

# **Developing a comprehensive MCS system and an electronic Catch Documentation Scheme for IOTC**

**Consultant report**

**Mahé, Seychelles**

**December 2018**



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The report has been prepared under the financial support of the European Union (EU).

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## Acronyms

ALB	Albacore Tuna
AFV	Authorised Fishing Vessel
AoC	Area of Competence (IOTC)
AREP	Advance Request for Entry into Port
BET	Bigeye Tuna
BFT	Atlantic Bluefin Tuna
CCSBT	Commission for the Conservation of Southern Bluefin Tuna
CDS	Catch Documentation Scheme
CP	Contracting Party
CPC	Collective of CPs and CNCPs
CNCP	Cooperating Non-Contracting Party
CoC	Compliance Committee
CS	Coastal State
eCDS	electronic CDS application
ePSM	electronic PSM application (IOTC)
FAO	Food and Agriculture Organization of the United Nations
FOC	Flag of Convenience
FS	Flag State
IATTC	Inter-American Tropical Tuna Commission
ICCAT	Intl Commission for the Conservation of Atlantic Tunas
IOC	Indian Ocean Commission
IOTC	Indian Ocean Tuna Commission
IPOA	International Plan of Action
IMO	International Maritime Organization
IUU	Illegal, Unreported and Unregulated (fishing)
LOA	Length Overall (of a seagoing vessel)
LSTV	Large Scale Tuna fishing Vessel
LSTLV	Large Scale Tuna Longline fishing Vessel
MCS	Monitoring, Control and Surveillance
MS	Market State
NCP	Non-Contracting Party
PRIOTC01	1 <sup>st</sup> Performance Review of the IOTC
PRIOTC02	2 <sup>nd</sup> Performance Review of the IOTC
PS	Port State

PSCA	Port State Competent Authority
PSM	Port State Measures
PSMA	Agreement on Port State Measures (2009)
RAV	IOTC Record of Authorised Fishing vessels
SBT	Southern Bluefin Tuna
SDP	Statistical Document Program
SKJ	Skipjack Tuna
UNFSA	United Nations Fish Stock Agreement (1995)
WCPFC	Western and Central Pacific Fisheries Commission
WPICMM	Working party on the implementation of Conservation and Management Measures
YFT	YellowFin Tuna

## Chapter I - Introduction

The basis and mandate of the work contained in this report flow from the second performance review of IOTC (PRIOTC02), which was prepared in 2015, and published in 2016.<sup>1</sup> The first formal performance review the IOTC was undertaken in the biennium 2007-2008, and published in 2009 (PRIOTC01).<sup>2</sup> While the second performance review supersedes the first one, a number of critical recommendations on “compliance and enforcement” had been made in the first review, and of which a number remain pertinent to this date.

This report sets out to assess the IOTC MCS framework, and to make proposals for expanding, completing and/or strengthening it – based on the recommendations made in the second performance review. In doing so, the report assesses the overall IOTC MCS framework currently in place, identifies gaps, and recommends specific courses of action to strengthen this framework. This work encompasses an in-depth appraisal for the development of an e-CDS – an MCS tool *inter pares* – for IOTC.

### 1.1 Undertaking of this work

The work contained in this report was undertaken in the final quarter of 2018 by a senior independent fisheries expert, in the person of Mr Gilles Hosch. A briefing was held at the IOTC Secretariat in the week of 24<sup>th</sup> September, 2018, during which the expert met and exchanged with both the IOTC compliance coordinator and the IOTC compliance officer.

The work was undertaken as a desk study.

