacts of each member within 15 days following the notification of the removal request. The intersessional decision on the request to remove the vessel shall be made electronically in accordance with Rules 7.8, 7.9, 7.10, 7.11 of the Rules of Procedure. In the event that a member objects to the removal request, the decision will be taken at the subsequent annual meeting of the Commission.
19. The Executive Secretary will communicate the result of the decision to all Members and CNCPs.
20. The Executive Secretary will take the necessary measures to remove the vessel concerned from the IUU List, as published on the SPRFMO web site. Moreover, the Executive Secretary will forward the decision of removal of the vessel to the FAO and appropriate regional fisheries organisations.

Annex I**SPRFMO Reporting Form for Illegal Activity**

Recalling SPRFMO conservation and management measure XX/XX on *Establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the SPRFMO Convention Area*, attached are details of illegal activity recorded in

1. Details of Vessel

- i) Name of vessel and previous names, if any;
- ii) Flag of vessel and previous flag, if any;
- iii) Name and address of owner of vessel and previous owners, including beneficial owners, if any, and owner's place of registration;
- iv) Operator of vessel and previous operators, if any;
- v) Call sign of vessel and previous call sign;
- vi) IMO number;
- vii) Unique Vessel Identifier (UVI), or, if not applicable, any other vessel identifier;
- viii) Photographs of the vessel;
- ix) Date vessel was first included on the IUU List;
- x) Position of alleged IUU fishing activities
- xi) Summary of alleged IUU activities (more detail in section 2)
- xii) Summary of any actions known to have been taken in respect of the alleged IUU fishing activities
- xiii) Outcome of actions taken

2. Details of elements contravened

(Indicate with a "X" the individual elements of conservation and management measure XX contravened, and provide relevant details including date, location, source of information. Additional information can be provided in an attachment, if necessary, and listed under section 3).

Item	Definition	Indicate
a	Engage in fishing for fishery resources and are not registered on the SPRFMO list of vessels authorized to fish in the SPRFMO Convention area	
b	Engage in fishing for fishery resources, whose flag State has exhausted or has no quotas, catch limit or effort allocation, including, if applicable, those received from another Member or CNCP, pursuant to an agreement notified	

	to the Executive Secretary under relevant SPRFMO conservation and management measures	
c	Do not record and/or report their catches or catch related data made in the Convention Area, or make false reports	
d	Take on board, transship or land undersized fish in a way that undermines SPRFMO conservation and management measures	
e	Engage in fishing during closed fishing periods or in closed areas, without or after exhaustion of a quota or beyond a closed depth, in contravention of SPRFMO conservation and management measures	
f	Use prohibited or non-compliant fishing gear in a way that undermines SPRFMO conservation and management measures	
g	Transship with, or participate in joint operations such as re-supply or re-fuelling vessels included in the IUU vessels list	
h	Are without nationality and engage in fishing for fishery resources in the SPRFMO Convention Area	
i	Engage in fishing activities that are contrary to any other SPRFMO conservation and management measures	

3. Associated documents

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

4. Recommended actions

Item	Recommended actions	Indicate
a	Notification to SPRFMO Executive Secretary only. No further action is recommended	
b	Notification of illegal activity to SPRFMO Executive Secretary. Recommend notification of activity to flag State	
c	Recommended for inclusion on SPRFMO IUU list	

Annex II

Information to be included in all IUU Lists (Draft, Provisional and Final)

The Draft IUU List, as well as the Provisional IUU List shall contain the following details, where available:

- i) Name of vessel and previous names, if any;
- ii) Flag of vessel and previous flag, if any;
- iii) Name and address of owner of vessel and previous owners, including beneficial owners, if any, and owner's place of registration;
- iv) Operator of vessel and previous operators, if any;
- v) Call sign of vessel and previous call sign;
- vi) IMO number;
- vii) Unique Vessel Identifier (UVI), or, if not applicable, any other vessel identifier
- viii) Photographs of the vessel;
- ix) Date vessel was first included on the IUU List;
- x) Summary of activities which justify inclusion of the vessel on the List, together with references to all relevant documents informing of and evidencing those activities



SEVENTH REGULAR SESSION

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**CONSERVATION AND MANAGEMENT MEASURE TO ESTABLISH
A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT
ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE WCPO**

Conservation and Management Measure 2010-06¹

The Western and Central Pacific Fisheries Commission (WCPFC):

Recalling that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, 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) fishing activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

Concerned that IUU fishing activities in the Convention Area undermine the effectiveness of the conservation measures adopted by the WCPFC.

