



North Pacific Fisheries Commission

CMM 2017-02

(Entered Into Force 28 November 2017)

CONSERVATION AND MANAGEMENT MEASURE TO ESTABLISH A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE CONVENTION AREA OF THE NORTH PACIFIC FISHERIES COMMISSION

The North Pacific Fisheries Commission (NPFC):

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

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

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

Determined to address the challenge of an increase in IUU fishing activities by way of measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of Members, Cooperating Non-Contracting Parties (CNCs) and non-Contracting Parties under the relevant NPFC instruments;

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

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

Noting that efforts to prevent, deter and eliminate IUU fishing must be addressed in the light of all relevant international fisheries instruments and in accordance with other international obligations, including the rights and obligations established under the World Trade Organization (WTO) Agreement; and

Recalling Articles 13, 14, 15 and 17 of the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean (hereinafter called the “Convention”) regarding the flag State duties, port State duties, duties of fishing entities and provisions for compliance and enforcement;

Adopts the following conservation and management measure in accordance with Article 7 of the Convention:

Identification of IUU activities

1. At each 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 Convention and the NPFC measures in force, and shall establish, and, as necessary, amend in subsequently, a list of such vessels (the IUU Vessel List), in accordance with the procedures and criteria set out in this conservation measure.
2. This identification shall be suitably documented, *inter alia*, on reports from Members/CNCPs relating to NPFC 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 Members/CNCPs should be provided in the format approved by the Commission.
3. For the purposes of this conservation measure, vessels fishing for species covered by the Convention are presumed to have carried out IUU fishing activities, as described in the IPOA on IUU fishing, in the Convention Area when a Member/CNCP presents suitably documented information that such vessels, *inter alia*:
 - a. Harvest species covered by the Convention in the Convention Area and are not on the NPFC record of authorized vessels or
 - b. Engage in fishing for fishery resources when the Member or CNCP, under whose flag the vessel is sailing, has exhausted or has no quotas, catch limit or effort allocation, including, if applicable, those received from another Member/CNCP under relevant NPFC conservation measures, or
 - c. Do not record or report their catches made in the Convention Area consistent with NPFC measures, or make false reports, or
 - d. Take and land undersized fish in contravention of relevant NPFC conservation measures, or
 - e. Fish in a closed area or during a closed season in contravention of relevant NPFC conservation measures, or
 - f. Use prohibited fishing gear in contravention of relevant NPFC 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 Convention in the Convention Area, or
 - i. Engage in any other fishing activities that undermine the provisions of the Convention or any other NPFC conservation measures.
4. If a Member/CNCP has not taken such measures as may be necessary so that fishing vessels entitled to fly its flag avoid conducting unauthorized fishing activities within areas under national jurisdiction of another State adjacent to the Convention Area in accordance with

Article 13, the Member/CNCP, within whose areas under national jurisdiction the unauthorized fishing activities were conducted, may submit a proposal for listing the vessels on the draft IUU List if consultation with the Member/CNCP has not resolved the matter. Relevant procedures set out in paragraph 6 below shall apply for proposals under this paragraph.

5. If a Member/CNCP has information that a vessel is presumed to be carrying out IUU activities in the Convention Area during the years from the previous meeting to the current year, the Member/CNCP with such information is encouraged to provide that information as soon as possible to, and consult with, any Member/CNCP or non-Contracting Party that may have a vessel presumed to be carrying out IUU activities for clarification before providing that information to the Executive Secretary under the provisions of paragraph 6.

Information on alleged IUU fishing activities

6. At least 70 days before the meeting of the Technical and Compliance Committee (TCC), Members/CNCPs shall transmit to the Executive Secretary their list of vessels presumed to be carrying out IUU activities in the Convention Area during the years from the previous meeting to the current year, accompanied by suitably documented information, as provided in para 2, concerning the presumption of this IUU activity.
7. Before or at the same time as transmitting a list of presumed IUU vessels to the Executive Secretary, the Member/CNCP shall notify, either directly or through the Executive Secretary, the relevant Member/CNCP/Non-Contracting Party of a vessel's inclusion on this list and provide a copy of the pertinent suitably documented information. The Member/CNCP/Non-Contracting Party shall promptly acknowledge receipt of the notification. If no acknowledgement is received within 10 days of the date of transmittal, the Executive Secretary, Member/CNCP shall retransmit the notification through an alternative means of communication.

