

## **ISSF Technical Report 2014-10**

# **Combating IUU Fishing: Continual Improvement and Best Practices for IUU Vessel Listing measures in Tuna RFMOs**

Prepared for the International Seafood Sustainability Foundation (ISSF)  
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## **Executive Summary**

To strengthen its efforts to combat IUU fishing activities, the International Seafood Sustainability Foundation (ISSF) requested a review the IUU Vessel Listing measures in regional fisheries management organisations responsible for tuna management (t-RFMOs). The purpose of the review was to identify deficiencies and weaknesses in the current IUU listing procedures and develop guidance on best practices to support and strengthen efforts for the conservation and management of tuna resources.

Overall, the t-RFMOs IUU Vessel Listing measures are largely consistent, particularly the measures adopted more recently. However there are a number of differences between the measures as highlighted in the summary table of the t-RFMO IUU Vessel Listing measures (Appendix 2). A thorough analysis of the IUU Vessel Listing measures is provided at Part II.

Key differences include the application of the measures, the activities that constitute IUU fishing, the roles and responsibilities of the groups during the IUU Vessels Listing process, the extent of the use of intersessional decision-making powers and the range of punitive measures to be taken by t-RFMO members, flag States, port States and coastal States in respect of their own vessels and against the IUU listed vessel.

A range of recommendations regarding how to strengthen the IUU Vessel Listing measures are provided at Part III (commencing at page 24). Recommendations include standardising the way the measures are drafted to support harmonisation between the t-RFMOs; having consistent activities that constitute IUU listing, information to support the listing and punitive measures; implementing a decision making process that removes the flag State from decisions regarding its own flag vessels; adopting an expanded range of admissible information and implementing rigorous cross-listing and intersessional processes.

The report also recognises the direct link between IUU vessel listing and the rigour of the other MCS measures adopted by t-RFMOs. The report recommends strengthening these supporting measures as a way of supporting IUU Vessel Listing, including for example, increasing VMS polling rates, strengthening compliance assessment processes for members and implementing responses for non-compliance, and increasing observer coverage.

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## Acknowledgments

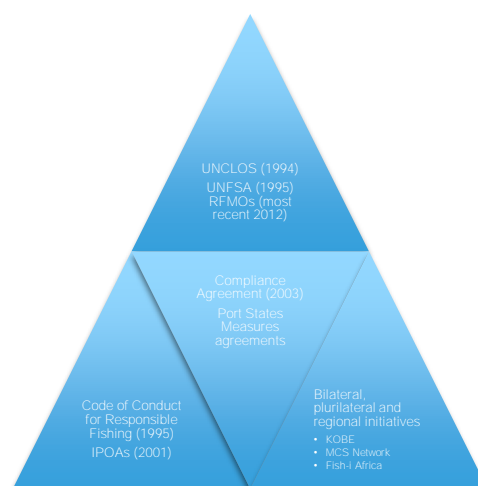
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## I. Introduction

The International Seafood Sustainability Foundation (ISSF) requested a review the IUU Vessel Listing measures in regional fisheries management organisation responsible for tuna management (t-RFMOs) to strengthen its efforts to combat IUU fishing. The purpose of the review was to identify deficiencies and weaknesses in the current IUU Vessel Listing measures and develop guidance on best practices to support and strengthen efforts for the conservation and management of tuna resources. The specific aims of this technical report are to:

1. review the current IUU vessel listing measures in t-RFMOs, identifying the commonalities and differences, strengths and weaknesses; and
2. identify the best practices for the IUU Vessel Listing measures, taking into account the relevant international framework.

Illegal, unreported and unregulated (IUU) fishing continues to pose a considerable threat to the sustainability of global fisheries resources. IUU fishing contributes to overexploitation and impedes the recovery of fish stocks and the ecosystems (Bray, 2000, The World Bank, 2009). In reviewing global IUU fishing, all species combined, Agnew *et al* (2009) estimated IUU catches at between 11-26 million tonnes with a valued at US\$10-23.5 billion, for tuna resources IUU fishing may represent as much as 10 per cent of total catch. However, given the inherent difficulty in estimating illegal activities these estimates, and subsequently their impact, may be significantly higher.



**Figure 1: International fisheries governance framework, showing examples of hard and soft instruments and year of entry into force, where applicable.**

Recognising the need for unified action to manage fisheries resources and address issues such as IUU fishing, the international community adopted a range of hard and soft international law instruments and regional and national initiatives (Figure 1). These instruments work together, but their effectiveness relies upon implementation by and cooperation among States, which is limited by, in some cases, human and financial capacity and/or political will. Hard law includes the United Nations Convention on the Law of the Sea (UNCLOS) (*United Nations Convention on the Law of the Sea*) and its associated implementing agreement, the UN Fish Stocks Agreement (UNFSA) (*Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Seas of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*, , 1995), which provides the overarching normative framework for regional fisheries management organisations (RFMOs) that have primacy for the management of highly migratory, straddling and

shared fisheries resources. Although non-binding, soft international instruments, such as the Code of Conduct on Responsible Fishing (Food and Agricultural Organisation of the United Nations, 1995) and its associated International Plans of Action (IPOAs) for example the *International Plan of Action to Prevent Deter and Eliminate Illegal, Unreported and Unregulated Fishing* (IPOA-IUU) (Food and Agricultural Organisation of the United Nations, 2001), help to establish normative fisheries management arrangements and give rise to international customary law (Lodge et al., 2007).

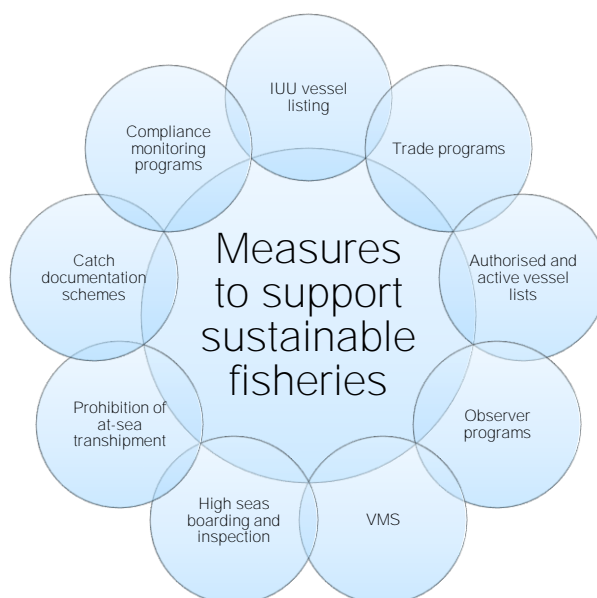
Improving fisheries governance has been identified as a critical challenge to the sustainability of high seas fisheries resources generally (Lodge et al., 2007, Bray, 2000), and is particularly critical in combating IUU fishing (Agnew et al., 2009). The IPOA-IUU was adopted in response to increasing IUU fishing and acknowledgement that the existing international framework did not provide sufficient governance to address IUU fishing (Bray, 2000). However, it was also noted that it was not the specific mechanisms themselves that created this gap, but a failure of States to give effect to these the mechanisms. For example, some t-RFMO members have not yet implemented a National Plan of Action for Combating IUU despite the IPOA-IUU calling for the implementation of a National Plan of Action as soon as possible, but not later than three years following the adoption of the IOPA-IUU (Table 1). Moreover, the national fisheries legislation in many States was drafted prior to the adoption of modern fisheries management agreements, and thus is unlikely to give full effect to the principles in these instruments (Table 1).

**Table 1: Status of national fisheries legislation and National Plan of Action on IUU fishing for selected States that are members of t-RFMOs.**

<b>State (RFMO membership)</b>	<b>Base National Legislation</b>	<b>NPOA-IUU</b>
Belize (IATTC, ICCAT, IOTC, WCPFC)	High Seas Fishing Act (2013)	Yes
China (IATTC, ICCAT, IOTC, WPFC)	Fisheries Law of the People's Republic of China (1986)	No
Costa Rica (IATTC)	Law on Fisheries and Aquaculture no. 8.436 (2005)	No
EU (CCSBT, IATTC, ICCAT, IOTC, WPFC)	Common Fisheries Policy (1970) (last amended 2014)	Yes
Indonesia (CCSBT, IATTC, IOTC, WCPFC)	Fisheries Law no. 31/2004 (2004)	Yes
Japan (CCSBT, IATTC, ICCAT, IOTC, WPFC)	Fisheries Law (1949) (last amended 1962)	Yes
Mozambique (IOTC)	Fisheries Law No. 22 (2013)	Yes
PNG (WCPFC)	Fisheries Management Act No. 48 (1998)	No
USA (IATTC, ICCAT, WCPFC)	Magnuson-Stevens Fisheries & Conservation Act (1976) (additional legislation e.g. Sustainable Fisheries Act 1996)	Yes

Combating IUU fishing requires effective governance arrangements of all actors and consequently the IOPA-IUU sets out a range of measures to be taken by all States, flag and port States and by RFMOs. The IPOA-IUU advises that RFMOs should give effect to their duty to cooperate, strengthen institutional capacity, implement mandatory reporting and effective compliance monitoring schemes, and use a broad range of data sources among other things (Appendix 1).

At the RFMO level, t-RFMOs have adopted a range of measures<sup>2</sup>, such as monitoring, control and surveillance (MCS) measures, for example vessel monitoring, port sampling and observer programs, prohibitions on at-sea transshipment by some gears and trade measures to promote compliance and support sustainable fisheries management (Figure 2). These measures also contribute to deterring and combating IUU fishing. All five t-RFMOs have also implemented IUU Vessel Listing measures to identify vessels that have engaged in activities that are contrary to, or undermine the effectiveness of, the t-RFMO's rules, and thus have been categorized as IUU fishing (Table 2).



**Figure 2: Examples of RFMO measures used to ensure the sustainability of fisheries resources and combat IUU fishing either directly or indirectly.**

Although there may be gaps in the international fisheries governance framework, it is equally important to regularly monitor the effectiveness of the mechanisms developed beneath this framework to ensure that they are operating as intended. As shown in Table 2, the current t-RFMO measures were adopted between 2005-2013—nearly 10 years for the oldest. The age of the measures coupled with the entry into force of other international legislation and customary law, for example the Compliance Agreement (*Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas*) and the Port State Measures Agreement (*Agreement on Port State Measures to Prevent*), and the evolution of thinking regarding the appropriate suite of tools to combat IUU fishing (e.g. trade or landing restrictions), gives further impetus to review the effectiveness of the IUU Vessel Listing measures and associated instruments. But despite any improvements in the international fisheries management instruments, Bray (2000) highlights that ultimately the onus remains on flag States to fully implement the instruments to enable effective fisheries management.

This Technical Report is divided into three sections: Part II provides an analysis of the five t-RFMO IUU Vessel Listing Measures and Part III outlines the recommendations for the continuous improvement of the IUU Vessel Listing measures in t-RFMOs. The recommendations are broad and applicable to all of the t-RFMOs, and consequently would need to be massaged to fit the specifics of each of the t-RFMO treaties.

<sup>2</sup> Throughout this Technical Report 'measures' is used to refer to the binding conservation and management decisions (Resolutions, Recommendations or Conservation and Management Measures) of the t-RFMOs.

**Table 2: Current active t-RFMO IUU Vessel Listing measures.**

<b>t-RFMO</b>	<b>Current Active t-RFMO Decision</b>	<b>Year</b>	<b>Cross Referenced</b>
CCSBT	<u>Resolution</u> on Establishing a List of Vessels Presumed to have Carried Out Illegal, Unreported and Unregulated Fishing Activities For Southern Bluefin Tuna	2013	nil
IATTC	<u>Resolution C-05-07</u> : Resolution to Establish a List of Vessels Presumed to have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the Eastern Pacific Ocean	2005	Joint Tuna RFMO Website: <a href="http://www.tuna-org.org">www.tuna-org.org</a>
ICCAT	<u>Recommendation 11-18</u> : Recommendation by ICCAT Further Amending Recommendation 09-10 on Establishing a List of Vessels Presumed to have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area <u>Recommendation 03-16</u> : Recommendation by ICCAT To Adopt Additional Measures Against Illegal, Unreported and Unregulated (IUU) Fishing	2011	Joint Tuna RFMO Website: <a href="http://www.tuna-org.org">www.tuna-org.org</a> IATTC: <a href="http://www.iattc.org">www.iattc.org</a> IOTC: <a href="http://www.iotc.org">www.iotc.org</a> WCPFC: <a href="http://wcpfc.int">wcpfc.int</a> (plus CCAMLR, NEAFC, NAFO)
IOTC	<u>Resolution 11-03</u> : 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	2011	Joint Tuna RFMO Website: <a href="http://www.tuna-org.org">www.tuna-org.org</a> IATTC: <a href="http://www.iattc.org">www.iattc.org</a> ICCAT: <a href="http://www.iccat.int">www.iccat.int</a> WCPFC: <a href="http://wcpfc.int">wcpfc.int</a>
WCPFC	<u>CMM 2010-06</u> : Conservation and Management Measure to Establish A List of Vessels Presumed to have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the WCPO	2010	Joint Tuna RFMO Website: <a href="http://www.tuna-org.org">www.tuna-org.org</a>

## **II. Analysis of t-RFMO IUU Vessel Listing Measures: Strengths, Weaknesses and Best Practices**

Rather than note every difference in the IUU Vessel Listing measures, this comparison of the t-RFMO IUU Vessel Listing measures tries to consider the overarching principles and how these differ between the IUU Vessel Listing measures adopted by each of the five t-RFMOs. Of course each measure is tailored specifically for the treaty under which it is drafted and reflects the membership of that t-RFMO. However, in order to successfully prevent, deter and eliminate IUU fishing, there are a range of principles and elements where harmonisation would elicit the best outcome. A summary of the t-RFMO IUU Vessel Listing measures is provided at Appendix 2.