Further concerned that there is a possibility that vessel owners engaged in such fishing activities may have re-flagged their vessels to avoid compliance with WCPFC measures.

Determined to address the challenge of an increase in IUU fishing activities by way of measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of CCMs and non CCMs under the relevant WCPFC instruments.

Considering the action undertaken in other regional tuna fisheries organizations to address this issue;

Conscious of the need to address, as a matter of priority, the issue of 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 international obligations, including the rights and obligations established under the World Trade Organization (WTO) Agreement; and

Recalling Articles 23 and 25 of the WCPF Convention regarding the obligations of members of the Commission and provisions for compliance and enforcement;

Adopts the following conservation and management measures in accordance with Article 10 of the Convention:

¹ By adoption of this CMM 2010-06, which reflected Attachment T and U of the WCPFC7 Summary Report, the Commission rescinds CMM 2007-03 which has been revised and replaced.

Identification of IUU activities

1. At each annual meeting, the Commission will identify those vessels which have engaged in fishing activities for species covered by the Convention within the Convention Area in a manner which has undermined the effectiveness of the WCPF Convention and the WCPFC measures in force, and shall establish, and, as necessary, amend in subsequent years, a list of such vessels (the IUU Vessel List), in accordance with the procedures and criteria set out in this conservation measure.

2. This identification shall be suitably documented, *inter alia*, on reports from Members, Cooperating Non-Members and Participating Territories (collectively CCMs) relating to WCPFC Conservation measures in force, trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) data, statistical documents and other national or international verifiable statistics, as well as any other information obtained from port States and/or gathered from the fishing grounds that is suitably documented. Information from CCMs should be provided in the format approved by the Commission.

3. For the purposes of this conservation measure, vessels fishing for species covered by the WCPFC Convention are presumed to have carried out IUU fishing activities, as described in the IPOA on IUU fishing, in the Convention Area when a CCM presents suitably documented information that such vessels, *inter alia*:

- a. Harvest species covered by the WCPFC Convention in the Convention Area and are neither on the WCPFC record of authorized vessels nor a fishing vessel fishing exclusively in waters under the jurisdiction of its flag State, or
- b. Conduct fishing activities in waters under the jurisdiction of a coastal State, without permission of that State, or in contravention of its law and regulations, or
- c. Do not record or report their catches made in the Convention Area consistent with WCPFC measures, or make false reports, or
- d. Take and land undersized fish in a way that undermines WCPFC conservation measures, or
- e. Fish in a closed area or during a closed season in a way that undermines WCPFC conservation measures, or
- f. Use prohibited fishing gear in a way that undermines WCPFC conservation measures, or
- g. Tranship with, participate in joint fishing operations with, support or re-supply vessels included in the IUU Vessel List, or
- h. Are without nationality and harvest species covered by the WCPFC Convention in the Convention Area, or
- i. Engage in any other fishing activities that undermine the provisions of the WCPF Convention or any other WCPFC conservation measures, or
- j. Are under the control of the owner of any vessel on the WCPFC IUU Vessel List. (Procedures for applying this paragraph are attached as Annex A)

Information on alleged IUU fishing activities

4. At least 70 days before the annual meeting of the Technical and Compliance Committee (TCC), CCMs shall transmit to the Executive Director their list of vessels presumed to be carrying out IUU activities in the Convention Area during the current or the previous year, accompanied by suitably documented information, as provided in para 2, concerning the presumption of this IUU activity.

5. Before or at the same time as transmitting a list of presumed IUU vessels to the Executive Director, the CCM shall notify, either directly or through the Executive Director, the relevant flag State of a vessel's inclusion on this list and provide a copy of the pertinent suitably documented information. The flag State shall promptly acknowledge receipt of the notification. If no acknowledgement is received within 10 days of the date of transmittal, the CCM shall retransmit the notification through an alternative means of communication.

Draft IUU Vessel List

6. The Executive Director shall draw up a draft IUU Vessel List incorporating the lists of vessels and suitably documented information received pursuant to para 4, and any other suitably documented information at his disposal, and shall transmit it, together with all the supporting information provided, to all CCMs, as well as to non-CCMs with vessels on the list, at least 55 days before the TCC's annual meeting.