Draft IUU Vessel List

8. The Executive Secretary shall draw up a draft IUU Vessel List incorporating the lists of vessels and suitably documented information received pursuant to para 6, and any other suitably documented information at his disposal, and shall transmit it, together with all the supporting information provided, to all Members/CNCPs, as well as to non-Contracting Parties with vessels on the list, at least 55 days before the TCC's meeting except otherwise decided by the TCC.
9. The Executive Secretary shall request each Member/CNCP/non-Contracting Party 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.
10. Upon receipt of the draft IUU Vessel List, Members/CNCPs shall closely monitor the vessels included in that list in order to follow their activities and possible changes of name, flag or registered owner.

11. As appropriate, Members/CNCPs/non-Contracting Parties with vessels on the list should transmit, at least 10 days before the TCC's meeting, their comments to the Executive Secretary, including suitably documented information, showing that the vessels have fished in a manner consistent with NPFC conservation measures or have fished exclusively for species not covered by the Convention.
12. The Executive Secretary shall re-circulate the draft IUU Vessel List, 7 days in advance of the TCC's meeting, to the Members/CNCPs/non-Contracting Parties concerned, together with all the suitably documented information provided pursuant to paras 6 and 11 above.
13. Members/CNCPs/non-Contracting Parties may at any time submit to the Executive Secretary any additional suitably documented information regarding any vessels on the draft IUU Vessel List. The Executive Secretary shall circulate this additional information to all Members/CNCPs and to the non-Contracting Parties concerned immediately upon receipt of such information.

Provisional and current IUU Vessel List

14. The NPFC's IUU Vessel List adopted at the previous meeting of the Commission, as well as any new suitably documented information regarding this list, including intersessional amendments, shall be transmitted to Members/CNCPs and the non-Contracting Parties concerned in conjunction with the draft IUU Vessel List and materials outlined in para 8.
15. Members/CNCPs/non-Contracting Parties with vessels on the current NPFC IUU Vessel List should transmit at least 30 days before the meeting of the TCC, but may submit at any time, to the Executive Secretary suitably documented information regarding any of the vessels on the current NPFC IUU Vessel List, including, where appropriate, suitably documented information as provided for in paragraph 29. The Executive Secretary shall re-circulate the current NPFC IUU Vessel List two weeks in advance of the meeting of the TCC to the Members/CNCPs and non-Contracting Parties concerned, together with all the information provided pursuant to paragraph 14 and this paragraph.
16. At its meeting, the TCC shall:
 - a. following consideration of the draft IUU Vessel List and the suitably documented information circulated under paras 8, 12 and 13, adopt a Provisional IUU Vessel List; and
 - b. following consideration of the current NPFC IUU Vessel List and the suitably documented information circulated under paras 14 and 15, recommend to the Commission which, if any, vessels should be removed from the current NPFC IUU Vessel List.
17. The TCC shall not include a vessel on the Provisional IUU Vessel List if the Member/CNCP/non-Contracting Party, under whose flag the vessel is sailing, demonstrates that:

- a. The vessel fished in a manner consistent with the Convention and NPFC Conservation Measures or have fished exclusively for species not covered by the NPFC 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.
18. The TCC shall not include a vessel on the Provisional IUU Vessel List if the notifying Member/CNCP did not follow the provisions of para 7.
 19. The TCC shall recommend removal of a vessel from the current NPFC IUU Vessel List only if the Member/CNCP/Non-Contracting Party, under whose flag the vessel is sailing, submits to the Executive Secretary the information provided in para 29 of this measure.
 20. Following the examination referred to in para 16, 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 NPFC IUU Vessel List.
 21. The draft IUU Vessel List, Provisional IUU Vessel List, and the NPFC IUU Vessel List shall contain the following details for each vessel:
 - a. name and previous names, if any;
 - b. flag and previous flags, if any;
 - c. owner and previous owners, including beneficial owners, if any;
 - d. operator and previous operators, if any;
 - e. call sign and previous call signs, if any;
 - f. Lloyds/IMO number, if any;
 - g. photographs, where available;
 - h. date first included on the IUU Vessel List;
 - i. 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; and
 - j. the date(s) and subsequent sightings of the vessels, if any, and any other related activities.