For all t-RFMOs the purpose of the IUU Vessel Listing measures is to give effect to recommendations from the IPOA-IUU, specifically to establish information on vessels engaged in IUU fishing (paragraph 80.4), develop and maintain records of vessels engaged in or supporting IUU fishing activities (paragraph 80.5), and multilaterally sanction such activity.



## Defining IUU

The IPOA-IUU does not define IUU; rather it identifies the nature and scope of activities that constitute IUU fishing. Under the IPOA-IUU:

*'Illegal'* refers to activities:

- a. conducted by a national or foreign vessel in the waters under the jurisdiction of a State without the permission of that State or in contravention of its laws, or
- b. conducted by vessels flying the flag of States that are parties to a relevant RFMO but operate in contravention of the conservation and management measures adopted by that organisation and by which States are bound, or relevant provisions of the applicable international law, or
- c. in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant RFMO.

*'Unreported'* refers to activities:

- d. which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations, or
- e. undertaken in the area of competence of a relevant RFMO which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation.

*'Unregulated'* refers to activities:

- f. in the area of application of a relevant RFMO that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation, or
- g. in areas or for fish stocks in relations to which there are no applicable conservation and management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation for living marine resources under international law.

Given the nature and scope of IUU fishing activities and the outcomes from the compliance assessment processes being undertaken at t-RFMOs, it is clear that IUU vessels lists could contain a much larger number of vessels. However, it is not likely that a flag State will nominate its own vessels for IUU listing if it has contravened its own national laws. Rather the flag State is likely to have its own legislated or regulated actions to take against vessels flying its flag. So these vessels are not likely to be identified on t-RFMO IUU vessels lists.

In practice then the IUU vessel lists are only really being used to address fishing activities that contravene or undermine the effectiveness of the conservation and management measures of the relevant t-RFMO on the high seas or in the national jurisdiction of coastal State without authorisation or in contravention its applicable legislation. In effect this means that the IUU vessel listing measures are only really considering activities under a, b, c and f of the IPOA-IUU. Notwithstanding the difference between State and vessel compliance, the utility of an IUU Vessel listing process to consider all activities identified as IUU under the IPOA-IUU, points to a direct link between the IUU vessel listing measures and implementing and undertaking a rigorous compliance assessment of member's implementation of the t-RFMO measures. This compliance assessment ideally needs to consider both the compliance by individual State and by measure to provide a thorough assessment of if there is an issue with the measure or with that State's implementation of the requirements of the measure. As noted during the development of the IPOA-IUU, it may be that there is not a problem with the activities that constitute IUU or the governance framework itself, but rather

with the implementation of the measures by individual States (Bray, 2000, Edeson, 2000, Lodge et al., 2007).

### Context of the Measure

Two of the five t-RFMO measures, CCSBT and WCPFC, provide a broader context to interpret the measure. Both call for Parties to identify vessels that have acted contrary to the objectives of the specific treaty; for example WCPFC states ‘...identify vessels that have acted in a manner that undermines the effectiveness of the WCPFC Convention...’, and then highlights the specific actions to be taken by the members<sup>3</sup> of the t-RFMO, that is to generate a list of such vessels – the IUU Vessel List.

The inclusion of a context paragraph helps to place IUU fishing squarely in the treaty’s objective thereby reinforcing the Commission’s need for effective governance and to take action. Moreover, inclusion of a context paragraph helps provide clarity regarding the Commission’s role and the actions it must take to fulfil the provisions of the measure. As with the use of harvest control rules and reference points for fisheries management, clearly articulated roles and actions are likely to reduce politicisation of IUU decisions. For example, increasingly the IOTC, rather than take a decisive decision regarding a new IUU vessel nomination, instigates its intersessional decision making process thereby retaining the vessel on the provisional IUU Vessel List pending the intersessional process. The inability to adopt an IUU Vessel List may weaken the IUU Vessel Listing procedure as flag States continue to fight to not have their vessels listed. The inclusion of an overarching context may negate some of these issues by providing clarity regarding the Commission’s actions, including an assessment of nominated vessels and the adoption of a complete IUU Vessel List at the conclusion of the annual session.

A context paragraph also helps to distinguish minor non-compliance versus wilful and ongoing non-compliance. If the IUU measure was to be implemented according to the IPOA-IUU it is possible that all vessels of some flag States could be nominated for IUU Vessel Listing. For example if a t-RFMO member fails to provide mandatory catch and effort data in accordance with the relevant measures it is in breach of the t-RFMO’s rules and aligns with point ‘e’ of the IPOA-IUU. However, the vessel is only responsible to provide catch and effort data to its flag State under the applicable State laws and regulations. The vessel is not required to report this data directly to the t-RFMO and as such listing this members vessels as IUU punishes the vessels rather than the State who has responsibility for providing this information to the t-RFMO. In this instance the it would be better for the State to be assessed, and penalised, through the t-RFMOs Compliance Assessment process rather than punishing each of the vessels using the relatively blunt IUU Vessel Listing procedure.

Consistent with the *Vienna Convention on the Law of Treaties*, under international law it is important that any measure is read in its context. Providing a broader context can assist Parties recall the overarching issue that the measure was seeking to address through its adoption. Furthermore, the inclusion of a context paragraph clearly articulates the actions the Commission is to take in fulfilling the elements of the measure.

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<sup>3</sup> Throughout this Technical Report, ‘members’ refers to Contracting Parties, Cooperating, non-Contracting Parties, Fishing Entities, Entities and Participating Territories of t-RFMOs.

## Application of the Measure

Each of the t-RFMOs specifies the vessels that the measure applies too. CCSBT, IOTC and WCPFC measures apply to all vessels, fishing for Southern Bluefin Tuna in the case of CCSBT, or for vessels fishing for the species covered by each of the IOTC and WCPFC treaties within the treaty's Area of Application. In the case of both IATTC and ICCAT that measure specifies the class of vessel that can be listed as IUU. The IATTC measure applies to fishing vessel greater than 24 meters length overall and despite some convoluted drafting, in practice the ICCAT Recommendation applies to all vessels greater than 20 meters length overall.

The importance of clear drafting cannot be overstated. As identified above, the ICCAT measure has convoluted drafting making it more difficult to interpret. In relation to the application, paragraph 1 of the ICCAT measure provides that '...fishing vessels flying the flag of a non-Contracting Party, Cooperating non-Contracting Party, Entity and Fishing Entity and Contracting Party' can be listed on the IUU Vessel List. But, this is confounded throughout the measure where specific paragraphs are drafted as applying to 'non-Contracting Parties' without reference to the other types of vessels, for example paragraph 14 and 15. However, paragraph 22 then goes on to state 'this Recommendation shall apply *mutatis mutandis* to vessels referred to in paragraph 12 flying the flag of CPCs', where CPC refers to the language used in paragraph 1 (Appendix 3 sets out a direct comparison the language in the different t-RFMO IUU Listing measures). In amending measures, members should seek to have measures be reviewed in entirety.

Only the ICCAT measure lists the vessel types considered to be fishing vessels '...fish processing vessels, tug and towing vessels, vessels engaged in transshipment, and support vessels...'. However, other treaties have a single definition of 'fishing vessel' included in the treaty itself (e.g. IATTC and WCPFC) and as such do not seek to clarify the meaning in every measure adopted.

Noting the proposed amendments to the IATTC IUU Vessel Listing measures (Government of the United States America, 2014), both IATTC and ICCAT measures apply to 'fishing vessels' of a specified length but there is no mention of their fishing for the specific species covered by the treaty or within the treaty's Area of Competence in the application paragraph (although species are specified in the activities that constitute IUU fishing). The ramification of this is that any vessels could be listed, subject to the other provisions of the measure, on the IUU List irrespective of the species targeted or gear being used which may be a source of confusion regarding the competence and rules of different RFMOs. Conversely, this may close an IUU loophole by being able to cross-reference between all RFMOs irrespective of the species covered under the specific treaty. Either way, it is important that the measures application be clear and consistent with the mandate of the treaty itself.

Given that IUU is a global issue, it is important that the measure is applied to all vessels equally, thereby providing members with sufficient ability to identify and list activities inconsistent with the objectives of the treaty and decisions adopted thereunder. A limited application reduces the ability of the members to address IUU fishing in its entirety. A consistent application of the IUU Vessel Listing measures of t-RFMOs is also important in giving effect to the KOBE Recommendations regarding harmonisation and cross-listing. Both harmonisation and cross-listing IUU Vessels is more difficult where the measures differ or are contradictory. For example under the current ICCAT application, it would be difficult to cross-list a 19 meter IUU vessel identified by the IOTC, WCPFC or CCSBT as the vessel is outside the application of the ICCAT IUU Vessel Listing measure, which only applies to vessels greater than 20 meters length overall.

### Activities that Constitute IUU Fishing

All of the IUU Vessel list measures reviewed list activities that constitute IUU fishing. The lists are largely consistent between the t-RFMOs and with the IPOA-IUU. But notwithstanding the catch-all criteria of ‘fishing in contravention of any other measure’, there are some important differences between the lists (Table 3).

All t-RFMOs, except IATTC, have provisions for listing vessels that have operated inside the waters of a coastal State. However there is subtle, but important, difference in the language used to describe this activity in the WCPFC measure. WCPFC can nominate a vessel as IUU where it has ‘*conducted fishing activities in the waters under the national jurisdiction of a coastal State...*’ versus ‘*harvesting tuna or tuna like species*’ in the CCSBT, ICCAT and IOTC measures. The critical difference is the definition of ‘fishing’ in the WCPFC Convention (Article 1(d)(i-vi)), which includes activities such as ‘searching for, catching, taking or harvesting fish and attempting to search for, catch, take or harvest fish’. This comprehensive definition greatly enhances the ability to nominate vessels for IUU listing in WCPFC.

Only the IOTC and ICCAT measures provide for IUU vessel nomination based on if a vessel fished with insufficient quota, catch limits or effort allocations. It could be argued that the catch-all criteria, ‘fishing contrary to any other measure’, provides for this criteria and that specific inclusion of this language is of little consequence. However, as the measures have been prescriptive on other key elements, such as transshipment, it would seem wise to include this provision, particularly in the case of CCSBT where the Management Procedure relies on compliance with the national catch limits.

A third key difference is the inclusion of common ownership as a basis for IUU listing. The common ownership criteria provides that where an owner of an IUU Vessel Listed vessel has multiple vessels, that these additional vessels can also be listed due to the shared ownership. Inclusion of common ownership is also consistent with the theory of crime, that individuals act based on the behaviour of others, and the recognition that there is at least some organised component to illegal fishing activities (Le Gallic, 2007). Only IATTC and WCPFC include a clause of common ownership as a basis for IUU vessels listing.

**Table 3: Comparison of the activities that constitute IUU Fishing in each of the five t-RFMOs.**

	CCSBT	IATTC	ICCAT	IOTC	WCPFC
Harvesting species covered by the treaty when not authorised to do so	✓	✓	✓	✓	✓
Failure to record and report catches or making false reports	✓	✓	✓	✓	✓
Used prohibited fishing gears	✓	✓	✓	✓	✓
Transhipped or had joint operations with non-authorised vessels or IUU listed vessels	✓	✓	✓	✓	✓
Fishing during spatial or temporal closures		✓	✓	✓	✓
Take or land under-sized fish		✓	✓	✓	✓
Conducted fishing operations in national waters without authorisation or contrary to the laws of that coastal State	✓		✓	✓	✓
Are without nationality and harvested species covered by the treaty		✓	✓	✓	✓
Are under the control of the owner of any vessel on the IUU Vessel List of the relevant t-RFMO		✓			✓
Fished without sufficient quota, catch limit or effort allocations			✓	✓	
Engage in fishing activities contrary to any other binding CMM relevant to that treaty	✓	✓	✓	✓	✓

Recognising the need to act globally to prevent, deter and eliminate IUU fishing, particularly in tuna fisheries, there have been numerous calls for harmonisation of IUU Vessel Listing measures to the greatest extent possible. As highlighted in the introduction, the IPOA-IUU characterises the nature of ‘illegal’, ‘unreported’ and ‘unregulated’ fishing activities, but as Edeson (2000) notes, a precise definition or use of the terms was never intended, rather they sought to identify the general nature of IUU fishing. There is broad consistency between the t-RFMOs listing criteria, but all t-RFMOs would benefit from including key criteria to support the management arrangements, including a common ownership criteria, fishing with insufficient quota, catch or effort limits and fishing without nationality.

It is also important to distinguish (i) flag State responsibility from vessel level responsibility and (ii) relatively minor non-compliance from wilful and ongoing IUU fishing activities. At this juncture it is important to recall the responsibilities of a State in respect of its flag vessels versus responsibilities to the t-RFMO to which it is a party. The FAO (2000) outlines flag State responsibilities: the flag State is responsible for controlling the fishing activities of the vessel wherever it is operating. More specifically:

- if the vessel is fishing in the waters under the jurisdiction of the flag State, then the responsibility of the flag State is exclusive,
- if the vessel is fishing on the high seas, the flag State has traditionally had exclusive responsibility for the fishing activities of the vessel, however recent agreements has given other States certain rights to take action with respect to fishing vessels on the high seas, for example high seas boarding and inspection. Overall this equates to flag States having primary responsibility for prevent, eliminating and deterring IUU fishing.