7. The Executive Director shall request each CCM and non-CCM with vessels on the draft IUU Vessel List to notify the owner of the vessels of their inclusion in that list, and of the consequences of their inclusion being confirmed in the IUU Vessel List.

8. Upon receipt of the draft IUU Vessel List, CCMs shall closely monitor the vessels included in that list in order to follow their activities and possible changes of name, flag or registered owner.

9. As appropriate, CCMs and non-CCMs with vessels on the list should transmit, at least 10 days before the TCC's annual meeting, their comments to the Executive Director, including suitably documented information, showing that the vessels have fished in a manner consistent with WCPFC conservation measures or the laws and regulations of a State when fishing in waters under the jurisdiction of that State, or have fished exclusively for species not covered by the WCPFC Convention.

10. The Executive Director shall re-circulate the draft IUU Vessel List, 7 days in advance of the TCC's annual meeting, to the CCMs and the non-CCMs concerned, together with all the suitably documented information provided pursuant to paras 4 and 9 above.

11. CCMs and non-CCMs may at any time submit to the Executive Director any additional suitably documented information regarding any vessels on the draft IUU Vessel List. The Executive Director shall circulate this additional information to all CCMs and to the non-CCMs concerned immediately upon receipt of such information.

Provisional and current IUU Vessel List

12. The WCPFC's IUU Vessel List adopted during the previous year, as well as any new suitably documented information regarding this list, including intersessional amendments, shall be transmitted to CCMs and the non-CCMs concerned in conjunction with the draft IUU Vessel List and materials outlined in para 6.

13. CCMs and non-CCMs with vessels on the current WCPFC IUU Vessel List should transmit at least 30 days before the annual meeting of the TCC, but may submit at any time, to the Executive Director suitably documented information regarding any of the vessels on the current WCPFC IUU Vessel List, including, where appropriate, suitably documented information as provided for in paragraph 25. The Executive Director shall re-circulate the current WCPFC IUU Vessel List two weeks in advance of the annual meeting of the TCC to the CCMs and non-CCMs concerned, together with all the information provided pursuant to paragraph 12 and this paragraph.

14. At its annual meeting, the TCC shall:

- (i) following consideration of the draft IUU Vessel List and the suitably documented information circulated under paras 6, 10 and 11, adopt a Provisional IUU Vessel List; and
- (ii) following consideration of the current WCPFC IUU Vessel List and the suitably documented information circulated under paras 12 and 13, recommend to the Commission which, if any, vessels should be removed from the current WCPFC IUU Vessel List.

15. The TCC shall not include a vessel on the Provisional IUU Vessel List if the vessel's flag State demonstrates that:

- a. The vessel fished in a manner consistent with WCPFC Conservation Measures or the laws and regulations of a State when fishing in waters under the jurisdiction of that State, or have fished exclusively for species not covered by the WCPFC Convention, or
- b. Effective action has been taken in response to the IUU fishing activities in question, such as, *inter alia*, prosecution or the imposition of sanctions of adequate severity; or
- c. That the case regarding the vessel or vessels that conducted IUU fishing activities has been settled to the satisfaction of the CCM that originally submitted the vessel for listing and the flag State involved.

16. The TCC shall not include a vessel on the Provisional IUU Vessel List if the notifying CCM did not follow the provisions of para 5.

17. The TCC shall recommend removal of a vessel from the current WCPFC IUU Vessel List only if the vessel's flag State submits to the Executive Director the information provided in para 25 of this measure.

18. Following the examination referred to in para 14, the TCC shall submit the Provisional IUU Vessel List to the Commission for its consideration, and as appropriate, recommend any proposed changes to the current WCPFC IUU Vessel List.

19. The draft IUU Vessel List, Provisional IUU Vessel List, and the WCPFC IUU Vessel List shall contain the following details for each vessel:

- (i) name and previous names, if any;
- (ii) flag and previous flags, if any;
- (iii) owner and previous owners, including beneficial owners, if any;

- (iv) operator and previous operators, if any;
- (v) call sign and previous call signs, if any;
- (vi) Lloyds/IMO number;
- (vii) photographs, where available;
- (viii) date first included on the IUU Vessel List; and
- (ix) summary of activities which justify inclusion of the vessel on the list, together with references to all relevant documents informing of and evidencing those activities.

