

**RELATIONSHIP TO NON -COOPERATING NON- MEMBERS**

**PREPARED BY: IOTC SECRETARIAT, 15 JANUARY 2015**

**REVIEW AREA:** *International cooperation*

**GENERAL CRITERION:** *Relationship to Non-Cooperating Non-Members (Non-CPCs)*

**DETAILED CRITERIA:**

- 1) Extent of fishing activity by vessels of non-members that are not cooperating with the RFMO, as well as measures to deter such activities.

**SUPPORTING INFORMATION**

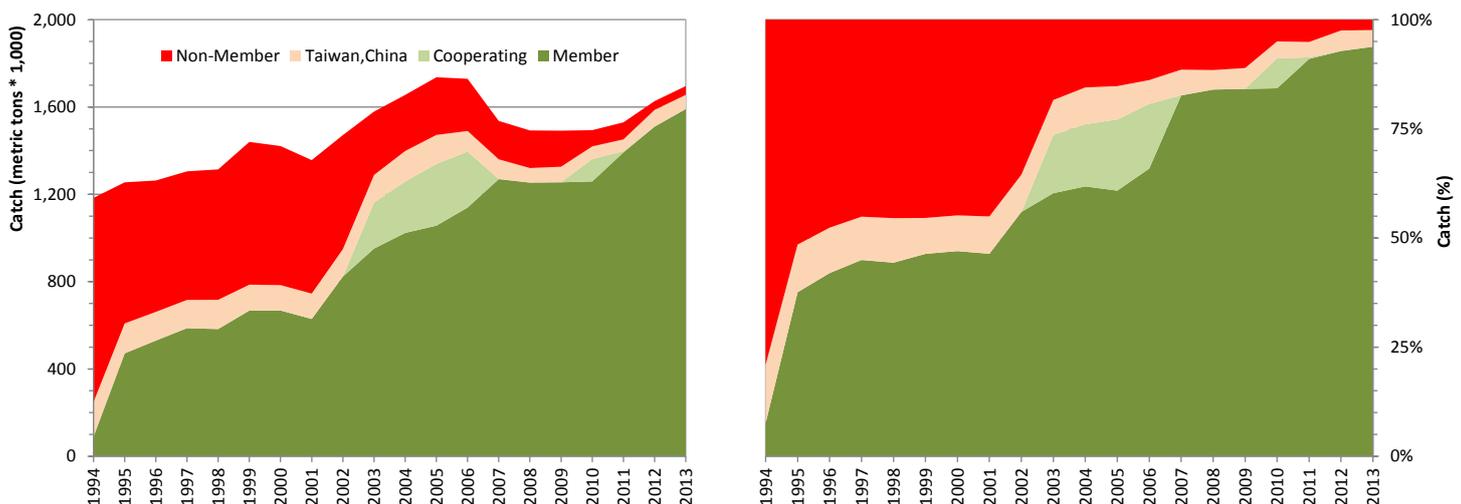
1. *Extent of fishing activity by vessels of non-members that are not cooperating with the RFMO, as well as measures to deter such activities.*

*Extent of activities*

Non member, non cooperating vessels apparently do fish for IOTC species catching around 3.3 % of the total catches of tuna and billfish over the period 2011–13 (2.4% in 2013). In addition, the catches of vessels flagged in Taiwan Province of China represented around 4% of the total catches of tuna and billfish over the same period (3.8% in 2013). [Fig. 1](#) presents the catches of IOTC CPCs and other fishing fleets from 1994 (first IOTC Member) to 2013, in metric tons and percentage. The catches of non-IOTC Members have been reduced markedly since the inception of the IOTC.

*Deterrents*

Several IOTC management measures focus on deterring these activities by restricting fishing and shipping activities and trading at the individual vessel level, and possible trade sanctions at the Flag State level.



**Fig.1.** Amount of catch of IOTC species in the IOTC Area reported by IOTC CPCs (IOTC Contracting Parties and Cooperating Non-Contracting Parties) versus catches estimated for other fishing fleets (including Taiwan Province of China and non-IOTC CPCs), for 1994-2013 (left catch in metric tons; right catch in percentage).