In relation to RFMOs, in depositing an instrument of ratification, acceptance, approval or accession, States have a duty to cooperate in the activities of the RFMO and to implement the decisions of the RFMO in good faith. This includes implementing arrangements that gives effect to the decisions at both the vessel and national level. However State parties to UNCLOS and/or UNFSA also have a duty to cooperate in accordance with these obligations (e.g., Article 118 of UNCLOS) (Willock and Lack, 2006).

In regards to flag State versus vessel level responsibility, a vessel may have provided all relevant operational catch and effort data to the national authority, but the national authority may not have provided to the Secretariat (or equivalent) by the prescribed deadline. In this example, listing the vessel as IUU becomes a very blunt tool to address the non-compliance. It may be more appropriate to consider what other processes and tools are available for use by the t-RFMO, for example using the compliance assessment process and developing a graduated response to non-compliance. Again using this example, other punitive measures that could be used include increasing observer coverage on the vessel or requiring monitoring of all transshipments, irrespective of at-sea or in-port and particularly where port State measures are yet to be adopted by the t-RFMO or port State, rather than listing the vessel as IUU. In relation to distinguishing minor non-compliance from ongoing or wilful non-compliance and as described earlier, if applied in its entirety, the IUU Vessel Listing measure could result in the listing of all vessels from some flag States. This does not diminish the need for the IUU Vessel Listing measure, instead it strongly reinforces the need for a comprehensive compliance assessment process at all t-RFMOs such that the power and integrity of being IUU listed is not weakened.

## Information on Alleged IUU Fishing Activities

Information supporting IUU Vessel Listing nominations are also largely consistent between the t-RFMOs (Table 4). There are however some important differences:

- IATTC provides for ‘information from other sources’, but does not define what these sources are
- CCSBT and WCPFC stipulate that any nomination, and the associated evidence/information is also provided directly to the flag State of the vessel as well as the Secretariat
- IATTC and ICCAT do not define where the information on the alleged IUU fishing activity is sourced from (e.g., reports by members on measures in force) compared to CCSBT, IOTC and WCPFC that are more prescriptive, providing guidance on the types of admissible evidence.

One of the differences in this component of the IUU Vessel Listing Measures is the degree of specification regarding what type of information that can be used to support an IUU listing nomination. Increased specification ensures that there is an upfront agreement regarding what information is admissible for the Commission’s deliberations. This was important for CCSBT in its historical deliberations regarding the identification of misreported catches. Although unclear, Polacheck (2012) suggests the protracted deliberations at CCSBT may have been shortened if trade data had been identified as a valid source of information. In any event, de-politicisation of t-RFMO decision-making processes is likely to provide greater transparency and strengthen governance arrangements that benefit the sustainability of the resource.

Under the current drafting, information on alleged IUU activity can only be provided by members (Parties, Cooperating non-Contracting Parties, Entities and Territories as applicable). Information from external sources, including non-government organisations, is permissible in some other t-RFMO processes, for example in IATTCs compliance reporting process, *Recommendation 08/09 To Establish a Process for the Review and Reporting of Compliance Information* allows for the submission of information by non-government organisations (paragraph 5), but this is the exception rather than the rule. Given the impact of IUU fishing and the cost of undertaking effective MCS activities, and consistent with the recommendations from the IPOA-IUU, there is a strong argument to allow the use of information from external third parties, such as NGOs, scientific cruises, etc. However, it is imperative that, as for all information sourced from members, any external information be sourced in a manner consistent with all applicable international laws, be suitably documented and be verifiable. Moreover, any information provided must adhere to confidentiality requirements of the information, including for example not publishing information on alleged IUU cases or the vessel names prior to actions being taken by the nominating State or through the t-RFMO. A failure to adhere to due process can undermine listing the vessel as IUU as was the case at the 2008 ICCAT meeting.

All t-RFMOs allow additional information on the alleged IUU activities to be provided at any time, except the IOTC that stipulates that information and/or comments must be provided 15 days in advance of the annual session (paragraph 4 and 11). Notwithstanding the need to have accurate information available for decision-making, it is possible that allowing information to be submitted at any time may weaken the IUU listing process, with the promise of additional information being used to delay a Commission’s decision. It is important to recall that in order to prevent, deter and eliminate IUU fishing the international community agreed that the burden of proof be placed with the flag State to prove that the vessel had not conducted IUU fishing. With this in mind, having new information continually provided makes any consideration by

other parties more difficult and is likely to benefit the alleged IUU vessel over the nominating State. There needs to be a balance between providing the most accurate information and providing sufficient time for assessment by other parties such that a decision can be taken regarding the alleged IUU activity.

**Table 4: Summary of the information requirements of the different t-RFMOs pertaining to alleged IUU fishing activities.**

	CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Information Provided From</b>					
Members	✓	✓	✓	✓	✓
Cooperating non-Contracting Parties	✓	✓	✓	✓	✓
Other relevant sources but submitted by the members (e.g. port States and/or suitably documented information from the fishing ground)	✓	✓		✓	✓
<b>Information Sourced From</b>					
Relevant measures and decisions	✓			✓	
Reports by members on vessel inspections	✓				
Reports by member on measures in force	✓		✓	✓	✓
Catch and trade information (FAO, CDS, national & international verifiable statistics)	✓			✓	✓
Information from port States	✓			✓	✓
Any other additional information	✓	✓	✓	✓	✓
<b>Information Reported To</b>					
Secretariat	✓	✓	✓	✓	✓
Directly to the flag State of IUU Vessel	✓				✓
Further information provided at any time	✓	✓	✓	✓	✓
Report using a prescribed form/format	✓	✓		✓	✓

Furthermore, it may be important to strengthen information sharing mechanisms between States as a way to combat and deter organised crime associated with IUU fishing. There has been an increasing incidence at t-RFMOs of alleged IUU fishing cases involving unlawful fishing activities in the national waters of a coastal State being resolved bilaterally without the matter being considered through the Commission process. Although not improper, this action may undermine the identification of wilful IUU fishing activities, mask ongoing/organised IUU fishing, or hide a compliance issue that the flag State needs to resolve. Ideally, irrespective of the matter being resolved bilaterally, the information on the alleged case should still be provided to the Commission for information either through the compliance assessment process or in discussions on other IUU cases such that the Commission can have a broader context.

### Listing Procedures

To commence IUU Vessel Listing procedures, t-RFMOs follow a similar pattern, with the greatest variation found surrounding the formulation of the Provisional IUU Vessel List. Overall, listing procedures need to be streamlined, transparent and clearly articulate the information requirements, roles and responsibilities at each step of the process. There also needs to be sufficient time to enable collection, collation and dissemination of the information/evidence by the Secretariat and for members to undertake a thorough assessment prior to taking a decision. As highlighted above, there is also a role of third parties in the IUU Vessel Listing process, which to date has not been exploited by t-

RFMOs, for example as highlighted under ‘Information’, third parties can and do collect information on vessels and given a robust framework this information could be utilised to support, or refute, IUU Vessel Listing. Third Parties can also assist in the dissemination of information and coordination of regional initiatives to support implementation of punitive measures as implemented by t-RFMOs. But as noted, if this were allowed it must adhere to international law and follow due processes set out by the t-RFMO including confidentiality of the information to enable the legal processes to be undertaken.

#### *Draft IUU Vessel List*

Based on the information provided by the member, the Secretariat complies the Draft IUU Vessel List, circulating the information on new nominations to members within a prescribed time period (Table 5). For CCSBT, ICCAT and IOTC, the existing IUU Vessel List is also circulated at this time. CCSBT and WCPFC also state that the initial nomination and associated information be sent by the nominating member concurrently to the Secretariat and directly to the flag State and all t-RFMOs require that the nomination and supporting evidence is circulated to members and non-members who’s vessels are been nominated for listing. All t-RFMOs ask that members undertake to monitor the activities of the vessels alleged of IUU fishing and all, except IATTC, request that the flag State notifies the vessel owners to ensure they are aware of the ramifications of an IUU Vessel Listing.

**Table 5: Timeframes for the provision of information for the draft and provisional IUU Vessel lists.**

	<b>Draft</b>	<b>Provisional</b>
<b>CCSBT</b>	10 weeks (70 days) before Compliance Committee	4 weeks (28 days) prior to the Compliance Committee
<b>IATTC</b>	Before 1 March annually	2 weeks (14 days) prior to the annual Commission meeting
<b>ICCAT</b>	90 days before the annual session	2 weeks (14 days) prior to the Commission meeting
<b>IOTC</b>	55 days before the annual session	2 weeks (14 days) prior to Commission meeting
<b>WCPFC</b>	55 days before the Technical and Compliance Committee	30 days prior to the Technical and Compliance Committee

To further streamline IUU Vessel Listing processes, it would be beneficial for all t-RFMOs, or through other regional processes (e.g., port State measures), to have any IUU nominations sent directly to the flag State and for the flag State to acknowledge receipt of the information. Implementing such a requirement provides greater time for the flag State to investigate the allegations and comply all relevant information for the consideration of the compliance committee (or equivalent).

As identified under ‘Information’ some t-RFMOs have implemented standardised forms for information on the alleged IUU activity. Standard forms ensures that nominating States provide at least the minimum information on the alleged IUU fishing activity, making the information comparable across IUU cases. Again this is likely to assist other members to assess the evidence in a timely manner, enabling a decision to be taken. Of course implementing a standardised form does not negate the ability of the nominating State to provide additional information regarding the nomination. A further benefit in using standardised forms is to reduce any possible delays while States seek additional information. As already noted, providing guidance on what constitutes admissible evidence is likely to expedite the IUU Vessel Listing process.



Also as identified under 'Information', there has been a growing incidence of States nominating vessels for IUU vessel listing either in response to a failed, or to instigate, bilateral negotiations between the flag State and the nominating State (e.g. WCPFC and IOTC). Although these instances have involved unauthorised fishing within the national waters of a coastal State, it is also very likely that the IUU activity has impacted and undermined the overall management of the resource. As such there is a strong argument that these matters should still be raised, at minimum for information, for the consideration of all members so as to ensure the strength, integrity and transparency of the IUU Vessel Listing process. All members should have an opportunity to assess the case against compliance with measures, against the impact on the resource generally, and to ensure that it is not masking any organised, ongoing or wilful non-compliance. In undertaking bilateral negotiations, there is no transparency of the process between the two States and there can be no assessment of whether the flag State has taken sufficient actions to remedy the issue or if there should be additional punitive actions against the vessels owner and operator to ensure that they do not benefit from the IUU fishing. Bringing all alleged IUU cases to a t-RFMO commission, sends a clearer message that IUU fishing will not be tolerated.

#### *Provisional IUU Vessel List*

In the case of CCSBT and WCPFC, the Draft IUU Vessel list is provided as a paper for consideration by the Compliance Committee or Technical and Compliance Committee respectively, who determines which vessels are included in the Provisional IUU Vessel List. Although in practice the IATTC, ICCAT and IOTC processes may simply have the Secretariat compiling the information from the Draft IUU list into the Provisional list, the language in the measures reads as if the Secretariat, based on the information submitted by the nominating State and the flag State in response to the allegation and any other information submitted, 'decides' on which vessels are included in the Provisional IUU Vessel list. However, again there is convoluted and contradictory drafting in the ICCAT and IOTC measures with the Executive Secretary drafting the provisional list and the Committee examining the Provisional IUU Vessel List (paragraph 6 and paragraph 9 respectively) compared to adopting the Provisional IUU Vessel List after consideration of the Draft IUU Vessel List (paragraph 7(i) and paragraph 12(a-b) respectively). A summary of the decision-making processes for listing a vessel as IUU is provided at Table 6. If in practice the Draft IUU Vessel list simply becomes the Provisional IUU Vessel list without any consideration of the information by a subcommittee, then it may be possible to simplify the measures to have only a draft and a final IUU vessel list.

For all t-RFMOs, removal from the Draft or Provisional IUU Vessels Lists requires that the flag State/entity demonstrate that the vessel did not partake in IUU fishing activities or that effective action has been taken in response to the alleged IUU fishing activity. WCPFC also includes a clause that the case has been settled to the satisfaction of the member originally nominating the vessel and the flag State involved. What is not made clear in any of the IUU Vessel Listing measures is what constitutes 'adequate severity' or 'effective action' by the flag State in respect of its IUU vessels. Rather actions against illegal fishing are defined in the national legislation of the flag State, leaving 'adequate severity' and 'effective action' against IUU vessels up to the flag State of the IUU vessel itself and irrespective of another States interpretation of the legislation. Depending on the State, this could result in the implementation of ineffective deterrents against IUU fishing. In amending t-RFMO IUU vessel listing measures it will be important to include clear guidance of what constitutes 'adequate severity' and 'effective action', or alternatively what is not adequate severity or effective action, by the flag State to have the vessel removed from the draft, provisional or final IUU Vessel Lists and what evidence is required to support this. Implementing a formulaic approach to the removal of vessels from the draft, provisional and final IUU Vessel Lists ensures that the process

is transparent and that all members have an opportunity to assess the actions taken by the flag State. This may also negate the need to have the specific provisions from the WCPFC measure regarding the case being settled to the satisfaction of the nominating and flag State, as all States would have previously agreed what is required to have the vessel removed from the IUU Vessel List.

In reviewing the process for drafting the Provisional IUU Vessel List it is important to clearly differentiate roles of the different groups. Consistent with the treaties themselves, it is the role of the members to take binding decisions at t-RFMOs including any decisions regarding the inclusion of a vessel on the provisional or final IUU Vessel List. The role of the Secretariat should remain as a facilitator and disseminator of information between t-RFMO members.