### 1.2 Recommendation from the second performance review

The PRIOTC02 recommendations, providing the foundation and mandate for the work contained in this report, addressing the topic of MCS in general in paragraph 149 (page 35), are the following:

*149. The PRIOTC02 RECOMMENDED that:*

*a) the IOTC should continue to develop a comprehensive MCS system through the implementation of the measures already in force, and through the adoption of new measures and tools such as a possible catch*

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<sup>1</sup> Report of the 2<sup>nd</sup> IOTC Performance Review. <http://www.iotc.org/documents/report-2nd-iotc-performance-review>

<sup>2</sup> Report of the IOTC Performance Review Panel. <http://www.iotc.org/documents/report-iotc-performance-review-panel>

*documentation scheme, noting the process currently being undertaken within the FAO.*

*b) as a matter of priority review the IOTC MCS measures, systems and processes, with the objective of providing advice and guidance on improving the integration of the different tools, identification of gaps and recommendations on how to move forward, taking into consideration the experiences of other RFMOs, and that the review should be used as a basis for strengthening MCS for the purpose of improving the ability of the Commission to deter non-compliance and IUU fishing.*

Under a), PRIOTC02 recommends for the IOTC MCS system to be further developed, including the potential development of a CDS, and under b) it recommends to conduct a review of the system currently in place, in order to provide advice and guidance as to how the further development of the system – recommended under a) – may be pursued. That is the objective pursued with this document.

### **1.3 Structure of the report**

This report is structured into 4 chapters.

Following the introduction, covered in this chapter, the work focusing on the MCS framework in general follows in chapter II. The work covering the design, development and implementation of an electronic IOTC catch documentation scheme (eCDS) is covered in Part III.

Chapter IV provides a summary of findings, suggestions and conclusions regarding the way forward.



## Chapter II – Development of a Comprehensive MCS System

### 2.1 Introduction to Chapter II

There is a need to clearly define what is meant by “MCS system”, what those words include, and what they do not; not only from a semantic point of view, but also as to how the concept is applied at IOTC.

In general terms it is correct to state that “MCS” is an integral part of fisheries management, and that it is generally understood as the suite of rules, tools and actions that allow fisheries management rules to be actively implemented and enforced. MCS has been described by some as the “implementing arm” of fisheries management.<sup>3</sup> MCS thus encompasses all mechanisms that aim to ensure the effective implementation of fisheries management rules. At the level of IOTC, fisheries management rules are found in the body of binding conservation and management measures (CMMs) – called “Resolutions” – setting out to regulate fishing operations (effort, gear, reporting, transshipment, etc.).

A balancing act is sometimes required to decide which Resolution embodies a set of pure fishery management rules, and which Resolution embodies a set of “enforcement and compliance” (i.e. MCS) measures – given that MCS is an integral part of the fisheries management continuum, and given also that individual MCS measures may be included in CMMs primarily providing fishery management rules. Therefore, grey zones do exist, and a decision as to whether to include or to exclude given topics, rule sets or CMMs from the domain of this “MCS” review, has to be taken in some cases.

One such domain that is excluded from the MCS assessment provided in this report is the domain which, within the context of the Commission, is often referred to as “*compliance*”. It covers things such as “*compliance monitoring*”, and “*compliance reporting*”. In IOTC, the word “*compliance*” is used as a concept to designate the compliance of contracting parties (CPs) and cooperating non-contracting parties (CNPCs)<sup>4</sup> with their obligations under the Convention. Such obligations relate to reporting schedules (content and deadlines), as much as they relate to the effective implementation of CMMs as these may apply to the waters, fleets, ports or markets of individual parties.<sup>5</sup>

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<sup>3</sup> See Flewwelling, P. (1995)

<sup>4</sup> Contracting parties (CPs) and cooperating non-contracting parties (CNPCs) are collectively referred to as CPCs

<sup>5</sup> It is useful to highlight that parties to the IOTC are obliged to transpose rules contained in CMMs – including those on MCS – into national law, and to effectively implement, monitor and enforce them, as applicable and appropriate.