NPFC IUU Vessel List

22. At its 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 NPFC IUU Vessel List made pursuant to paragraph 20 above, and adopt a new NPFC IUU Vessel List. To the maximum extent possible Members/CNCPs/non-Contracting Parties concerned shall provide any new suitably documented information at least two weeks before the meeting of the Commission.
23. Upon adopting the new NPFC IUU Vessel List, the Commission shall request Members/CNCPs/non-Contracting Parties with vessels on the NPFC IUU Vessel List to:
 - a. notify the owner of the vessels of its inclusion on the NPFC IUU Vessel List and the consequences that result from being included in the list, and

- b. take all the necessary measures to eliminate these IUU fishing activities, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Commission of the measures taken in this respect.
24. Members/CNCPs shall take all necessary non-discriminatory measures under their applicable legislation, international law and each Members/CNCPs' international obligations, and pursuant to paras 56 and 66 of the IPOA-IUU to:
 - a. remove or withdraw vessels on the NPFC IUU Vessel List from the NPFC Vessel Registry;
 - b. 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 NPFC IUU Vessel List;
 - c. prohibit the entry into their ports of vessels included on the NPFC IUU Vessel List, except in the case of investigation or *force majeure*;
 - d. prohibit the chartering of a vessel on the NPFC IUU Vessel List;
 - e. refuse to grant their flag to vessels on the NPFC IUU Vessel List, unless the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no legal, beneficial or financial interest in, or control of the vessels, or the Member concerned is satisfied that, having taken into account all relevant facts, the vessel is no longer engaged in or associated with IUU fishing activities;
 - f. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the Convention from vessels on the IUU Vessel List;
 - g. encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, species covered by the Convention caught by vessels on the NPFC IUU Vessel List;
 - h. collect, and exchange with other Members/CNCPs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the Convention from vessels on the NPFC IUU Vessel List.
25. Members/CNCPs should cooperate with each other and other flag States to strengthen their legal, operational and institutional capacity to take action against their flagged vessels that have engaged in IUU fishing in the Area, including the imposition of adequate sanctions, as an alternative to de-flagging such vessels, thereby rendering such vessels without nationality.
26. The Executive Secretary shall take any measure necessary to ensure publicity of the NPFC IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the NPFC website. Furthermore, the Executive Secretary shall transmit the NPFC IUU Vessel List to the FAO and to other regional fisheries organizations for the purposes of enhancing cooperation between the NPFC and these organizations aimed at preventing, deterring and eliminating IUU fishing.
27. Upon receipt of the final IUU vessel list established by another Regional Fisheries Management Organization (RFMO) and any other information regarding the list including its modification, the Executive Secretary shall circulate it to Members/CNCPs and shall place it on the NPFC website.

28. Without prejudice to the rights of Members/CNCPs and coastal states to take proper action, consistent with international law, including applicable WTO obligations, the Members/CNCPs shall not take any unilateral trade measures or other sanctions against vessels on the draft or Provisional IUU Vessel Lists, pursuant to paras 8 or 16, or that have been removed from the NPFC IUU Vessel List, pursuant to paras 19 and 22, on the grounds that such vessels are involved in IUU fishing activities.