WCPFC IUU Vessel List

20. At its annual meeting the 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 WCPFC IUU Vessel List made pursuant to paragraph 18 above, and adopt a new WCPFC IUU Vessel List. To the maximum extent possible CCMs and non CCMs shall provide any new suitably documented information at least two weeks before the annual meeting of the Commission.

21. Upon adopting the new WCPFC IUU Vessel List, the Commission shall request CCMs and non-CCMs with vessels on the WCPFC IUU Vessel List to:

- a. notify the owner of the vessels of its inclusion on the WCPFC IUU Vessel List and the consequences that result from being included in the list, 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 Commission of the measures taken in this respect.

22. CCMs shall take all necessary non-discriminatory measures under their applicable legislation, international law and each CCMs' international obligations, and pursuant to paras 56 and 66 of the IPOA-IUU to:

- a. ensure that fishing vessels, support vessels, mother ships or cargo vessels flying their flag do not participate in any transshipment or joint fishing operations with, support or re-supply vessels on the WCPFC IUU Vessel List;
- b. ensure that vessels on the WCPFC IUU Vessel List that enter ports voluntarily are not authorized to land, tranship, refuel or re-supply therein but are inspected upon entry;
- c. prohibit the chartering of a vessel on the WCPFC IUU Vessel List;
- d. refuse to grant their flag to vessels on the WCPFC IUU Vessel List in accordance with para 1f, Section A, in Conservation and Management Measure 2009-01;
- e. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the WCPFC Convention from vessels on the WCPFC IUU Vessel List;

- f. encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, species covered by the WCPFC Convention caught by vessels on the WCPFC IUU Vessel List;
- g. collect, and exchange with other CCMs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the WCPFC Convention from vessels on the WCPFC IUU Vessel List.

23. The Executive Director shall take any measure necessary to ensure publicity of the WCPFC IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the WCPFC website. Furthermore, the Executive Director shall transmit the WCPFC IUU Vessel List to the FAO and to other regional fisheries organizations for the purposes of enhancing cooperation between the WCPFC and these organizations aimed at preventing, deterring and eliminating IUU fishing.

24. Without prejudice to the rights of CCMs and coastal states to take proper action, consistent with international law, including applicable WTO obligations, the CCMs shall not take any unilateral trade measures or other sanctions against vessels on the draft or Provisional IUU Vessel Lists, pursuant to paras 6 or 14, or that have been removed from the WCPFC IUU Vessel List, pursuant to paras 17 and 20, on the grounds that such vessels are involved in IUU fishing activities.

Modification of the WCPFC IUU Vessel List

25. CCMs and non-CCMs with a vessel on the WCPFC IUU Vessel List may request the removal of the vessel from the list at any time during the intersessional period by submitting to the Executive Director suitably documented information demonstrating that:

- a) it has adopted measures that will seek to ensure that the vessel complies with all WCPFC measures; and
- b) it will be able to assume effectively flag state duties with regards to the monitoring and control of the vessel's fishing activities in the Convention Area; and
- c) it has taken effective action in response to the IUU fishing activities that resulted in the vessel's inclusion in the WCPFC IUU Vessel List, including prosecution or the imposition of sanctions of adequate severity; or
- d) 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 IUU fishing activities, or
- e) the case regarding the vessel or vessels that conducted IUU fishing activities has been settled to the satisfaction of the CCM that originally submitted the vessel for listing and the flag State involved.

26. The Executive Director will transmit the removal request, with all the supporting information, to the CCMs within 15 days following the receipt of the removal request. CCMs shall promptly acknowledge receipt of the removal request. If no acknowledgement is received within 10 days of the date of transmittal, the Executive Director shall retransmit the removal request and shall use additional means available to ensure the request has been received.

27. Each Commission Member shall examine the removal request and notify the Executive Director in writing of its decision, and the rationale therefore, regarding the removal of the vessel within 40 days

following the notification by the Executive Director. Decisions on the request to remove the vessel shall be made in accordance with Rule 30 of the Rules of Procedure.