This report primarily assesses the existence, absence and/or need for monitoring, control and surveillance mechanisms that ensure that operators (the industry) comply with the tenets of the IOTC management framework. This can be referred to as “first level MCS”, and generally includes all Resolutions with an inspection, enforcement and/or penalty dimension, while it generally excludes monitoring for purposes other than compliance and enforcement. In this sense, independent monitoring and recording of catch and effort data through scientific on-board observers (for science purposes) is excluded, while monitoring through VMS (for compliance and enforcement purposes) is included.

The “*compliance monitoring*” of the various state parties with their obligations under the Convention is considered as a second (or superimposed) MCS layer, which, regardless of its pertinence and importance, is not the object of this report. “*Compliance*” in this sense, as well as capacity building efforts in the domain of MCS (another higher level MCS element) are only mentioned in context – where relevant.

However, IOTC enforcement measures serving to discipline chronically non-compliant state actors, failing to take measures or to exercise effective control so as to ensure compliance of industry actors with IOTC CMMs, and standing apart from all other enforcement measures dealing with industry compliance directly, are understood as a critical MCS measure (albeit at a higher level), and are covered in this report.

Following from the above, it was established during the briefing for this study, that the topics to be specifically excluded from the report include the following:

- regional observer scheme (ROS)
- statistical reporting requirements of CPCs

This is motivated through the fact that; a) the observer scheme is scientific in nature,<sup>6</sup> and is not currently poised to evolve into a tool serving enforcement,<sup>7</sup> and b) the reporting requirements of parties, and their compliance with these requirements, fall under “compliance” as understood and discussed above, and are thus excluded.

## **2.2 The broad focal domains of the MCS assessment**

It has been made clear above, that certain elements fall outside the boundaries of the MCS assessment provided in this study. It is hence of use

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<sup>6</sup> See Resolution 11/04 On a regional observer scheme; specifically para. 1 (“Objective”)

<sup>7</sup> Note that the observer scheme under CMM 18/06 (Programme of transshipment by LSTLVs) is purely compliance oriented, and is therefore covered in this study.

to define which broad domains the report will cover, and to provide – where necessary or useful – the rationale for doing so.

Generally speaking, MCS tools fall under the purview of the different state types that make up IOTC membership. Given MCS tools may be primarily or exclusively implemented by a single state type, or they may apply to several state types. Since all MCS tools are to be covered, this study will cover:

- coastal states and MCS tools relating to them;
- flag states and MCS tools relating to them;
- port states and MCS tools relating to them;
- market states and MCS tools relating to them.

In doing so, this study will assess which MCS tools are in place, how they perform, if there are any gaps, if existing tools can be streamlined and integrated, if and what has been recommended in the two PRIOTC reports with regards to specific MCS tools, what has already been studied and proposed in the past, and what can be learned from RFMO and state MCS practice in other RFMOs.

### **2.3 MCS Recommendations in PRIOTC01 and PRIOTC02**

This section details the recommendations provided in both reviews, made under chapters named “Compliance and Enforcement” in both reports. Both reports adopted the same segmentation of this chapter, with the difference that PRIOTC02 provided one more heading, subdividing the chapter into the following headings:

1. Flag State duties
2. Port State measures
3. Monitoring, Control and Surveillance
4. Follow-up on infringements
5. Cooperative mechanisms to detect and deter non-compliance
6. Market related measures
7. Fishing capacity (only covered in PRIOTC02)

What can be gathered from this segmentation is that a mix of state type duties as broader domains are covered (1. and 2.), MCS as a generic heading is covered (3.), and then a range of specific topics or tools is covered (4. 5. 6. and 7.), following the segmentation of the questions to

be answered by the review panel, and as contained in the Terms of Reference guiding the review.<sup>8</sup>

Table 1 renders all recommendations from both reviews across the above 7 headings. It provides an indication on whether they have been addressed, and indicates whether they are immediately relevant to this study. In the table, the elements relevant to the work in this report are highlighted in green.

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<sup>8</sup> These questions emanate from a common set of criteria developed for tuna RFMOs, following the Kobe meeting in early 2007, for consideration when undertaking performance reviews.