***A non-member, non-cooperating country typically***

- Overall, does not operate in a manner that is consistent with the IOTC management and conservation measures
- Does not participate at IOTC meetings and /or does not participate at IOTC technical meetings
- Does not provide vessel information and/or does not provide any fisheries statistics and vessels information

***Extent of fishing by non-member, non-cooperating countries***

Type and origin of vessels	Unverified estimates of vessel numbers *	Unverified estimates of catch*	IOTC measures in place to deter these activities (described more fully below)
<b>Countries with industrial vessels flagged outside the IOTC Area</b>	Over the period 2009-2013: an average of 12 vessels from 11 countries purportedly fished per year.  In 2013, 9 vessels from 3 countries purportedly fished.	Around 3,600 t per year – comprising mostly tunas. This constitutes nearly 0.4% of total catches of tunas and billfish.  In 2013, the catch was estimated to be about 3,700 t, constituting about 0.2% of total catches of tunas and billfish	IOTC members are not permitted to receive any catches from unauthorised vessels (Res. 01/06 and 10/10)  Vessels may be refused entry to the ports of IOTC members (Res. 10/11)  A vessel may be put on the IOTC IUU Vessels List (Res. 11/03), which will also automatically exclude it from operating in ICCAT, and IATTC.
<b>Industrial vessels flagged within the IOTC Area (Coastal countries)</b>	Nil	Nil	IOTC members are not permitted to receive any catches from unauthorised vessels (Res. 01/06 and 10/10)  Vessels may be refused entry to the ports of IOTC members (Res. 10/11)  A vessel may be put on the IOTC IUU Vessels List (Res. 11/03), which will also automatically exclude it from operating in ICCAT, and IATTC.
<b>Countries with artisanal vessels from within the IOTC region</b>	Unknown number	Over the period 2009-2013, an average total of 36,250 t of tuna and billfish per year was taken in 12 countries.  In 2013, an estimated 37,000 t of tuna and billfish was taken.  The majority of the catches are attributed to Myanmar, UAE, and Saudi Arabia.	None

\*The above information comes from the following sources. Note that most of it is not verified, and the information received is underestimated in most cases.

- IOTC Resolution 111/03 (Reports on the activities of vessels presumed to be IUU).
- Reports from third parties and other unofficial sources (publications, etc.).

***Deterrents******At the level of individual operators***

Not being on the IOTC Authorised Vessels List restricts a vessels ability to operate legally in the Indian Ocean to Contracting Parties and Cooperating Non-Contracting Parties.

Resolution 01/06 *Concerning the IOTC bigeye tuna statistical document programme* (and Resolution 03/03 *Concerning the amendment of the forms of the IOTC statistical documents*) explicitly restricts the exportation and importation of frozen bigeye tuna caught by large-scale tuna longline vessels in the Indian Ocean to vessels on the IOTC list of authorised vessels.

***Being labeled as an IUU Vessel***

In 2002, the IOTC adopted Resolution 02/04 *On establishing a list of vessels presumed to have carried out illegal, unregulated and unreported fishing in the IOTC Area*. This was superseded by Resolutions 06/01 (in 2006), 09/03 (in 2009) and 11/03 (in 2011). These resolutions defined IUU activities and outlined the process to be used for handling IUU cases (leading to listing on the IUU Vessels List).

The IUU Vessels List contains the names of vessels which have operated illegally and after consideration of the evidence against them, the Commission has placed them into the IUU lists.

The first IOTC IUU Vessels List was adopted in 2005 and included 12 vessels. The current list adopted in the 2014 Session of the Commission includes 30 vessels.

Compared to other tuna organisations IOTC has the second highest number of IUU vessels in its list (as of January 2015). However, it should be noted that the IUU vessels list of ICCAT, the list of tuna organisations with the highest number of vessels, contains a number of vessels listed by four tuna RFMOs.

IOTC	ICCAT	IATTC	CCSBT	WCPFC
30	42	14	0	3

Vessels on the IOTC IUU Vessels List have a range of restrictions imposed; including transshipment, chartering, flagging, not being authorized to land, tranship, re-fuel, re-supply, or engage in other commercial transactions (in the ports of IOTC members). See paragraph 16 of Resolution 11/03 in [Appendix I](#).

Similar restrictions are likely to apply in other oceans given the commonality of the regulations for authorised vessels and IUU vessels between RFMO's.

***At the Flag State level*****Trade sanctions**

In 2003 IOTC adopted Recommendation 03/05 (non binding) *Concerning Trade Measure*, which has been replaced by Resolution 10/10 *Concerning market related measures*, which provides for the “identification” of members or non-members failing to discharge their obligations or failed to exercise effective control to ensure that their vessels do not engage in any activity that undermines IOTC measures. By contrast with the deterrents above, this Resolution provides a mechanism that applies to a State, rather than an individual vessel.

**APPENDIX I****RESOLUTION 06/01****ON ESTABLISHING A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREGULATED AND UNREPORTED FISHING IN THE IOTC AREA****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, unregulated and unreported fishing (IPOA). 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 Plan,

RECALLING that IOTC 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 IOTC area 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 which 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 counter-measures to be applied in respect to the vessels, 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, the fishing vessels flying the flag of a non-Contracting Party are presumed to have carried out illegal, unregulated and unreported fishing activities in the IOTC Area, inter alia, when a Contracting Party or Co-operating non-Contracting Party (hereinafter referred to as “CPC’s”) presents evidence that such vessels:
  - a. Harvest tunas and tuna-like species in the IOTC Area and are not registered on the IOTC Record of Vessels authorised to fish for tuna and tuna-like species in the IOTC area, or
  - b. Harvest tuna and tuna-like species in the IOTC Area, whose flag state is without quotas, catch limit or effort allocation under IOTC conservation and management measures where appropriate, or
  - c. Do not record or report their catches made in the IOTC Area, 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 without authorisation and/or infringes its laws and regulations, without prejudice to the sovereign rights of coastal States to take measures against such vessels, or
  - i. Are without nationality and harvest tunas or tuna-like species in the IOTC Area, or
  - j. Engage in fishing activities contrary to any other IOTC conservation and management measures.

