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**RECOMMENDATION BY ICCAT AMENDING THE *RECOMMENDATION BY ICCAT TO ESTABLISH A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE ICCAT CONVENTION AREA [REC. 02-23]***

*RECALLING* that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, to deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU). This plan stipulates that the identification of the vessels carrying out IUU activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

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

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

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

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

*CONSIDERING* the results of the Working Group, which was held in Tokyo from May 27 to 31, 2002.

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

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

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

**Definition of IUU Activities**

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

- h) Harvest tuna or tuna-like species in the waters under the national jurisdiction of the coastal States in the Convention area without authorization and/or infringes its laws and regulations, without prejudice to the sovereign rights of coastal States to take measures against such vessels,
- i) Are without nationality and harvest tunas or tuna-like species in the ICCAT Convention area, and/or
- j) Engage in fishing activities contrary to any other ICCAT conservation and management measures.

#### Information on alleged IUU activities

2. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities 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 Contracting Parties and non-Contracting Cooperating Parties, Entities or Fishing Entities, *inter alia*, under:

- 1994 Resolution by ICCAT on Compliance with the ICCAT Conservation and Management Measures [Res. 94-09];
- 1997 Recommendation by ICCAT on Transshipments and Vessel Sightings [Rec. 97-11];
- 1997 Recommendation by ICCAT for a Revised ICCAT Port Inspection Scheme [Rec. 97-10];
- 2000 Recommendation by ICCAT Concerning Registration and Exchange of Information of Fishing Vessels for Tuna and Tuna-Like Species in the Convention area [Rec. 00-17];
- 1992 Recommendation by ICCAT Concerning the ICCAT Bluefin Tuna Statistical Document Program [Rec. 92-01]; 2001 Recommendation by ICCAT Concerning the ICCAT Bigeye Tuna Statistical Document Program [Rec. 01-21]; and 2001 Recommendation by ICCAT Establishing a Swordfish Statistical Document Program [Rec. 01-22];
- 1998 Resolution by ICCAT Concerning the Unreported and Unregulated Catches of Tunas by Large-scale Longline Vessels in the Convention Area [Res. 98-18].

#### Draft IUU List

3. On the basis of the information received pursuant to paragraph 2, the ICCAT Executive Secretary shall draw up a Draft IUU List. This list shall be drawn up in conformity with **Annex I**. The Secretary shall transmit it together with the current IUU List as well as all the evidence provided to Contracting Parties and Cooperating non-Contracting Parties, Entities and Fishing Entities, and to non-Contracting Parties whose vessels are included on these lists before at least 90 days before the annual meeting. Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities 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, Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities shall closely monitor these vessels included in the Draft IUU List in order to determine their activities and possible changes of name, flag and/or registered owner.

#### Provisional IUU List

4. On the basis of the information received pursuant to paragraph 3, the Executive Secretary shall draw up a Provisional List which he will transmit 2 weeks in advance to the Commission meeting to the Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities and to the non-Contracting

Parties concerned, together with all the evidence provided. This list shall be drawn up in conformity with Annex I.

5. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities 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 Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities and to the non-Contracting Parties concerned, together with all the evidence provided.
6. The Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (PWG) shall examine, each year, the Provisional List, as well as the information referred to in paragraphs 3 and 5. The results of this examination may, if necessary, be referred to the Conservation and Management Measures Compliance Committee.

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

- The vessel did not take part in any IUU fishing activities described in paragraph 1, or
  - Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution and imposition of sanctions of adequate severity.
7. Following the examination referred to in paragraph 6, at each ICCAT Annual meeting, the PWG shall:
    - i) adopt a Provisional IUU Vessel List following consideration of the Draft IUU List and information and evidence circulated under paragraphs 3 and 5. The Provisional IUU Vessel List shall be submitted to the Commission for approval.
    - ii) recommend to the Commission which, if any, vessels should be removed from the IUU Vessel List adopted at the previous ICCAT annual meeting, following consideration of that List, of the information and evidence circulated under paragraph 5 and the information received in accordance with paragraph 13.