#### *Adoption of Final IUU Vessel List*

Although in practice the Commission does not have to support recommendations made by one of its subsidiary bodies, the language used to describe the actions of the Commission in the IATTC, ICCAT and IOTC measures suggests that the Commission simply adopts the Provisional IUU Vessel List. In contrast the language in the CCSBT and WCPFC measure is more prescriptive: the Commission reviews the recommendation of its subsidiary body and is to arrive at a decision pending that review. Pros and cons for either language can be argued: subcommittees have technical expertise and as such may be more qualified to judge the merits of the evidence presented and Commission's are notoriously politicised. Conversely, the Commission is responsible for upholding due process and is ultimately responsible for the work and decisions of the t-RFMO. Given this, it is imperative that IUU Vessel Listing measures are drafted to remove, as much as possible, any potential to politicise the IUU Vessel Listing measure.

IOTC is the only t-RFMO that can suspend the decision on listing a vessel as IUU that has been included on the Provisional IUU List for that year. For example in 2014 the *FV Maan Yin Feng* flag to Taiwan–Province of China was included on the IOTC's Provisional IUU Vessel List, but the Commission considered that there was insufficient data for a decision on listing the vessel. In this instance the IOTC Commission can, and did, invoke the intersessional listing rules. Implementing intersessional listing processes can assist in early identification of IUU vessels and ensure that punitive actions are taken rapidly but they may also act as a way to defer the Commission's decisions during the annual session and should be guarded against. However, it is important that the Commission can, and does, take a decision on listing vessels on the RFMO's IUU Vessel List during the annual session. This requires clearly articulating the actions that the Commission must take, that is to 'establish a list of vessel who have undertaken IUU fishing activities in the current or previous year'. Any failure for a Commission in taking effective action against IUU fishing poses a real risk in weakening the ability of the measures to address IUU fishing.

In all of the t-RFMOs, the final decision on listing a vessel is taken by the members. There is no differentiation of the flag State of the vessel versus all of the other members of that t-RFMO with the result being that the flag State of the alleged IUU vessel has direct input into the decision on listing one of its vessels on the IUU Vessel List. This is particularly problematic for t-RFMOs where decision-making under the treaty is by consensus. The best practice would be that the flag State of the vessel in question is not involved in the decision of whether to include the vessel on the IUU Vessel List. Amending this rule in both IUU Vessel Listing, and for compliance assessments generally, is likely to result in increased transparency and accountability regarding the implementation of t-RFMO measures.

**Table 6: t-RFMO decision-making for draft, provisional and final IUU Vessel Lists**

	<b>Draft</b>	<b>Provisional</b>	<b>Final</b>
<b>CCSBT</b>	Secretariat compiles all information submitted – no decision point	Compliance Committee considers the draft IUU Vessel List and decides on the Provisional IUU List	Commission reviews Provisional IUU Vessel List and adopts the new list
<b>IATTC</b>	Director includes all information and responses submitted and ‘decides’ on the Provisional IUU Vessel List	Provisional IUU Vessel List is examined by the IATTC-AIDPC Joint Working Group on Fishing by Non-Parties (Joint Working Group)  If necessary referred to the Permanent Working Group on Compliance.  Recommendation from the Joint Working Group for Commission approval	Commission adopts the Provisional IUU Vessel List – no clause calling for review of the decision of the Joint Working Group.
<b>ICCAT</b>	Executive Secretary includes all information and responses submitted and ‘decides’ on the Provisional IUU Vessel List	Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (PWG) examines the Provisional IUU Vessel List  If necessary referred to the Conservation and Management Measures Compliance Committee.  Adopt a Provisional IUU Vessel List and submit to the Commission for approval	Commission adopts the Provisional IUU Vessel List – no clause calling for review of the decision of the PWG
<b>IOTC</b>	Executive Secretary includes all information and responses submitted and ‘decides’ on the Provisional IUU Vessel List	Compliance Committee examines the Provisional IUU Vessel List Recommend to the Commission the vessels to be included on the IUU Vessel List	Commission adopts the Provisional IUU Vessel List taking into account the recommendations and the Provisional IUU Vessel List adopted by the Compliance Committee
<b>WCPFC</b>	Secretariat compiles all information submitted – no decision point	Technical and Compliance Committee considers the draft IUU Vessel List and decides on the Provisional IUU List	Commission reviews Provisional IUU Vessel List and adopts the new list

### Delisting Process

Except IATTC, all t-RFMOs outline a specific delisting procedure, although amendments to the IATTC IUU Vessel Listing measure were proposed, but not adopted, at the 2014 Commission meeting, which included specific provisions for delisting IUU vessels (Government of the United States America, 2014). The delisting processes for CCSBT, ICCAT, IOTC and WCPFC are consistent. Each of these t-RFMOs requires that a delisting nomination, including evidence demonstrating why the vessel should be delisted, be submitted by a member or non-member whose vessel appears on the IUU Vessel List (i.e., the flag State). This delisting nomination is disseminated to members by the t-RFMO Secretariats and members required to respond in writing within a prescribed period of time (CCSBT 21 days, and within 30 days for ICCAT, IOTC and WCPFC)

regarding their decision on the nomination for delisting. It is unclear from the measures if the delisting process itself is made public, however, the result of the delisting nomination are made public by the Secretariat following tallying of members decisions; the information is included on the RFMOs website and disseminated to parties, the flag State (if not a member) and the other RFMOs.

**Table 7: Information to be presented by flag States in support of a delisting nomination.**

Delisting Information/Actions	CCSBT	IATTC	ICCAT	IOTC	WCPFC
i. The flag State has adopted measures to ensure the vessel complies with the measures of the relevant t-RFMO	✓	✓	✓	✓	✓
ii. The flag State can effectively undertake monitoring and control of the vessel	✓	✓	✓	✓	✓
iii. The flag State has taken effective action in response to the IUU activities e.g. prosecution and/or sanctions of 'adequate severity'	✓	✓	✓	✓	✓
iv. The flag State can demonstrate that the vessel has changed ownership and that the previous owner has no legal, financial or real interest in the vessel or exercises any control over it	✓	✓	✓	✓	✓
v. Cooperating non-Contracting Parties the IUU fishing activities has been settled to the satisfaction of the Member(s) and Cooperating non-Contracting Parties that originally nominated the vessel and the flag State involved	✓				✓

In relation to the information provided to support delisting, each of the t-RFMOs required that the flag State provide sufficient information to support the delisting nomination. However there are differences regarding mandatory information/actions between the different t-RFMOs. Of the list of information outlined in Table 7, CCSBT and WCPFC outline that points i and ii are mandatory and must be accompanied by one of ii, iv or v. Whereas ICCAT and IOTC are silent on what information is mandatory; they simply list items i-iv as information to be provided by the flag State but it is not clear if a flag State must take all, or only some, of these actions.

It is important to note that there is a subtle difference in the WCPFC language related to the flag State monitoring and control (point ii above). The WCPFC measure states that the flag State '*...will be able to* assume effectively flag State duties with regard the monitoring and control of the vessels fishing activities...' (emphasis added). In comparison the CCSBT, ICCAT and IOTC measures use the following language '*...it is and will continue* to assume effectively flag State duties with regard the monitoring and control of the vessels fishing activities...' (emphasis added). Although subtle, this change vastly alters the implications for the member, 'will be able to' implies that the member with the IUU vessel should comply with this element sometime in the future, but that in the meantime the vessel would be allowed to resume fishing without implementing mitigation measures to remove the IUU activity by the flag State.

In relation to delisting processes, Erceg (2006) highlights a longstanding and inherent problem of separating the flag State responsibilities with respect of their obligations under UNCLOS, the UNFSA and the relevant RFMO: there is a need for improvement in the control of the nationals themselves by their respective flag States, particularly relating to control of nationals on the high seas. This has been highlighted numerous times in relation to preventing and combating IUU fishing, including through the recommendations for flag States in the IPOA-IUU itself.

## Intersessional Listing and Delisting

Four t-RFMOs, CCSBT, ICCAT, IOTC and WCPFC, have provisions for intersessional decision-making on alleged IUU fishing activities, with only IOTC providing for intersessional listing and delisting.

The ICCAT and IOTC intersessional delisting processes are very similar. Both measures require submission of the removal request to the Executive Secretary of the Secretariat. Despite the confused drafting of the ICCAT measure, both IOTC and ICCAT measures allow requests for removal to be made by all members. The consultation requires that members respond to the Secretariat in writing within a prescribed time period (30 days) prior to the information being tallied by the Executive Secretary for ICCAT and by the Chairperson for IOTC. To remove the vessel from the IUU Vessel List requires a simple majority in ICCAT or for IOTC a two-thirds majority of members expressing their position and casting a positive or negative vote (i.e., abstaining is not counted in the two-thirds majority of members).

Under the ICCAT measure, if there is a majority in favour of delisting the vessel the ICCAT Chairperson communicates the outcome to Contracting Parties. However, the Executive Secretary notifies members if a majority is not reached. This differs from the IOTC measure where the Executive Secretary notifies ‘...all CPCs, the flag State of the vessel(s) if not a CPC, and any other non-Contracting Party that may have an interest...’. Both measures call for the publication of the new IUU Vessel List on the respective website and circulation of the decision to other RFMOs.

Like ICCAT and IOTC, CCSBT provides for intersessional delisting of vessels included on the CCSBT IUU Vessel List. The process is less prescriptive: it is ‘consistent with Rule 6(5) of the CCSBT Rules of Procedure’, which states: *“Where necessary when the Commission is not in session, decisions of the Commission shall be taken by a unanimous vote of the Members effected by post or other means of textual communication including facsimile. In circumstances where the Chair is satisfied that a Member has received a proposal, and that Member has not responded within 21 days to the proposal, the Member shall be taken to have responded to that proposal in the affirmative”*. The WCPFC intersessional delisting procedure simply follows the general provisions for delisting a vessel from the WCPFC IUU Vessel List outlined in paragraphs 26-29 of the CMM.

As noted, only IOTC has an intersessional listing process. In this process the Commission can decide to suspend the decision on listing a vessel and commence the intersessional listing process if the Commission is unable, based on the information presented, to take a decision on the listing of a vessel on the IUU Vessel List during the annual session. Undertaking deliberations via electronic means, the relevant CPCs and the flag State can provide supplementary information/evidence to the Executive Secretary within 90 days of the Commission meeting. CPCs are provided the supplementary information/evidence immediately and provided a further 30 days to respond. The remainder of the process, that is tallying and communicating the results, is consistent with the intersessional delisting process. However there is confusion regarding the final IUU Vessel List; paragraph 14(e) suggests that the IOTC Executive Secretary should send the amended IUU Vessel List or the confirmed Provisional IUU Vessel List. However, it is unclear what status the confirmed IUU Vessel List has particularly in relation to the provisions in the measure calling for no unilateral measures against vessels in the Draft IUU Vessel List or that have been removed from the Provisional IUU Vessel List. Moreover, there is no guidance of if the vessel should be automatically included in the Draft IUU Vessel List for the following year.

Intersessional delisting processes were included into the IUU Vessel Listing measures to enable delisting as soon as the IUU issue had been resolved by the flag State. Intersessional delisting provides a strong incentive for flag States to take swift and decisive action to remedy the IUU activity. It is important that the intersessional delisting process provides a thorough and transparent assessment of the actions taken by the flag State including if they adequately remedy the IUU activity such that other t-RFMO members can be confident in their assessment. This is particularly pertinent for flag States with multiple vessels concurrently listed, or vessels continually nominated for IUU listing through time.

Depending on the confidentiality rules of the different t-RFMOs, undertaking intersessional deliberations on IUU Vessel Listing may result in a less transparent process than the standard IUU Vessel Listing procedure conducted during the annual session. For example all intersessional communications from WPCFC are considered confidential and are provided to members only; this would mean that any information pertaining to an IUU Vessel listing nomination would not be provided to NGOs for example which reduces the transparency of the process.

In relation to intersessional listing, there may be a tendency to use the intersessional listing process as a way to delay the decision on the specific IUU case and despite it being legal, it undermines the IUU Vessel Listing process by allowing the alleged IUU vessels to continue fishing operations while the decision is pending. If this were the case it is likely to weaken the IUU Vessel Listing measure, making this tool impotent in the fight against IUU fishing.

Any inclusion of intersessional listing or delisting should be carefully drafted to ensure a rigorous and transparent process is adopted and implemented by t-RFMOs. For example the t-RFMOs could consider revising the IUU Vessel Listing measures to only invoke intersessional listing or delisting vessels from flag States not previously included the IUU Vessel List or of new vessels not previously considered by the Commission.

### **Actions to be taken by Members, including Trade Measures and Sanctions**

The IUU Vessel Listing measures all stipulate the actions to be taken by States if a vessel is included on the final IUU Vessel List of that t-RFMO in respect of their own flag vessels and actions directly against the IUU listed vessel. The actions are largely consistent between the measures, with some differences (Table 8). All t-RFMOs require that the members will not take trade measures or sanctions on vessel included on the draft and provisional IUU Vessel Lists. However, all t-RFMOs recognise the rights of flag States and coastal States to take proper actions consistent with international law. Only CCSBT specifically references 'applicable World Trade Organisation' measures as being included in the 'international law'.

