
**TO PROMOTE COMPLIANCE BY NATIONALS OF CONTRACTING PARTIES AND
COOPERATING NON-CONTRACTING PARTIES WITH IOTC CONSERVATION AND
MANAGEMENT MEASURES**

Submitted by the EC

Background

Fighting illegal fishing (IUU) is one of the top priorities for the international community and all Regional Fisheries Management Organisations (RFMOs), including IOTC, in whose Area of Competence, despite the restrictions imposed by the IOTC Resolution 06/01 and its previous version (IOTC Resolution 02/04), illegal activities are still carried on.

The arsenal of measures adopted at international level against flag States who undermine the conservation and management measures adopted by RFMOs, are not sufficient and they should be supplemented by measures targeting individuals who are proven to be involved in IUU activities, as experience has shown that these pirates are extremely skilled and they can find different ways to counteract the RFMOs actions such as often change flags to continue with their IUU activities.

It is, therefore, evident that, in addition to the trade related measures vis-à-vis flag States hosting IUU vessels, a specific scheme is needed to promote compliance by IOTC CPC nationals with IOTC conservation and management measures, following the guidelines of the FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA) and taking into account similar measures already adopted at a multilateral level.

To meet this objective, the EC is proposing a Resolution based on the following principles, and operational steps:

Principles:

- as regards its scope, this proposal applies to all species falling under the competence of IOTC
- the proposal aims at complementing the existing measures and the proposal on trade related measures, through a specific instrument designed to achieve the same goals vis-à-vis the nationals, as these could play a leading role in the organisation and the continuation of IUU fishing activities.

Operational steps:

- the CPCs take measures to ensure that the nationals subject to their jurisdiction do not support or participate in the IUU activities referred to in the IOTC Resolution 06/01.
For the purpose of the measure, the nationals subject to their jurisdiction are defined as the "nationals and operators subject to their jurisdiction or operating from their territory" in order to take into account all the possible situations.
- as the relevant information to establish such support or participation in IUU activities, might not be (fully or partly) available on the territory of the IOTC CPC of a given national under its jurisdiction, it is appropriate to set up an obligation to provide and request cooperation to/from other parties.
- as to ensure that nationals do not support or participate in IUU activities implies that their business and related activities should be verifiable, appropriate cooperation shall be ensured from relevant national agencies and industries.

- IOTC CPCs shall report to the Executive Secretary and the parties concerned on the measures and actions taken, in order that this information may be used to implement the conservation measures at stake.

The Indian Ocean Tuna Commission (IOTC),

CONVINCED that illegal, unreported and unregulated (IUU) fishing compromises the objectives of the Agreement,

CONCERNED that some flag States do not comply with their obligations regarding jurisdiction and control according to international law in respect of fishing vessels entitled to fly their flag that carry out their activities in the IOTC Area of Competence, and that as a result these vessels are not under the effective control of such flag States,

AWARE that the lack of effective control facilitates fishing by these vessels in the Area of Competence in a manner that undermines the effectiveness of IOTC conservation and management measures, and can lead to illegal, unreported and unregulated (IUU) catches of fish,

CONCERNED that vessels that carry out activities in the Area of Competence which do not comply with the IOTC conservation and management measures are benefiting from the support provided by persons subject to the jurisdiction of Contracting Parties and Cooperating non-Contracting Parties (CPCs), including, *inter alia*, through participation in transshipment, transport and trade of illegally harvested catches or engagement on board or in the management of these vessels,

NOTING that the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing calls on States to take measures to discourage nationals subject to their jurisdiction from supporting and engaging in any activity that undermines the effectiveness of international conservation and management measures,

RECALLING that CPCs should cooperate in taking appropriate action to deter any activities which are not consistent with the objective of the Agreement,

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

1. Without prejudice to the primacy of the responsibility of the flag State, the CPCs shall take appropriate measures, subject to and in accordance with their applicable laws and regulations:
 - (i) to investigate allegations and/or reports concerning the engagement of any natural or legal persons subject to their jurisdiction in the activities described, *inter alia*, in IOTC Resolution 06/01, paragraph 1, *Resolution on Establishing a List of Vessels Presumed to Have Carried Out Illegal, Unreported and Unregulated Fishing in the IOTC Area*.
 - (ii) to take actions in response to any verified activities referred to in paragraph 1(i); and
 - (iii) to cooperate for the purpose of implementing the measures and actions referred to in paragraph 1(i).

To this end, relevant agencies of CPCs should cooperate to implement IOTC conservation and management measures and CPCs shall seek the cooperation of the industries within their jurisdiction.

2. To assist with the implementation of this recommendation, CPCs shall submit reports subject to the national laws of confidentiality to the IOTC Secretariat and other CPCs on the actions and measures taken in accordance with paragraph 1, in a timely fashion.
3. These provisions shall be applicable from 1 July 2008. CPCs may voluntarily decide to implement these provisions prior to this date.