#### **IUU List**

8. On adoption of the list, the Commission shall request non-Contracting Parties, whose vessels appear on the IUU List,
  - to notify the owner of the vessel identified on the IUU Vessels List of its inclusion on the list and the consequences which result from being included on the list, as referred to in paragraph 9.
  - to take all the necessary measures to eliminate these IUU fishing activities, including if necessary, the withdrawal of the registration or of the fishing licences of these vessels, and to inform the Commission of the measures taken in this respect.
9. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities shall take all necessary measures, under their applicable legislation:
  - 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;
  - So that IUU vessels are not authorized to land, tranship re-fuel, re-supply, or engage in other commercial transactions;
  - To prohibit the entry into their ports of vessels included on the IUU list, except in case of *force majeure*;
  - To prohibit the chartering of a vessel included on the IUU vessels list;
  - To refuse to grant their flag to vessels included in the IUU list, except if the vessel has changed owner and the new owner has provided sufficient evidence demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account all relevant facts, the flag Contracting Party or Cooperating non-Contracting Party, Entity or Fishing Entity determines that granting the vessel its flag will not result in IUU fishing;

- To prohibit the imports, or landing and/or transshipment, of tuna and tuna-like species from vessels included in the IUU list;
  - To encourage the importers, transporters and other sectors concerned, to refrain from transaction and transshipment of tuna and tuna-like species caught by vessels included in the IUU list;
  - To collect and exchange with other Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities any appropriate information with the aim of searching for, controlling and preventing false import/export certificates regarding tunas and tuna-like species from vessels included in the IUU list.
10. The ICCAT Executive Secretary will take any necessary measure to ensure publicity of the IUU vessels list adopted by ICCAT pursuant to paragraph 7, in a manner consistent with any applicable confidentiality requirements, and through electronic means, by placing it on the ICCAT web site. Furthermore, the ICCAT Executive Secretary will transmit the IUU Vessels List to other regional fisheries organizations for the purposes of enhanced co-operation between ICCAT and these organizations in order to prevent, deter and eliminate illegal, unreported and unregulated fishing.
11. This recommendation shall apply initially to large-scale fishing vessels. The Commission shall, at its annual meeting in 2007, review and, as appropriate, revise this recommendation with a view to its extension to other types of IUU fishing activities.
12. Without prejudice to the rights of flag States and coastal States to take proper action consistent with international law, the Contracting Parties and Co-operating non-Contracting Parties, Entities or Fishing Entities shall not take any unilateral trade measures or other sanctions against vessels provisionally included in the Draft IUU List, pursuant to paragraph 4, or which have been already removed from the list, pursuant to paragraph 6, on the grounds that such vessels are involved in IUU fishing activities.

**Deletion from the IUU vessels list**

13. A non-Contracting Party whose vessel appears on the IUU List may request the removal of this vessel from the list during the inter-sessional period by providing the following information:
- It has adopted measures so that this vessel conforms with ICCAT conservation measures,
  - It is and will continue to assume effectively its responsibilities with respect to this vessel in particular as regards the monitoring and control of the fishing activities executed by this vessel in the ICCAT Convention area,
  - It has taken effective action in response to the IUU fishing activities in question including prosecution and imposition of sanctions of adequate severity; and/or
  - The vessel has changed ownership and that the new owner can establish the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it and that the new owner has not participated in IUU fishing.

**Inter-sessional modification of the IUU Vessels List**

14. 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 13.
15. On the basis of the information received in accordance with paragraph 13, 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.
16. 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.
17. The Executive Secretary will communicate the result of examination to all Contracting Parties.

18. If the result of the exercise indicates that there is a majority of the Contracting Parties in favor of removal of the vessel from the IUU List, the Chairperson of ICCAT, on behalf of ICCAT, will communicate the result to all the Contracting Parties and to the non-Contracting Party which requested the removal of its vessel from the IUU list. In the absence of a majority, the vessel will be maintained on the IUU List and the Executive Secretary will inform the non-Contracting Party accordingly.
19. The ICCAT Executive Secretary will take the necessary measures to remove the vessel concerned from the ICCAT IUU Vessels List, as published on the ICCAT web site. Moreover, the ICCAT Executive Secretary will forward the decision of removal of the vessel to other regional fishery organizations.

**General dispositions**

20. The *Recommendation by ICCAT to Establish a List of Vessels Presumed to Have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area* [Rec. 02-23] is replaced by this Recommendation.
21. This Recommendation shall apply *mutatis mutandis* to large-scale fishing vessels flying the flag of Contracting Parties and Co-operating non-Contracting Parties, Entities or Fishing Entities.

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

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

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