28. If Commission Members agree to the removal of the vessel from the WCPFC IUU Vessel List within the period stipulated in para 27, the Executive Director will inform CCMs, non-CCMs, FAO and other regional fisheries management organizations, and will remove the vessel from the WCPFC IUU Vessel List, as published on the WCPFC website.

29. If Commission Members disagree with the request for the removal of the vessel from the IUU Vessel List, the vessel will be maintained on the WCPFC IUU Vessel List and the Executive Director will inform the CCMs and/or non-CCMs that made the removal request.

Review

30. This Conservation and Management Measure shall be subject to review and, as appropriate, revision by the TCC.

**PROCEDURES FOR APPLYING
PARAGRAPH 3(J) OF WCPFC CMM 2010-06**

These procedures are to be followed by the Commission in applying paragraph 3(j) of this CMM. The procedures must work in concert and not conflict with the procedures outlined in this CMM, and the rules and responsibilities of TCC and the Commission.

Ownership and control

1. For the purposes of these procedures, the legal or natural person(s) or entity/entities that own and control a vessel (the “owner(s) of record”) are those indicated on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels. If a vessel is not on either of those lists, then the owner of record is the owner or owners as indicated on the vessel’s national registration document.
2. For the purposes of these procedures, a vessel shall be considered to have the same owner(s) of record where one or more of the legal or natural person(s) or entity/entities indicated on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels is the same. If a vessel is not on either of those lists, then the owner(s) of record is/are the same where one or more of the legal or natural person/s or entity/entities indicated on the vessel’s national registration document is/are the same.
3. For the purpose of considering whether to add or remove a vessel or vessels from the Provisional WCPFC IUU Vessel List or the WCPFC IUU Vessel List pursuant to paragraph 3j and paragraph 25(d) of this CMM, the owner(s) of record will not be considered to have changed unless the new owner(s) of record provides suitably documented information demonstrating to the satisfaction of the Commission that the ownership of the vessel has changed, that the previous owner(s) of record no longer has any legal, financial or real interests in it, and that the new owner(s) of record has not participated in any IUU fishing activities.

Identification and nomination of vessels

4. For the purposes of these procedures, a vessel may be nominated by a CCM under paragraph 3(j) of this CMM if it meets the condition in paragraph (a) below, and the conditions in either paragraphs (b) or (c) below:
 - a. The fishing vessel to be nominated:
 - i. is currently operating in the Convention Area; or
 - ii. has operated in the Convention Area at any time since the date of the infringement(s) that led to the listing of the underlying vessel(s) on the WCPFC IUU Vessel List (as defined below in paragraph (b)); and
 - iii. is, or was at any time since the date of infringement(s) that led to the listing of the underlying vessel(s) (as defined below in paragraph (b)) on the WCPFC IUU Vessel List, on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels.
 - b. The owner of record is the owner of record of three or more vessels currently on the WCPFC IUU Vessel List (hereafter “the underlying vessel(s)”).
 - c. The owner of record has one or more vessels that have been included on the WCPFC

IUU Vessel List for the last two years or more (hereafter “the underlying vessels”).

5. For the purposes of these procedures, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) that meet condition 4(a) shall be considered together and either all or none will be placed on the WCPFC IUU Vessel List. Similarly, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) that meet condition 4(a) will be considered as one and either all or none will be removed from the WCPFC IUU Vessel List.

Information to be provided

6. CCMs shall submit suitably documented information demonstrating that the fishing vessels they wish to nominate under paragraph 3(j) of this CMM meet the criteria set out in paragraph 4 of these procedures. CCMs shall submit this information to the Executive Director 70 days before the annual meeting of the TCC along with the list of fishing vessels being nominated (hereinafter “3j” vessels).

7. Before or at the same time as transmitting a list of 3j vessels to the Executive Director, the CCM shall notify, either directly or through the Executive Director, the relevant flag State of the vessels’ inclusion on this 3j list, and provide a copy of the pertinent suitably documented information. The flag State shall promptly acknowledge receipt of the notification. If no acknowledgment is received within 10 days of the date of transmittal, the CCM shall retransmit the notification through an alternative means of communication.

Draft IUU Vessel List

8. The Executive Director shall include on the Draft IUU Vessel List, which is drawn up and circulated in accordance with the provisions of this CMM, those 3j vessels that have been nominated by CCMs in accordance with these procedures.