In their review of using trade measures to combat IUU fishing, Le Gallic and Cox (2006) summarises the theory of the economics of crime and punishment: the theory suggests that risk-neutral individuals will commit an offence if, and only if, their private expected benefit exceeds the expected sanction for committing the crime. The theory assumes that 1. individuals are risk-neutral, 2. an individual's compliance decision is not influenced by the behaviour of other individuals, and 3. the decision to fish illegally are solely based on maximising profit and that any penalties incurred are simply 'a cost of doing business'. It is important to review this theory if the international community is truly seeking to implement measures to prevent, deter and combat IUU fishing. Le Gallic and Cox (2006) identifies two key drivers for illicit fishing activities:

1. overcapacity in the global fishing fleet: driving fishers to find the most profitable practices (e.g., reducing vessel and crew costs while maximizing catches) in a manner which may, or may not be permissible in their country of origin, and
2. insufficient and weak national and international governance structures, including continued use of Flags of Convenience, exploiting loophole/weaknesses in conservation and management measures and the politicisation of IUU decision-making.

Consistent with Article 19(2) of UNFSA and as previously highlighted, it is critical that any punitive measures are of an adequate severity such that they deter future IUU activities. Consequently, and consistent with historical recommendations, t-RFMOs should implement harmonised punitive measures and have the punitive measures apply to the vessel owner and operator in all t-RFMOs through the cross-listing of IUU vessels,, including, where applicable, measures applied by a coastal State for IUU offenses taking place within their waters. The harmonisation and globalisation of punitive measures against IUU vessel owners and operators sends a clear message from the international community that IUU fishing is intolerable. Importantly, as outlined by the theory, without strong global action, IUU fishers are likely to continue to undertake IUU fishing irrespective of the t-RFMO or ocean they are operating in because the pay off of IUU fishing remains higher than the risk of being caught or the penalty even if caught.

The specific punitive measures would ideally be reflective of other international law; for example any sanctions related to port access should reflect the measures identified in the *FAO Agreement on Port State Measures to Prevent Deter and Eliminate Illegal, Unreported and Unregulated Fishing (Agreement on Port State Measures to Prevent)*. As previously highlighted, a significant proportion of actions in support of preventing IUU fishing remains at the national level, e.g., implementing effective flag State control over nationals. As such any t-RFMO measures for national level implementation should reflect the recommendations from Part IV of the IPOA-IUU. Moreover, there is a need for t-RFMOs to continue to strengthen their compliance assessment and review processes to ensure that members are giving effect to the measures adopted by t-RFMOs.

Regional cooperation is required for punitive measures or sanctions to be effective. In recent years there has been growing recognition of the need for regional coordination to effectively address IUU fishing. There are a range of regional initiatives working to ensure it is increasingly difficult for IUU vessel owners and operators to profit from their illegal operations. For example, 56 nations and two RFMO are members of the *International Monitoring, Control and Surveillance Network for Fisheries-related Activities* (MCS Network), eleven countries in South-East Asia operate under the *Regional Plan of Action to Promote Responsible Fishing Practice, including Combating Illegal, Unreported and Unregulated Fishing in South East Asia (IPOA-IUU)*, five East African countries implemented the *Fish-i Africa* initiative and recently the members of the Forum Fisheries Agency have adopted the text of the *Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region* which provides for bilateral and/or plurilateral agreements between the members to share information, assets and personnel for fisheries enforcement activities. Each of these regional initiatives have been effective at stopping the landing of illegal catches in ports resulting in greater deterrence of IUU fishing in these regions.

**Table 8: Actions to be taken by States in response to an IUU Vessel Listing decisions.**<sup>4</sup>

	CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>States are to ensure that their flag fishing vessels do not engage in fishing activities with vessels on the IUU Vessel List, specifically</b>					
• tranship	✓	✓	✓	✓	✓
• joint fishing operations	✓		✓		✓
• assist, or engage, in fish processing operations	✓		✓		
<b>Ensure, excepting <i>force majeure</i>, that vessels on the respective IUU Vessel List are not authorised to</b>					
• remove or withdraw the authorisation to fish or pose alternative sanctions consistent with relevant domestic law	✓				
• land, tranship, re-fuel, re-supply	✓	✓	✓	✓	✓
• import	✓	✓	✓	✓	✓
• engage in other commercial transactions	✓	✓	✓		✓
• gain port entry (if foreign flagged) with the exception of force majeure or for the purpose of vessel inspection/enforcement action	✓		✓		*
• if enter ports (voluntarily), not authorised to:					
○ land, tranship	✓	✓		✓	✓
○ re-fuel, re-supply	✓			✓	✓
○ engage in other commercial activities	✓			✓	
○ mandatory inspection			✓		✓
• be chartered	✓	✓	✓	✓	✓
• to grant the State's flag (unless there is sufficient evidence that the vessel changed ownership and that the previous owner has no legal, financial or control over the vessel)	✓	✓	✓	✓	✓
• trade domestically or internationally	✓				
Encourage traders, importers, transporters, etc, to refrain from commercial interactions with vessels on the IUU Vessel List		✓	✓	✓	✓
Collect and exchange information with other members and non-members for the purpose of searching for, controlling and preventing false declarations	✓	✓	✓	✓	✓

## Cross-Listing

Only CCSBT and ICCAT have specific provisions for cross-listing vessels from other t-RFMOs. The ICCAT cross-listing procedure requires that the Executive Secretary disseminate the adopted IUU Vessel Lists together with all evidence provided to support the listing of the vessel as IUU in the other t-RFMO, plus any additional information regarding the listing, to all Contracting Parties, Entities and Fishing Entities and Cooperating non-Contracting Parties. All vessels listed, or delisted, from other t-RFMO IUU Vessel Lists 'shall be' included on the final ICCAT IUU Vessel List, unless there is an objection received from a Contracting Party within 30 days from the date of the transmission of the information. Paragraph 11(i(a-c))(ii) highlights that a Contracting Party can make an objection based on (i) sufficient evidence that the vessel did not engage in IUU fishing and effective action has been taken by the flag State; or (ii) that

<sup>4</sup> Blank boxes indicate that the t-RFMO IUU Vessel Listing measure does not include this element.

\* IOTC has adopted Resolution 10/11 on Port State measures which provides for this element, but it is not specifically mentioned in the IUU Vessel Listing measure itself.



there is insufficient evidence to support the assertion that IUU fishing took place, i.e., regarding the listing determination. In this case, the vessel is placed on ICCAT's Draft IUU Vessel List and is assessed in a manner consistent with the draft IUU Vessel Listing procedures included in the ICCAT measure.

Paragraph 20 of the CCSBT IUU Vessel Listing measure only makes provides that the Extended Commission 'may consider' cross-listing IUU Vessel Lists from other t-RFMOs on a case-by-case basis. This is very different to the ICCAT provision that automatically cross-lists all vessels unless there is an objection lodged by a Contracting Party.

Inclusion of cross-listing IUU vessels between RFMOs is consistent with historical recommendations, including from the High Seas Task Force (2006). Cross-listing provides a comprehensive global approach to combating IUU fishing activities and as such should be encouraged for all t-RFMOs. However, it will be important for t-RFMOs to consider the process for cross-listing vessels to preserve the overall global approach to combating IUU fishing. For example, as highlighted above the ICCAT cross-listing processes provides for the reassessment of the IUU evidence presented to the original t-RFMO. In conducting a reassessment of the IUU case, there is a risk that the two t-RFMOs take different decisions based on the presentation of the same evidence. This could be due to differences in membership, so potentially different political circumstances, comprehension of that t-RFMOs measures or the context for the listing. If this were to occur it would likely raise questions from the flag State regarding the original listing and in doing so undermine the global action on IUU and the IUU Vessel Listing process itself.

If simple cross-listing of vessels was not possible and a reassessment of IUU cases was to be undertaken by each t-RFMO, it would be critical to have as much harmonisation between the t-RFMO IUU Vessel Listing measures as possible. Moreover, it would be imperative that any penalties associated with an IUU Vessel Listing be consistent among the t-RFMOs, such that the same penalties for example in relation to port access, apply globally.

### **Publication of the IUU Vessel List**

The publication of the adopted IUU Vessel List is consistent among all t-RFMOs. All measures provide that the Secretariat will take measures consistent with the confidentiality rules of the specific t-RFMO to publicise the adopted IUU Vessel List, including placement on that RFMOs website and transmission to other regional fisheries management organisations for the primary purpose of enhancing cooperation to combat IUU fishing activities. Only WCPFC makes specific provision to send the FAO a copy of the final adopted WCPFC IUU Vessel List.

In relation to the information provided in the IUU Vessel List itself, IATTC and WCPFC do not specify the information to be included on the vessel listed on the IUU Vessel List. The other t-RFMO IUU Vessel List information is consistent and includes, *inter alia*, the current and previous name, flag, owners contact details, IMO/UVI number, call sign and photographs. It is essential that the IUU Vessel Lists contain consistent information on the IUU vessels themselves to strengthen the identification of the vessel such that the punitive actions can be implemented. There needs to be sufficient information to enable any other State, including port States, to identify the vessel and as such must also include, *inter alia*, a photograph within a prescribed period of time, IMO/UVI, and/or any other distinguishing features. Furthermore, t-RFMOs might like to consider listing if the vessel or the vessel owner is included on any other t-RFMO IUU vessel list. Importantly a single, central repository of this information on current IUU Vessel

Listings, possibly held at FAO or the joint t-RFMO website ([www.Tuna-Org.org](http://www.Tuna-Org.org)), would greatly assist in identifying wilful or organised crime components of IUU fishing, but it is imperative that this information be maintained with the most current and up-to-date information.

To assist easy identification of IUU vessels it may be beneficial for t-RFMOs to consider providing direct links to, or directly cross-referencing, the adopted IUU Vessel listed from other t-RFMOs on each of the t-RFMO websites, such as ICCAT does. Members of t-RFMOs may also consider cross-referencing the adopted IUU Vessel Listing on selected NGO websites to further highlight IUU vessels.

### **III. Recommendations for IUU listing Best Practices**

The analysis above highlights the need to review and strengthen the IUU Vessel Listing measures adopted by t-RFMOs. It also highlights the need for discussion by t-RFMO members and observers on some complex issues, such as intersessional listing and delisting processes and the development of clear strategies to mitigate any of the associated risks, and on implementing a formulaic process assessing 'adequate severity' and 'effective action' when delisting vessels. Table 9 sets out the recommended action required for each of the five t-RFMOs to strengthen their IUU Vessel Listing measures.

There must be recognition of the concomitance between the MCS measures adopted by t-RFMOs, implementation by flag States and the IUU Vessel Listing measure. This includes MCS measures such as, observer coverage, VMS reporting times, transshipment inspections in-port, prohibition on at-sea transshipment, use of electronic monitoring and reporting, compliance assessment processes themselves, including the provision of responses to non-compliance. In fact, the IUU Vessel Listing measure is only effective if the MCS measures are robust, effective, transparently implemented by all States providing a 'level-playing field' and if there is a rigorous mechanisms to assess compliance of members with these other measures at the t-RFMOs. Without rigorous MCS measures the ability to detect IUU fishing is greatly diminished. Moreover, effective fisheries governance is one of the most powerful tools in combating IUU fishing (MRAG, 2005). Effective governance includes assisting States to update their fisheries legislation to ensure that it takes account of modern fisheries management measures such as the UNFSA, Compliance Agreement and Port State measures and to monitor their exclusive economic zones thereby improving the ability to detect IUU fishing. Direct capacity building and/or joint or regional patrols are ways to support coastal States governance.

#### **Recommendations for t-RFMO IUU Vessel Listing Measures**

As identified above, there are a range of similarities and differences in the t-RFMO IUU Vessel Listing measures. To ensure that these measures continue to deliver the intended result, t-RFMOs should amend the measures to take account of best practices.

1. For ease of interpretation and harmonisation, t-RFMOs would benefit from using a consistent framework for the IUU Vessel Listing measures, including the use of the following subheadings:
  - a. context/objective of the measures,
  - b. application,
  - c. activities that constitute IUU fishing,
  - d. information to support nominations,
  - e. listing procedure,

- f. delisting and any intersessional procedure,
  - g. penalties/sanctions imposed on the vessel and by States including clarification on what constitutes ‘adequate severity’ and ‘effective action’ to support delisting vessels,
  - h. cross-listing IUU listed vessels,
  - i. publication of the IUU Vessel List including specification of what information is included in the IUU Vessel List, and
  - j. appendices for standard forms and templates or other specifications.
2. Include an overarching context paragraph in the measures to i.) place the IUU Vessel List in the framework of the treaty’s objective; and ii.) to define the role, action, and outcome that the Commission needs to achieve to fulfil the requirements of the measure.
  3. Amend IUU Vessel Listing measures such that all vessels fishing for highly migratory species can be nominated for IUU listing (i.e., not just harvesting vessels).
  4. Taking account of modern fishing practices, harmonise the criteria that constitute IUU fishing across t-RFMOs and include additional criteria related to the management used for the fishery (catch and effort quota or limits), regarding common ownership and vessels without nationality.

