

**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**

RECALLING that the FAO Council adopted on June 23, 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 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 Convention area continue, and these activities diminish the effectiveness of the ICCAT conservation and management measures.

FURTHER CONCERNED that there is evidence of a high 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:**

1. For the purposes of this recommendation, the fishing vessels flying the flag of a non-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 Cooperating non-Contracting Party, Entity or Fishing Entity presents evidence that such vessels:
 - a) Harvest tunas and tuna-like species in the ICCAT Convention Area and are not registered on the ICCAT list of vessels authorized to fish for tuna and tuna-like species in the 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 vessels included in the IUU 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.
2. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities shall transmit every year to the Executive Secretary before July 15, 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 years, 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 Cooperating non-Contracting Parties, Entities or Fishing Entities, *inter alia*, under:

- 1994 *Resolution by ICCAT on Compliance with the ICCAT Conservation and Management Measures* [94-9];
 - 1997 *Recommendation by ICCAT on Transshipments and Vessel Sightings* [97-11];
 - 1997 *Recommendation by ICCAT for a Revised ICCAT Port Inspection Scheme* [97-10];
 - 2000 *Recommendation by ICCAT Concerning Registration and Exchange of Information of Fishing Vessels Fishing for Tuna and Tuna-Like Species in the Convention Area* [00-17]; or
 - 1992 *Recommendation by ICCAT Concerning the ICCAT Bluefin Tuna Statistical Document Program* [92-1]; 2001 *Recommendation by ICCAT Concerning the ICCAT Bigeye Tuna Statistical Document Program* [01-21]; and 2001 *Recommendation by ICCAT Establishing a Swordfish Statistical Document Program* [01-22]
 - 1998 *Resolution by ICCAT Concerning the Unreported and Unregulated Catches of Tunas by Large-scale Longline Vessels in the Convention Area* [98-18].
3. On the basis of the information received pursuant to paragraph 2, the ICCAT Executive Secretary shall draw up a draft IUU list and shall transmit it together with all the evidence provided to Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities, as well as to non-Contracting Parties whose vessels are included on these lists before August 15 of each year. 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 neither have fished in contravention to ICCAT conservation and management measures nor had the possibility of fishing tuna and tuna-like species in the Convention Area, before September 30 to ICCAT.

Upon receipt of the draft IUU list, Contracting Parties, 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.

4. On the basis of the information received pursuant to paragraph 3, the ICCAT Executive Secretary shall draw up a provisional list that he shall transmit 2 weeks in advance of 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.
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 Secretariat shall circulate the information at latest before the annual 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.
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 Compliance Committee.

The PWG shall remove a vessel from the provisional 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) 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, the PWG shall submit to the Commission for approval, the provisional list of the vessels identified as carrying out IUU fishing activities in the ICCAT Convention area.
8. On adoption of the list, the Commission shall request non-Contracting Parties, whose vessels appear on the IUU list, 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.
9. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities shall take all necessary measures, under their applicable legislation:
 - a) So that the fishing vessels, the mother ships and the cargo vessels flying their flag do not participate in any transshipment with vessels registered on the IUU list;
 - b) So that IUU vessels that enter ports voluntarily are not authorized to land or transship therein;
 - c) To prohibit the chartering of a vessel included on the IUU list;
 - d) 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;
 - e) To prohibit the imports, or landing and/or transshipment, of tuna and tuna-like species from vessels included in the IUU list;
 - f) To encourage the importers, transporters and other sectors concerned, to refrain from transaction and transshipment of tuna and tuna-like species caught by vessels included in the IUU list;
 - g) 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, 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 shall take any necessary measure to ensure publicity of the IUU vessels list adopted by ICCAT pursuant to paragraph 8, 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 shall transmit the IUU vessels list to other regional fisheries organizations for the purposes of enhanced cooperation 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 flying the flag of non-Contracting Parties. The Commission shall, at its annual meeting in 2003, review and, as appropriate, revise this recommendation with a view to its extension to other types of IUU fishing activities of non-Contracting Party vessels and, to Contracting Party, Cooperating non-Contracting Party, Entity or Fishing Entity vessels.
12. Without prejudice to the rights of flag Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities and coastal states to take proper action consistent with international law, the Contracting Parties, Cooperating 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 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.