9. The Executive Director shall notify the relevant flag states of the inclusion of their 3j vessels on the draft IUU Vessel List and of the consequences of these vessels being confirmed on the IUU Vessel List.

10. As appropriate, relevant flag states with 3j vessels on the Draft IUU Vessel List may transmit to the Executive Director, at least 10 days before the TCC’s annual meeting, suitably documented information showing the 3j vessels do not meet the criteria outlined in paragraph 4 of these procedures. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.

11. Small island developing CCMs may provide additional information to the Executive Director prior to TCC, or anytime before the Annual Commission meeting to advise that the proposed IUU listing of such 3j vessels would constrain the operation of domestic processing, transshipment facilities, or associated vessels of small island developing CCMs, or would undermine existing investment in FFA member countries. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.

Provisional and current WCPFC IUU Vessel List

12. At its annual meeting, with respect to 3j vessels that are on the Draft IUU Vessel List, the TCC shall:

- a. consider suitably documented information, if any, provided by a CCM or a non-CCM, as well as any relevant information regarding the status of an investigation, judicial or administrative proceeding related to the underlying vessel(s) and the cooperation and

- b. responsiveness of the owner of record in such proceedings; consider information related to 3j vessels that may be submitted by small island developing CCMs pursuant to paragraph 11: and
- c. following consideration of this information, decide whether to include the nominated 3j vessels on the Provisional IUU Vessel List developed in accordance with the provisions of this CMM.

13. As appropriate, relevant flag states with 3j vessels on the current WCPFC IUU Vessel List may transmit, at least 20 days before the TCC's annual meeting, but may submit at any time, to the Executive Director suitably documented information showing the 3j vessels do not meet the criteria outlined in paragraph 4 of these procedures, or any other relevant information, including suitably documented information as provided for in paragraph 1. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.

14. The TCC shall not include 3j vessels on the Provisional IUU Vessel List if suitably documented information is provided by any CCM that the vessels no longer have a common owner of record with the underlying vessel(s) that triggered the nomination under paragraph 4.

15. At its annual meeting, with respect to 3j vessels that are on the current WCPFC IUU Vessel List the TCC shall:

- a. consider suitably documented information, if any, provided by a CCM or non-CCM, as well as any relevant information regarding the status of an investigation, judicial or administrative proceeding related to the underlying vessel(s) and the cooperation and responsiveness of the owner of record in such proceedings; and
- b. following consideration of the suitably documented information, recommend to the Commission whether or not the 3j vessels should be removed from the WCPFC IUU Vessel List.

16. The TCC shall recommend removal of 3j vessels from the current WCPFC IUU Vessel List if suitably documented information:

- a. is provided that the vessels no longer have a common owner of record with the underlying vessel(s) that triggered the nomination under paragraph 4; or
- b. is provided that demonstrates that significant progress has been made to resolve the matter related to the underlying vessel(s) that triggered the nomination of the 3j vessels, and the CCM that originally submitted the 3j vessels for listing is satisfied.

WCPFC IUU Vessel List

17. Once 3j vessels are included on the Provisional IUU Vessel List, they shall be treated as part of that List and, where appropriate, the WCPFC IUU Vessel List, in accordance with paragraphs 20-24 of this CMM.

Modification of the WCPFC IUU Vessel List

18. Relevant flag states may request to remove 3j vessels from the WCPFC IUU Vessel List at any time during the intercessional period by submitting to the Executive Director suitably documented information that:

- a. the vessels no longer have a common owner of record with the underlying vessel(s)

- b. that triggered the nomination under paragraph 4; or
significant progress has been made to resolve the matter related to the underlying vessel(s) that triggered the nomination of the 3j vessels, and the CCM that originally submitted the 3j vessels for listing is satisfied.

19. Small island developing CCMs may also request removal of 3j vessels from the WCPFC IUU Vessel List at any time during the intercessional period by submitting to the Executive Director information that the listing of such 3j vessels has resulted in a disproportionate burden on the operation of domestic processing, transshipment facilities, or associated vessels of small island developing CCMs, or has undermined existing investment in FFA member countries.

20. Removal requests for 3j vessels shall be treated in accordance with paragraphs 26-29 of this CMM.

21. If the underlying vessel is removed from the WCPFC IUU List, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) and listed pursuant to the 3j procedures contained herein will be automatically removed at the same time.