*Vessel Listing, Delisting and Intersessional Procedures*

5. Amend the listing procedures to implement a more streamlined, transparent process with clearly defined information requirements, roles, responsibilities and timeframes that ensure the process runs smoothly.
6. Amend the IUU Vessel Listing measures to ensure that t-RFMO members are responsible at all stages for the inclusion of vessels on the draft, provisional and final IUU Vessel List.
7. Amend the measures to articulate what actions the Commission must take during the annual session and implement, to the greatest extent possible, mechanisms to de-politicise the actions of the Commission.
8. Ensure that flag States of the nominated IUU Vessel is not part of the decision-making process of one of its flag vessels on the IUU Vessel List.
9. Include Third Parties in the information collection, dissemination phases and to assist in monitoring any punitive actions, including that it is collected in accordance with international law and that all rules regarding the confidentiality and release of the information are adhered to.
10. Ensure that the measures provides for an assessment of all IUU Vessel cases to aid identification of organised and/or repeat IUU offenders and assess or define what actions need to be taken by the flag State to ensure compliance with relevant provisions regarding flag State control in international law.
11. In delisting a IUU Vessel, strengthen the delisting process of the measure to:
  - a. implement a formulaic approach to delisting or removing vessels from the IUU list including defining what does, or does not, constitute ‘adequate severity’ and ‘effective action’,
  - b. include an element requiring that all punitive measures and/or sanctions imposed on the IUU vessel have been met prior to delisting the vessel
  - c. ensure that flag States:
    - i. ‘have taken’, rather than ‘will take’, actions to address the specific IUU activities,

- ii. that there is a thorough review, either through the compliance monitoring process, IUU listing process or using an independent auditor, of its ability to assert flag State control over its vessels as required in all relevant international fisheries law, and
  - iii. that the State is fulfilling its obligations outlined in UNFSA and IPOA-IUU to ensure the sustainability of the fishery resources.
- 12. Consider the extent of intersessional processes in the IUU Vessel Listing measure and if including them, carefully draft language that ensures rigorous and transparent processes are maintained, including allowing the observation of approved NGOs in any intersessional processes.
- 13. To take account of any organised crime component of IUU fishing, consider only using intersessional delisting processes for vessels of flag States that have not previously been IUU listed or for vessels not previously considered by the Commission.
- 14. Implement provisions for cross-listing IUU Vessels listed in other t-RFMOs, but do not include a reassessment of the original IUU Vessel case.

#### *Punitive Measures*

- 15. Consistent with international law, such as the UNFSA, States and t-RFMOs need to ensure that any punitive measures place a sufficient cost burden on the operator and owner to deter future IUU activities. To that end, identify and include a range of punitive measures of 'adequate severity' in the measure to ensure that the cost of undertaking IUU fishing is sufficiently large so as to deter would be IUU fishers and apply the punitive measures globally across all t-RFMOs and RFMOs generally where possible.

#### *IUU Information and IUU Vessel List Publication*

- 16. Expand and specify what information is admissible in assessing alleged IUU fishing cases and make provisions for the inclusion of information collected from third party sources.
- 17. Ensure that the burden of proof remains with the flag State of the alleged IUU vessel to provide sufficient information to demonstrate that the vessel did not engage in IUU fishing.
- 18. Seek to find a balance between making the most accurate information available on the alleged IUU case, while allowing members sufficient time to undertake a thorough assessment of the information. Suggest that t-RFMOs require that information on alleged IUU cases can be provided at any time, but no later than 7 days prior to the commencement of the Commission or subsidiary body meetings to enable assessment of the evidence by members.
- 19. Amend measures to ensure that information on all alleged IUU fishing cases is provided to the Commission, at minimum for information, even if the matter has been resolved bilaterally prior to the commencement of the meeting.
- 20. Harmonise the information contained on the IUU vessels in the IUU Vessel List itself; include additional information regarding the beneficial ownership and common ownership and the IMO/UVI number to enable effective tracing of the vessel globally.
- 21. Together with the actions highlighted above, it is important that t-RFMOs publicise the strong action being taken against IUU fishing. This will act as a further deterrent to other would be IUU fishers. To that end, amend measures such that the t-RFMO

provides a direct link, or directly cross-references, the adopted IUU Vessel List from other t-RFMOs and other organisations, e.g. FAO, Tuna-org.org and/or NGOs.

### **Recommendations for Other Supporting Actions**

22. Consistent with long standing recommendations from the IPOA-IUU, the Recommended Best Practices for Regional Fisheries Management Organisations (Lodge et al., 2007), and the recommendations from the KOBE process (Anonymous, 2014), continue to:
  - a. strengthen MCS measures that support the identification of illegal/elicit fishing activities generally, including harmonisation of the measures to the greatest extent possible, and address any loopholes in these measures, such as increasing VMS polling rates, prohibitions on at-sea transshipment and increasing observer coverage rates on all vessels,
  - b. support capacity building efforts to improve fisheries governance in developing coastal States, for example the development of NPOA-IUUs or integrating t-RFMO decisions into national legislation.
23. In addition to supporting capacity building efforts, and noting the possible limitation of coastal States to undertake surveillance due to lack of assets or funding, consider implementing a fund and/or undertaking joint or regional patrols to support coastal States efforts to monitor activities inside their EEZ and on the high seas of the relevant t-RFMO.
24. To address issues identified in the IPOA-IUU which are not being addressed through IUU vessel listing, e.g., failure to report mandatory catch and effort data, continue to refine and strengthen compliance assessment processes, including to developing a scheme of responses to non-compliance.
25. Consider implementing an independent audit process for flag States who have vessels repeatedly listed as IUU to identify any deficiencies and capacity needs to strengthen flag State control.
26. Increase information sharing between t-RFMOs, between the individual member States and between plurilateral regional organisations.
27. To the extent possible, develop and/or continue to support strengthening of regional processes to prevent, deter and combat IUU fishing and allow information from these regional processes to be used in consideration of IUU vessel nominations.
28. Consider the development of a central repository to hold information on the currently listed IUU vessels and a vessel watch-list for vessels that may not have been listed/proven as a case of IUU but that were identified/nominated for listing because it may uncover a more serious issue or ongoing IUU fishing.

**Table 9: Recommended actions for each of the five t-RFMOs to take to strengthen IUU Vessel Listing measures consistent with the recommendations outlines in this technical review, a ✓ tick denotes that the RFMO largely has this element and a \* that this element is not currently included in the RFMOs IUU Vessel Listing measure.**

Recommendation number and brief description	CCSBT	IATTC	ICCAT	IOTC	WCPFC
1. <u>Consistent format between t-RFMOs</u> : use of subheadings listed above	x#	x	x#	x#	x#
2. <u>Context paragraph</u> : ties measure to the treaties objective	✓	x	x	x	✓
3. <u>Application</u> : measure applies to all vessels associated with tuna fishing	✓	x	x	✓	✓
4. <u>Criteria constituting IUU fishing</u> : consistency between t-RFMOs	x	x	x	x	x
criteria related to the management of the fishery (e.g. catch and effort quota or limits)	x	x	✓	✓	x
criteria for common ownership	x	x	x	x	✓
criteria for vessels without nationality	x	✓	✓	✓	✓
5. <u>Vessel listing procedures</u> : streamlined & transparent with clearly defined roles and responsibilities	✓	x	x	x	✓
6. <u>Decision making</u> : members are responsible for decision making at all stages of the IUU Vessel Listing procedure	✓	x*	x*	x*	✓
7. <u>Actions of the Commission</u> : clearly articulate actions of the commission at the annual session	✓	x <sup>f</sup>	x <sup>f</sup>	x <sup>f</sup>	✓
8. <u>Decision making</u> : amend measures so the flag State of the nominated vessel is not part of the decision to list the vessel as IUU	x	x	x	x	x
9. <u>Admissible information</u> : include information from third parties, with associated rules and regulations to maintain consistency with international law and confidentiality etc	x	x	x	x	x
10. <u>All vessels are assessed by the Commission</u> : amend measures to ensure all potential cases of IUU are brought before the Commission to aid identification of repeat offenders or ensure flag States have adequately resolved the issue	x	x	x	x	x
11. <u>Delisting procedures</u> :					
a. implement a formulaic approach including what constitutes 'adequate severity' and 'effective action'	x	x	x	x	x
b. require that all punitive measures/sanctions are met prior to delisting	x	x	x	x	x
c. review the actions of flag States to ensure they	x	x	x	x	x
i. have taken action to address the issue					
ii. have the ability to assert flag State responsibility					

# RFMO measure includes subheadings but either they are inconsistent with the suggested subheadings or would need to be made consistent with the other t-RFMOs

\* RFMO measure drafting lack clarity regarding the roles and responsibilities of the members and the Secretariat though in practice it may be that the members are solely responsible

<sup>f</sup> RFMO measure does not clearly articulate precisely the actions that the Commission needs to take at each annual session

through a thorough review of their actions through a rigorous and transparent compliance monitoring scheme					
iii. are fulfilling their obligations under UNFSA and IPOA-IUU					
12. <u>Intersessional processes</u> : if included, carefully draft language to ensure a rigorous, transparent and open process is maintained including the inclusion of observers in the process	x	x <sup>^</sup>	x	x	x
13. <u>Intersessional processes</u> : only allow intersessional delisting for vessels of flag States not previously IUU listed or vessel not previously considered by the Commission	x	x	x	x	x
14. <u>Cross listing</u> : implement cross-listing but do not include a re-assessment of the original IUU evidence	✓	x	✓✓	x	x
15. <u>Punitive measures</u> : amend measures to ensure that there is a significant cost burden placed on the operator and owner to deter potential future IUU fishing	x	x	x	x	x
include a range of punitive measures and apply them globally across t-RFMO and RFMOs generally where possible	x	x	x	x	x
16. <u>IUU vessel information</u> : expand and specify the type of admissible information to be used to assess IUU cases	x	x	x	x	x
make provisions for information collected by third parties	x	x	x	x	x
17. <u>Burden of proof</u> : ensure that this burden remains with the flag State to prove the vessel did not engage in IUU fishing	x	x	x	x	x
18. <u>Information timing</u> : consistent with the burden of proof, amend measures to provide deadline for the provision of information, not less than 7 days in advance of the Commission meeting is suggested	x <sup>Ω</sup>	x <sup>Ω</sup>	x <sup>Ω</sup>	x <sup>Ω</sup>	x <sup>Ω</sup>
19. <u>Information on possible IUU cases</u> : amend measures to ensure that all information on possible IUU cases is presented to the Commission, at minimum for information, to enable identification of ongoing IUU, organised crime or further actions by the flag State to assert flag state control	x	x	x	x	x
20. <u>IUU Vessel Lists</u> : harmonise the information contained in the IUU Vessel Lists across the t-RFMOs to enable effective tracing of the vessel globally	x <sup>π</sup>	x	x	x	x
include additional information on beneficial ownership, common ownership and IMO/UVI number	x	x	x	x	x
21. <u>Publication</u> : provide a direct link to other t-RFMO IUU lists on the RFMOs website and or other organisations such as FAO, Tuna-org.org or NGOs	x	x <sup>◇</sup>	✓ <sup>Δ</sup>	✓	x <sup>◇</sup>

<sup>^</sup> RFMO does not currently include intersessional listing procedures

<sup>✓</sup> RFMO cross listing procedures includes a reassessment of the original IUU case

<sup>Ω</sup> RFMO measure may include a deadline for information, but there is also provisions included that allow information to be provided at any time.

<sup>π</sup> RFMOs have inconsistent information on the IUU Vessel List

<sup>◇</sup> Only includes link to Tuna-org.org

<sup>Δ</sup> Does not include link to CCSBTs IUU Vessel List

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## **Appendix 1: IPOA-IUU recommendations for RFMOs**

78. States should ensure compliance with and enforcement of policies and measures having a bearing on IUU fishing which are adopted by any relevant regional fisheries management organization and by which they are bound. States should cooperate in the establishment of such organizations in regions where none currently exist.

79. As the cooperation of all relevant States is important for the success of measures taken by relevant regional fisheries management organizations to prevent, deter and eliminate IUU fishing, States which are not members of a relevant regional fisheries management organization are not discharged from their obligation to cooperate, in accordance with their international obligations, with that regional fisheries management organization. To that end, States should give effect to their duty to cooperate by agreeing to apply the conservation and management measures established by that regional fisheries management organization, or by adopting measures consistent with those conservation and management measures, and should ensure that vessels entitled to fly their flag do not undermine such measures.

80. States, acting through relevant regional fisheries management organizations, should take action to strengthen and develop innovative ways, in conformity with international law, to prevent, deter, and eliminate IUU fishing. Consideration should be given to including the following measures:

80.1 institutional strengthening, as appropriate, of relevant regional fisheries management organizations with a view to enhancing their capacity to prevent, deter and eliminate IUU fishing;

80.2 development of compliance measures in conformity with international law;

80.3 development and implementation of comprehensive arrangements for mandatory reporting;

80.4 establishment of and cooperation in the exchange of information on vessels engaged in or supporting IUU fishing;

80.5 development and maintenance of records of vessels fishing in the area of competence of a relevant regional fisheries management organization, including both those authorized to fish and those engaged in or supporting IUU fishing;

80.6 development of methods of compiling and using trade information to monitor IUU fishing;

80.7 development of MCS, including promoting for implementation by its members in their respective jurisdictions, unless otherwise provided for in an international agreement, real time catch and vessel monitoring systems, other new technologies, monitoring of landings, port control, and inspections and regulation of transshipment, as appropriate;

80.8 development within a regional fisheries management organization, where appropriate, of boarding and inspection regimes consistent with international law, recognizing the rights and obligations of masters and inspection officers;

80.9 development of observer programmes;

80.10 where appropriate, market-related measures in accordance with the IPOA;

80.11 definition of circumstances in which vessels will be presumed to have engaged in or to have supported IUU fishing;

80.12 development of education and public awareness programmes;

80.13 development of action plans; and

80.14 where agreed by their members, examination of chartering arrangements, if there is concern that these may result in IUU fishing.