**Information on Alleged IUU Fishing Activities**

2. CPC’s transmit every year to the 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 IOTC

Area during the current and previous year, accompanied by the supporting evidence concerning the presumption of IUU fishing activity.

3. This list shall be based on the information collected by CPC's, *inter alia*, under:
  - *Resolution 99/02 Calling for Action Against Fishing Activities by Large-Scale Flag of Convenience Longline Vessels;*
  - *Resolution 01/02 Relating to Control of Fishing Activities;*
  - *Resolution 01/03 Establishing a Scheme to Promote Compliance by Non-Contracting Party Vessels with Resolutions Adopted by IOTC;*
  - *Resolution 01/06 Concerning the IOTC Bigeye Tuna Statistical Document Programme;*
  - *Resolution 02/01 Relating to the Establishment of an IOTC Programme of Inspection in Port;*
  - *Resolution 05/02 Concerning the Establishment of an IOTC Record of Vessels over 24 Metres Authorised to Operate in the IOTC Area*
  - *Resolution 05/04 Concerning Registration And Exchange Of Information On Vessels, Including Flag Of Convenience Vessels, Fishing For Tropical Tunas And Swordfish In The IOTC Area Of Competence*

#### **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 I. The Secretary shall transmit it together with the current IUU Vessels List as well as all the evidence provided to CPC's and to non-Contracting Parties whose vessels are included on these lists before at least 90 days before the Annual Meeting. CPC's and non-Contracting Parties will transmit their comments, as appropriate, 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, at least 30 days before the Annual Meeting to IOTC.
5. The Flag State shall notify the owner of the vessels of its 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, CPC's 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 to the Commission Meeting to the CPC's and to the non-Contracting Parties concerned together with all the evidence provided. This list shall be drawn up in conformity with Annex I.
8. CPC's may at any time submit to the Secretary any additional information, which might be relevant for the establishment of the IUU Vessels List. The Secretariat shall circulate the information, at latest before the annual meeting, to CPC's and to the non-Contracting Parties 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 3, 4 and 7.
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.
11. 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. The Provisional IUU Vessels List shall be submitted to the Commission for approval.
- 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 17.

### **IUU VESSELS LIST**

12. On adoption of the IOTC IUU Vessels List, the Commission shall request non-Contracting Parties, 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 13
  - 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.
13. CPC's 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, re-fuel, 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.
14. The Secretary will take any necessary measure to ensure publicity of the IUU Vessels List adopted by IOTC pursuant to paragraph 11, 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.
15. This Resolution shall apply initially to large-scale fishing vessels flying the flag of non-Contracting Parties. The Commission shall, at its annual meeting in 2007, review and, as appropriate, revise this resolution with a view to its extension to other types of IUU fishing activities of non-Contracting Party vessels and, to CPC vessels.
16. Without prejudice to the rights of Flag States and coastal states to take proper action consistent with international law, the CPC's 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 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**

17. A non-Contracting Party 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:

- a) it has adopted measures such that the vessel conforms with all IOTC conservation measures
- 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 fishing activities executed by this vessel in the IOTC Area
- c) it has taken effective action in response to the IUU fishing activities in question including prosecution and imposition of sanctions of adequate severity.
- d) 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**

18. The non-Contracting Party 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 17.
19. On the basis of the information received in accordance with paragraph 17, the 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.
20. The Contracting Parties will examine the request to remove the vessel and arrive at a 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. The result of this examination will be checked by the Secretary at the end of the 30-day period following the date of the notification by the Secretary referred to in paragraph 19.
21. The Secretary will communicate the result of the examination to all Contracting Parties.
22. If the result of the exercise indicates that there is a two-thirds majority of the Contracting Parties in favour of removing a vessel from the IUU Vessels List, the Chairperson of the IOTC, on behalf of the IOTC, 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 Vessels List. In the absence of a two-thirds majority, the vessel will be maintained on the IUU Vessels List and the Secretary will inform the non-Contracting Party accordingly.
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.
24. Resolution 02/04 *On Establishing A List Of Vessels Presumed To Have Carried Out Illegal, Unregulated And Unreported Fishing In The IOTC Area* is superseded by this Resolution.