Modification of the NPFC IUU Vessel List

29. Member/CNCPs/non-Contracting Parties with a vessel on the NPFC 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 Secretary suitably documented information demonstrating that:
- a. it has adopted measures that will seek to ensure that the vessel complies with all NPFC measures; and
 - b. it will be able to assume effectively its duties with regards to the monitoring and control of the vessel's fishing activities in the Convention Area; and
 - c. it has taken effective action in response to the IUU fishing activities that resulted in the vessel's inclusion in the NPFC IUU Vessel List, including prosecution or the imposition of sanctions of adequate severity; or
 - d. the vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not participated in IUU fishing activities.
30. The Executive Secretary will transmit the removal request, with all the supporting information, to the Members/CNCPs within 15 days following the receipt of the removal request. Members/CNCPs shall promptly acknowledge receipt of the removal request. If no acknowledgement is received within 10 days of the date of transmittal, the Executive Secretary shall retransmit the removal request and shall use additional means available to ensure the request has been received.
31. Each Commission Member shall examine the removal request and notify the Executive Secretary in writing of its decision, and the rationale therefore, regarding the removal of the vessel within 30 days following the notification by the Executive Secretary. Decisions on the request to remove the vessel shall be made in accordance with Rule 2 of the Rules of Procedure.
32. If Commission Members agree to the removal of the vessel from the NPFC IUU Vessel List within the period stipulated in para 31, the Executive Secretary will inform Members/CNCPs, and non-Contracting Parties concerned, FAO and other regional fisheries management organizations, and will remove the vessel from the NPFC IUU Vessel List, as published on the NPFC website.
33. 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 NPFC IUU Vessel List and the Executive

Secretary will inform the Members/CNCPs/non-Contracting Parties that made the removal request.

34. A Member/CNCP with information indicating a change of name and/or an International Radio Call Sign (IRCS) of a vessel appearing on the NPFC IUU Vessel List shall, as soon as practicable, transmit such information to the Executive Secretary. The Executive Secretary shall communicate such information to all Members/CNCPs and, after verification*, update the current NPFC IUU Vessel List on the NPFC website to reflect such information.

* If the Secretariat, after reasonable efforts, is unable to verify the information submitted by the Member/CNCP the vessel name or identifying number will not be updated.

Review

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

NPFC Reporting Form for Illegal Activity

Recalling NPFC CMM 2016 - 02 on *Establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the Convention Area of North Pacific Fisheries Commission*, attached are details of illegal activity recorded in

Details of Vessel

- a. Name of vessel and previous names, if any;
- b. Flag of vessel and previous flags, if any;
- c. Owner and previous owner, including beneficial owners, if any;
- d. Operator of vessel and previous operators, if any;
- e. Call sign of vessel and previous call sign, if any;
- f. Lloyds/IMO number, if any;
- g. Photographs of the vessel, where available;
- h. Date vessel was first included on the IUU List;
- i. 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 (more detail in section 2)

Details of elements contravened

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

Item	Definition	Indicate
a	Harvest species covered by the Convention in the Convention Area and are not on the NPFC record of authorized vessels	
b	Engage in fishing for fishery resources, when the Member or CNCP, under whose flag the vessel is sailing, has exhausted or has no quotas, catch limit or effort allocation, including, if applicable, those received from another Member/CNCP, under relevant NPFC conservation	
c	Do not record or report their catches made in the Convention Area consistent with NPFC Measures, or make false reports	

d	Take and land undersized fish in contravention of relevant NPFC conservation measures	
e	Fish in a closed area or during a closed season in contravention of relevant NPFC conservation measures	
f	Use prohibited fishing gear in contravention of relevant NPFC conservation measures	
g	Transship with, participate in joint fishing operations with, support or re-supply vessels included in the IUU vessels list	
h	Are without nationality and harvest species covered by the Convention in the Convention Area	
i	Engage in any other fishing activities that is in contravention of relevant NPFC conservation measures	
j	Are related to paragraph 4 of this conservation and management measures	

Associated documents

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

Recommended actions

Item	Recommended actions	Indicate
A	Notification to NPFC Executive Secretary only. No further action is recommended	
B	Notification of illegal activity to NPFC Executive Secretary. Recommend notification of activity to flag Member/CNCP/non-Contracting Party	
C	Recommended for inclusion on NPFC IUU Vessel List	

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

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

- a. Name of vessel and previous names, if any;
- b. Flag of vessel and previous flags, if any;
- c. Owner and previous owners, including beneficial owners, if any;
- d. Operator of vessel and previous operators, if any;
- e. Call sign of vessel and previous call signs, if any;
- f. Lloyds/IMO number, if any;
- g. Photographs of the vessel, where available;
- h. Date vessel was first included on the IUU Vessel List;
- i. 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.