81. States, acting through relevant regional fisheries management organizations, should compile and make available on a timely basis, and at least on an annual basis, to other regional fisheries management organizations and to FAO, information relevant to the prevention, deterrence and elimination of IUU fishing, including:

81.1 estimates of the extent, magnitude and character of IUU activities in the area of competence of the regional fisheries management organization;

81.2 details of measures taken to deter, prevent and eliminate IUU fishing;

81.3 records of vessels authorized to fish, as appropriate; and

81.4 records of vessels engaged in IUU fishing.

82. Objectives of institutional and policy strengthening in relevant regional fisheries management organizations in relation to IUU fishing should include enabling regional fisheries management organizations to:

82.1 determine policy objectives regarding IUU fishing, both for internal purposes and co-ordination with other regional fisheries management organizations;

82.2 strengthen institutional mechanisms as appropriate, including mandate, functions, finance, decision making, reporting or information requirements and enforcement schemes, for the optimum implementation of policies in relation to IUU fishing;

82.3 regularize coordination with institutional mechanisms of other regional fisheries management organizations as far as possible in relation to IUU fishing, in particular information, enforcement and trade aspects; and

82.4 ensure timely and effective implementation of policies and measures internally, and in cooperation with other regional fisheries management organizations and relevant regional and international organizations.

83. States, acting through relevant regional fisheries management organizations, should encourage non-contracting parties with a real interest in the fishery concerned to join those organizations and to participate fully in their work. Where this is not possible, the regional fisheries management organizations should encourage and facilitate the participation and cooperation of non-contracting parties, in accordance with applicable international agreements and international law, in the conservation and management of the relevant fisheries resources and in the implementation of measures adopted by the relevant organizations. Regional fisheries management organizations should address the issue of access to the resource in order to foster cooperation and enhance sustainability in the fishery, in accordance with international law. States, acting through relevant regional fisheries management organizations, should also assist, as necessary, non-contracting parties in the implementation of paragraphs 78 and 79 of the IPOA.

84. When a State fails to ensure that fishing vessels entitled to fly its flag, or, to the greatest extent possible, its nationals, do not engage in IUU fishing activities that affect the fish stocks covered by a relevant regional fisheries management organization, the member States, acting through the organization, should draw the problem to the attention of that State. If the problem is not rectified, members of the organization may agree to adopt appropriate measures, through agreed procedures, in accordance with international law.

## Appendix 2: Summary of the t-RFMO IUU Vessel Listing Processes

	CCSBT	IATTC	ICCAT	IOTC	WCPFC
<i>Context of the Measure</i>	Included	5			Included
<i>Application of the Measure</i>	All vessels engaged in SBT fishing	Vessels greater than 24 metres length overall	Vessels greater than 20 metres length overall	All fishing vessels fishing for tuna and tuna-like species in the IOTC Area of Competence	All fishing vessels fishing for tuna and tuna-like species in the WCPFC Area of Competence
<i>Activities that Constitute IUU Fishing</i>	Harvest tuna but not authorised to; did not record or report catches or misreported catches; used prohibited fishing gear; transhipped with an IUU vessel; fishing contrary to any of that t-RFMOs measures				
		Took undersized fish; fished during spatial and/or temporal closures; are without nationality			
	Conducted fishing in the national waters of a coastal State without authorisation		Conducted fishing in the national waters of a coastal State without authorisation		
			Harvest tuna with insufficient quota, catch limit or effort allocation		
		Are under the control of any owner on the IUU Vessel List			Are under the control of any owner on the IUU Vessel List
<i>Information on Alleged IUU Fishing Activities</i>	Collected by members from: relevant measures of that t-RFMO, reports by members, trade information (FAO), information from port States				
<i>Vessel Listing Procedures</i>					
<i>Draft IUU Vessel List</i>	Nomination and supporting evidence provided to Secretariat, circulated to members for additional supporting or refuting evidence, draft list compiled by Secretariat				
<i>Provisional IUU Vessel List</i>	Decided by Compliance Committee	*Decided by Secretariat			Decided by Technical and Compliance Committee
<i>Final IUU Vessel List</i>	Review by Commission prior to decision being made	Adopted by the Commission without specification of a review by the Commission			Review by Commission prior to decision being made
<i>Delisting Process</i>	Adoption of measures to ensure compliance, can effectively monitor and control the vessel,	No delisting process outlined in the measure	Adoption of measures to ensure compliance with measures, can effectively monitor and control the vessel, taken effective action against the vessel (including sanctions), and changed ownership with previous owner		Adoption of measures to ensure compliance, will effectively monitor and control the vessel,

<sup>5</sup> Blank boxes indicate that there t-RFMO IUU Vessel Listing measure does not include this element.

\* Refer to discussion under Listing Procedures: Provisional IUU Vessel List on page 16 regarding the complexities regarding the compilation of the Provisional IUU Vessel List by IATTC, ICCAT and IOTC.

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	plus one or more of: taken effective action against the vessel (including sanctions), changed ownership with previous owner without legal, financial or control over the vessel, and the case has been settled to the satisfaction of the nominating member and the flag State		without legal, financial or control over the vessel		plus one or more of: taken effective action against the vessel (including sanctions), changed ownership with previous owner without legal, financial or control over the vessel, and the case has been settled to the satisfaction of the nominating member and the flag State
<i>Intersessional Listing and Delisting</i>	Delisting only	No intersessional process	Delisting only	Listing and delisting	Delisting only
<i>Actions to be taken by Members</i>	<u>Directions for members flag vessels</u> : no transshipment with IUU listed vessels; <u>Actions against the IUU vessel</u> : no landing, transshipment, re-fuelling, re-supplying or importing with IUU vessels, no chartering, no flagging a known IUU vessel; Collect and exchange information				
	<u>For flag vessels</u> : no joint venture or fish processing operations; <u>For IUU vessels</u> : removal or withdrawal of authorisation to fish, no engagement for other commercial activities, no port access (except <i>force majeure</i> ), can enter a port (voluntarily) but no transshipping, landing, refuelling, re-supplying, or other commercial engagement, no trade	<u>For IUU vessels</u> : no engagement for other commercial activities, can enter a port (voluntarily) but no transshipping or landing, encourage ancillary business (transport, importers, etc) to refrain from interacting with know IUU vessels	<u>For flag vessels</u> no joint venture or fish processing operations; <u>For IUU vessels</u> : no engagement for other commercial activities, no port entry (except <i>force majeure</i> ), mandatory inspection in port (if voluntarily in port), encourage ancillary business (transport, importers, etc) to refrain from interacting with know IUU vessels	<u>For IUU vessels</u> : can enter a port (voluntarily) but no transshipping, landing, refuelling, re-supplying, or other commercial engagement, encourage ancillary business (transport, importers, etc) to refrain from interacting with know IUU vessels	<u>For flag vessels</u> no joint venture; <u>For IUU vessels</u> : no engagement for other commercial activities, can enter a port (voluntarily) but no transshipping, landing, refuelling, re- supplying plus mandatory inspection, encourage ancillary business (transport, importers, etc) to refrain from interacting with know IUU vessels
<i>Trade Measures/ Sanctions</i>	No unilateral trade sanctions for vessels on draft or provisional IUU vessel list, while maintaining sovereign rights of coastal States and flag States to take action				
<i>Cross-Listing</i>	Included	No cross-listing	Included	No cross-listing	No cross-listing
<i>Publication of the IUU Vessel List</i>	On RFMOs website and circulated to other RFMOs				
					Circulated to the FAO

**Appendix 3: Comparison of t-RFMO IUU Listing Measures**

CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Context of the Measure</b>				
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 Lit), in accordance with the procedures and criteria set out in this Resolution (or subsequent revision) (paragraph 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. (paragraph 1)
<b>Application of the measure</b>				
"...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." ... (excerpt from paragraph 1)	This resolution shall apply to any fishing vessel greater than 24 meters overall length. (paragraph 11)	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. (paragraph 12)	Applies to all fishing vessels within the Convention Area fishing for species under the auspice of the treaty (no specific text, but non limiting text either)	"...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..." (excerpt from paragraph 1)
		This Recommendation shall apply mutatis mutandis to vessels referred to in paragraph 12 flying the flag of CPCs. (paragraph 22)		





CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Activities that Constitute IUU</b>				
<p>For the purposes of this Resolution, the fishing vessels are presumed to have carried out SBT IUU fishing activities, inter alia, when a Member or CNM presents suitably documented evidence that such vessels:</p> <p>(a) Harvested SBT and were not authorised by a Member or CNM to fish for SBT, or;</p> <p>(b) Did not record and/or report their SBT catches or catch-related data in accordance with CCSBT reporting requirements, or made false reports, or;</p> <p>(c) Used prohibited or non-compliant fishing gear in a way that undermines CCSBT conservation and management measures, or;</p> <p>(d) Transhipped with, or participated in joint operations such as re-supplying or re-fuelling vessels included in the CCSBT IUU Vessel List, or;</p> <p>(e) Harvested SBT in the waters under the national jurisdiction of the coastal State or entity without authorisation and/or committed a serious infringement of its laws and regulations directly related to the SBT fishery, without prejudice to the sovereign rights of the coastal State or entity to take measures against such vessels, or;</p> <p>(f) Engaged in fishing activities</p>	<p>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:</p> <p>(a) Harvest species covered by the IATTC Convention in the EPO and are not on the IATTC Regional Vessel Register, or</p> <p>(b) Do not record or report their catches made in the EPO, or make false reports, or</p> <p>(c) Take or land undersized fish in contravention of IATTC conservation measures, or</p> <p>(d) Fish during closures in contravention of IATTC conservation measures, or</p> <p>(e) Use prohibited fishing gear in contravention of IATTC conservation measures, or</p> <p>(f) Transship with vessels included in the IATTC IUU Vessel List, established by this resolution, or</p> <p>(g) Are without nationality and harvest species covered by the IATTC Convention in the EPO, or</p> <p>(h) Engage in fishing activities contrary to any other IATTC conservation and management measures, or</p>	<p>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:</p> <p>(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;</p> <p>(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;</p> <p>(c) Do not record or report their catches made in the ICCAT Convention area, or make false reports;</p> <p>(d) Take or land undersized fish in contravention of ICCAT conservation measures;</p> <p>(e) Fish during closed fishing periods or in closed areas in</p>	<p>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:</p> <p>(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 [superseded by Resolution 13/02], nor recorded in the Active list of Vessels of IOTC; or</p> <p>(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</p> <p><del>(c) Do not record or</del> (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</p> <p>(d) Take or land undersized fish in contravention of IOTC</p>	<p>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:</p> <p>(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</p> <p>(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</p> <p>(c) Do not record or report their catches made in the Convention Area consistent with WCPFC measures, or make false reports, or</p> <p>(d) Take and land undersized fish in a way that undermines WCPFC conservation measures, or</p> <p>(e) Fish in a closed area or during a closed season in a way that undermines WCPFC conservation measures, or</p> <p>(f) Use prohibited fishing gear in a way that undermines</p>

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for SBT, including transshipping, re-supplying or re-fuelling, contrary to any other CCSBT conservation and management measures. (paragraph 3(a-f))	(i) Are under the control of the owner of any vessel on the IATTC IUU Vessel List (paragraph 1(a-i))	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. (paragraph 1(a-j))	Conservation and Management Measures; or (e) Fish during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or (f) Use prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or (g) Transship 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. (paragraph 1(a-j))	WCPFC conservation measures, or (g) Transship 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). (paragraph 3(a-j))
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CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Information on alleged fishing activities</b>				
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. (paragraph 4)	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. (paragraph 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. (paragraph 2)	CPCs shall transmit every year to the IOTC Executive 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. (paragraph 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. (paragraph 2)
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: (a) Relevant resolutions of the CCSBT, as adopted and amended from time to time; (b) Reports by Members and CNMs on vessel inspections; (c) Reports by Members and CNMs relating to CCSBT conservation and management measures in force; (d) Catch and trade information	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. (paragraph 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 (paragraph 5)	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	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. (paragraph 4)

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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 (e) Any other information obtained from port States or entities and/or gathered from the fishing grounds that is suitably documented. (paragraph 5(a-e))			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. (paragraph 3(a-d))	
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. (paragraph 6)			CPCs and Non-Contracting Parties may at any time submit to the IOTC Executive Secretary any additional information, which might be relevant to the establishment of the IUU Vessels List. The IOTC Secretariat shall circulate the information before the annual meeting to CPCs concerned, together with all the evidence provided. (paragraph 8)	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. (paragraph 5)
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				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

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circulate the information, at the latest before the annual CC meeting, together with all the evidence provided. (paragraph 12)				information to all CCMs and to the non-CCMs concerned immediately upon receipt of such information. (paragraph 11)
				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. (paragraph 12)
				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. (paragraph 13)

CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>LISTING PROCEDURES</b>				
<b>Draft IUU list</b>				
<p>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, and 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. (paragraph 7)</p>	<p>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. (paragraph 3)</p>	<p>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</p>	<p>On the basis of the information received pursuant to paragraph 2, the IOTC Executive Secretary shall draw up a Draft IUU Vessels List. This list shall be drawn up in conformity with Annex II. The IOTC Executive 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 IOTC Executive 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. (paragraph 4)</p>	<p>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. (paragraph 6)</p>

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		determine their activities and possible changes of name, flag and/or registered owner. (paragraph 3)		
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. (paragraph 8)			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. (paragraph 5)	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. (paragraph 7)
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. (paragraph 9)			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. (paragraph 6)	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. (paragraph 8)
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 suitably documented information as described in paragraph 22, showing that the listed vessels have not fished for SBT in a way that undermines CCSBT conservation and management measures. (paragraph 10)				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. (paragraph 9)

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On the basis of the information received pursuant to paragraphs 7 and 10, the Executive Secretary shall 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. (paragraph 11)				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. (paragraph 10)
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CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Provisional and current IUU list</b>				
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. (paragraph 13)	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. (paragraph 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. (paragraph 4)	On the basis of the information received pursuant to paragraph 2, the IOTC Executive 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. (paragraph 7)	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. (paragraph 14(i-ii))
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	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	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	The IOTC 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. (paragraph 9)	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

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measures. (paragraph 14(a-b))	(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. (paragraph 6(a-b))	fishing activities in question, including, inter alia, prosecution and imposition of sanctions of adequate severity. (paragraph 6)		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. (paragraph 15(a-c))
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, and (b) Recommend to the Extended Commission which, if any, vessels should be removed from the current CCSBT IUU Vessel List, following consideration of the current List and of the information and evidence circulated under paragraphs 10 and 12. (paragraph 15(a-b))	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. (paragraph 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. (paragraph 7)	The IOTC 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. (paragraph 10(a-b))	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 (paragraph 16)
			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 IOTC Compliance Committee's annual meeting)	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. (paragraph 17)

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			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 IOTC Compliance Committee shall recommend to the Commission that the vessel be included on the IOTC IUU Vessel list. (paragraph 11)	
			<p>Following the examination referred to in paragraph 9, at each IOTC Annual meeting, the IOTC Compliance Committee shall:</p> <p>(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;</p> <p>(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.</p> <p>(paragraph 12(a-b))</p>	<p>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. (paragraph 18)</p>

CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Final IUU list</b>				
<p>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. (paragraph 16)</p> <p>Upon adopting the new CCSBT IUU Vessel List, Members, CNMs and NCNMs with vessels on the CCSBT IUU Vessel List are requested to:</p> <p>(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</p> <p>(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. (paragraph 17(a-b))</p>	<p>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. (paragraph 8)</p>	<p>On adoption of the list, the Commission shall request non-Contracting Parties, whose vessels appear on the IUU List:</p> <p>– 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.</p> <p>– 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. (paragraph 8)</p>	<p>Taking into account the recommendations and the Provisional IUU Vessels List adopted by the IOTC Compliance Committee, and the information provided under paragraph 2, 3, 4, 7 and 8, the Commission shall adopt the IOTC IUU Vessels List. (paragraph 13)</p> <p>On adoption of the IOTC IUU Vessels List, the IOTC Executive Secretary shall request CPCs, whose vessels appear on the list:</p> <p>(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;</p> <p>(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. (paragraph 15(a-b))</p>	<p>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. (paragraph 20).</p> <p>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:</p> <p>(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</p> <p>(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. (paragraph 21(a-b))</p>

CCSBT	IATTC	ICCAT	IOTC	WCPFC
Action to be taken by RFMO Parties				
<p>Members and CNMs shall take all necessary non-discriminatory measures subject to, and in accordance with their applicable laws and regulations, international law and each Member's/ CNM's international obligations to:</p> <p>(a) Remove or withdraw any SBT fishing authorisations for the vessel or impose alternative sanctions consistent with domestic laws and regulations of the flag State;</p> <p>(b) Ensure that the fishing 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;</p> <p>(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;</p> <p>(d) Ensure that foreign flagged vessels included on the CCSBT IUU Vessel List do not enter into their ports, except in case of force majeure, unless vessels are allowed entry into port for the exclusive purpose of inspection and/or effective enforcement action;</p> <p>(e) Ensure that a vessel</p>	<p>CPCs shall take all necessary measures, under their applicable legislation and pursuant to paragraphs 56 and 66 of the IPOA-IUU, to:</p> <p>C-05-07 IUU Vessel list.doc 2</p> <p>(a) ensure that vessels flying their flag do not transship with vessels on the IATTC IUU Vessel List;</p> <p>(b) ensure that vessels on the IATTC IUU Vessel List that enter ports voluntarily are not authorized to land or transship therein;</p> <p>(c) prohibit the chartering of a vessel on the IATTC IUU Vessel List;</p> <p>(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;</p> <p>(e) prohibit commercial transactions, imports, landings and/or transshipment of species covered by the IATTC Convention from vessels on the IATTC IUU Vessel List;</p> <p>(f) encourage traders,</p>	<p>CPCs shall take all necessary measures, under their applicable legislation:</p> <p>– So that the fishing vessels, support vessels, refuelling 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;</p> <p>– So that IUU vessels are not authorized to land, tranship re-fuel, re-supply, or engage in other commercial transactions;</p> <p>– 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;</p> <p>– To give priority to the inspection of vessels on the IUU list, if such vessels are otherwise found in their ports;</p> <p>– To prohibit the chartering of a vessel included on the IUU vessels list;</p> <p>– 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</p>	<p>CPCs shall take all necessary measures, under their applicable legislation:</p> <p>(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;</p> <p>(b) So that IUU vessels that enter ports voluntarily are not authorized to land, tranship, refuel, re-supply, or engage in other commercial transactions;</p> <p>(c) To prohibit the chartering of a vessel included on the IUU Vessels List;</p> <p>(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;</p> <p>(e) To prohibit the imports, landing or transshipment, of tuna and tuna-like species from vessels included in the IUU Vessels List;</p> <p>(f) To encourage the importers, transporters and other sectors concerned, to refrain from</p>	<p>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:</p> <p>(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;</p> <p>(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;</p> <p>(c) prohibit the chartering of a vessel on the WCPFC IUU Vessel List;</p> <p>(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;</p> <p>(e) prohibit commercial transactions, imports, landings and/or transshipment of species covered by the WCPFC Convention from vessels on the WCPFC IUU Vessel List;</p> <p>(f) encourage traders, importers, transporters and</p>

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<p>included in the CCSBT IUU Vessel List is not chartered based on its license;</p> <p>(f) Ensure that foreign-flagged 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;</p> <p>(g) Ensure that SBT from vessels included in the CCSBT IUU Vessel List are not landed, transhipped and/or traded internationally and domestically; and</p> <p>(h) 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. (paragraph 18(a-h))</p>	<p>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. (paragraph 9(a-g))</p>	<p>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;</p> <p>– To prohibit the imports, or landing and/or transshipment, of tuna and tuna-like species from vessels included in the IUU list;</p> <p>– 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;</p> <p>– 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. (paragraph 9)</p>	<p>transaction and transshipment of tuna and tuna-like species caught by vessels included in the IUU Vessels List;</p> <p>(g) To collect and exchange with other Contracting Parties or Cooperating 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. (paragraph 16(a-g))</p>	<p>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. (paragraph 22(a-g))</p>
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CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Delisting process</b>				
<p>A Member, CNM or NCNM whose vessel appears on the CCSBT IUU Vessel List may request the removal of the vessel from the list through the Compliance Committee or at any time during the inter-session period by submitting to the Executive Secretary suitably documented information demonstrating that:</p> <p>(a) It has adopted measures so that this vessel complies with all CCSBT conservation and management measures; and</p> <p>(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</p> <p>(c) One or more of the following:</p> <p>(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;</p> <p>(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</p>		<p>A non-Contracting Party whose vessel appears on the IUU List may request the removal of this vessel from the list during the inter-session period by providing the following information:</p> <ul style="list-style-type: none"> <li>– It has adopted measures so that this vessel conforms with ICCAT conservation measures;</li> <li>– 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;</li> <li>– 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</li> <li>– 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. (paragraph 14)</li> </ul> <p>“...The PWG shall remove a vessel from the Provisional List if the flag State demonstrates that:</p> <ul style="list-style-type: none"> <li>– The vessel did not take part in</li> </ul>	<p>A CPC whose vessel appears on the IUU Vessels List may request the removal of this vessel from the list during the inter-session period by providing the following information and supporting evidence:</p> <p>(a) It has adopted measures such that the vessel conforms with all IOTC Conservation and Management Measures;</p> <p>(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 of competence;</p> <p>(c) It has taken effective action in response to the IUU fishing activities in question including prosecution and imposition of sanctions of adequate severity;</p> <p>(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. (paragraph 19(a-d))</p>	<p>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:</p> <p>(a) it has adopted measures that will seeks to ensure that the vessels complies with all WCPFC; and</p> <p>(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</p> <p>(c) it has taken effective action I 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</p> <p>(d) the vessel has changed ownership and that he 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</p> <p>(e) the case regarding the vessel or vessels that conducted IUU fishing activities has been</p>

<p>exercises control over it, and that the new owner has not participated in SBT IUU fishing activities;</p> <p>(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. (paragraph 22(a-c(i-iii))).</p> <p>On the basis of the information received in accordance with paragraph 22, 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. (paragraph 23).</p> <p>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 23.</p> <p>Decisions on any inter-sessional requests to remove the vessel shall be made in accordance</p>		<p>any IUU fishing activities described in paragraph 1, or</p> <p>– 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.”...</p> <p>(excerpt from paragraph 6).</p>		<p>settled to the satisfaction of the CCM that originally submitted the vessel for listing and the flag State involved. (paragraph 25(a-e)).</p> <p>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. (paragraph 26).</p> <p>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. (paragraph 27).</p> <p>If Commission Members agree to the removal of the vessel from the WCPFC IUU Vessel List within the period stipulated in</p>
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<p>with Rule 6(5) of the Rules of Procedure, such that no response is considered to be support for the request. (paragraph 24).</p> <p>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. (paragraph 25).</p> <p>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. (paragraph 26).</p> <p>If a Member does not agree with the request for the removal of the vessel from the CCSBT IUU Vessel List, the vessel will be referred to the Compliance Committee for further consideration and the Executive Secretary will inform the Members, CNMs as well as any NCNMs that made the removal request. (paragraph 27).</p>				<p>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. (paragraph 28).</p> <p>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. (paragraph 29).</p>
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CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Intersessional listing/delisting</b>				
<p>“...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”. (excerpt from paragraph 24)</p>		<p>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 (paragraph 15).</p> <p>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. (paragraph 16).</p> <p>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 (paragraph 17).</p>	<p>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:</p> <p><del>Page 90 of 228</del>  <del>(a)</del> (a) Relevant CPC and the flag State are invited to submit supplementary information or evidence to the IOTC Executive Secretary within 90 days;  (b) Immediately following this period of 90 days, the IOTC Executive 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</p>	<p>Follows the delisting process outlined about and contained in paragraphs 26-29 of the WCPFC IUU Vessel Listing CMM.</p>

		<p>The Executive Secretary will communicate the result of examination to all Contracting Parties. (paragraph 18).</p> <p>If the result of the exercise indicates that there is a majority of the Contracting Parties in favour 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. (paragraph 19).</p> <p>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. (paragraph 20).</p>	<p>Vessels List and notify the IOTC Executive Secretary, within 30 days following this transmission, whether or not they support the vessel being included on the IOTC IUU Vessels List;</p> <p>(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:</p> <p>(i) A majority of the Members of the Commission shall constitute the quorum;</p> <p>(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;</p> <p>(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.</p> <p>(e) The IOTC Executive 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</p>	
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			<p>List will have effect immediately after the IOTC Executive Secretary communicates the result of the decision. (paragraph 14(a-e)).</p> <p>The CPC shall send its request for the removal of a vessel from the IUU Vessels List to the IOTC Executive Secretary accompanied by the supporting information referred to in paragraph 19. (paragraph 20).</p> <p>On the basis of the information received in accordance with paragraph 19, the IOTC Executive Secretary will transmit the removal request, with all the supporting information to all CPCs within 15 days following the notification of the removal request. (paragraph 21).</p> <p>The CPCs will examine the request to remove the vessel and notify the IOTC 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 IOTC Executive 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:</p> <p>(i) A majority of the Members of the Commission shall constitute</p>	
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			<p>the quorum;</p> <p>(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 removing a vessel from the IOTC IUU Vessels List, the vessel shall be removed from this list;</p> <p>(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 remains in the IOTC IUU Vessels list. (paragraph 22(i-ii)).</p> <p>The IOTC Executive 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 IOTC Executive Secretary communicates the result of the decision. (paragraph 23).</p> <p>Where the Commission decides to remove a vessel from the IUU Vessels list pursuant to paragraph 23, the IOTC Executive 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 IOTC</p>	
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			Executive Secretary will forward the decision of removal of the vessel to other regional fishery management organisations. (paragraph 24).	
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CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Trade Measures/ Sanctions</b>				
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 paragraphs 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 22 - 26, on the grounds that such vessels are involved in SBT IUU fishing activities (paragraph 21)	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. (paragraph 12)	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. (paragraph 13)	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. (paragraph 18)	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. (paragraph 24)

CCSBT	IATTC	ICCAT	IOTC	WCPFC
<p><b>Cross listing</b></p> <p>The Extended Commission may consider cross-listing IUU vessel lists with all other tuna Regional Fisheries Management Organisations and relevant organisations on a case by case basis as agreed by the Extended Commission. (paragraph 20)</p>		<p>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:</p> <ul style="list-style-type: none"> <li>(i) there is satisfactory information to establish that: <ul style="list-style-type: none"> <li>(a) The vessel did not engage in the IUU fishing activities identified by the other RFMO, or</li> <li>(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</li> </ul> </li> <li>(ii) There is insufficient supporting information and other information regarding the listing determination to establish that none of the</li> </ul>		

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		<p>conditions in sub-paragraph i) above have been met.</p> <p>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.</p> <p>(paragraph 11(i(a-b)ii)</p>		
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CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Publication of the IUU List</b>				
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. (paragraph 19)	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. (paragraph 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. (paragraph 10)	The IOTC Executive 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 IOTC Executive 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. (paragraph 17)	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. (paragraph 23)