**Table 1** MCS recommendations of PRIOTC01 & PRIOTC02, status & relation to this study

Heading	PRIOTC01 (2009)	Status	Relevance to study	PRIOTC02 (2016)	Status	Relevance to this study
<b>1. Flag State duties</b>	47. Any amendment to or replacement of the IOTC Agreement should include specific provisions on Member's duties as flag States, drawing on the relevant provisions of the UNFSA.	pending	none	any amendment to or replacement of the IOTC Agreement should include specific provisions on Member's duties as flag States, drawing on the relevant provisions of the UNFSA and take due note of the FAO Voluntary Guidelines on Flag State Performance.	ongoing	none
<b>2. Port State measures</b>	48. Any amendment to or replacement of the IOTC Agreement should include specific provisions on member's duties as port States.	pending	none	a) [...] the Commission to explore possible ways of including ports situated outside the IOTC area known to be receiving IOTC catches in applying port State measures established by the IOTC.	not done	directly relevant
	49. IOTC should explore the possible implementation of the FAO Model Scheme on Port State Measures.	lapsed	none	b) the Commission, through its port State measures training, to support the implementation, including support from FAO and other donors, of the requirements of the FAO PSMA and the IOTC Resolution 10/11 <i>On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing.</i>	ongoing	none (capacity building not covered)
	50. The IOTC should duly note the outcome of the current process for establishment of a globally binding agreement on port State measures.	done	none			
<b>3. Monitoring, Control and Surveillance</b>	51. IOTC should develop a comprehensive monitoring, control and surveillance (MCS) system through the implementation of the measures already in force, and through the adoption of new measures and tools such a possible on-board regional observers' scheme, a possible catch documentation scheme as well as a possible system on boarding and inspection.	ongoing	directly relevant (basis for the work covered in this study)	a) the IOTC should continue to develop a comprehensive MCS system through the implementation of the measures already in force, and through the adoption of new measures and tools such as a possible catch documentation scheme, noting the process currently being undertaken within the FAO.	ongoing	directly relevant (basis for the work covered in this study)
				b) as a matter of priority review the IOTC MCS measures, systems and processes, with the objective of providing advice and guidance on improving the integration of the different tools, identification of gaps and recommendations on how to move forward, taking into consideration the experiences of other RFMOs [...]	ongoing through this study, <i>inter alia</i>	directly relevant (basis of TOR)
<b>4. Follow-up on infringements</b>	52. The current IUU resolution should be amended to allow the inclusion of vessels flagged to Members.	done (Res. 18/03)	none	a) the IOTC should establish a scheme of responses to non-compliance in relation to CPCs obligations, and task the Compliance Committee to further develop a structured approach for cases of infringement.	ongoing	none (compliance not covered)
	53. IOTC should explore options concerning the possible lack of follow-up on infringements by CPCs.	ongoing	none (compliance not covered)			

	54. IOTC should establish a sanction mechanism for non-compliance, and task the Compliance Committee to develop a structured approach for cases of infringement.	done (Res. 10/10)	lapsed	b) further develop an online reporting tool to facilitate reporting by CPCs and to support the IOTC Secretariat through the automation of identification of non-compliance.	ongoing (eMARIS)	none (compliance not covered)
	55. Provisions for follow-up on infringement should be included in any amended/replaced Agreement.	pending	none	c) reasons for the non-compliance should be identified, including whether it is related to the measure itself, a need for capacity assistance or whether it is wilful or repeated non-compliance, and that the Compliance Committee provide technical advice on obligations where there are high level of CPCs non-compliance.	ongoing	none (compliance not covered)
<b>5. Cooperative mechanisms to detect and deter non-compliance</b>	56. A structured, integrated approach to evaluate the compliance of each of the Members against the IOTC Resolutions in force should be developed by the Compliance Committee.	ongoing	none	the Commission to consider strengthening the intersessional decision making processes in situations where CPCs have not transmitted a response such that a decision can be taken for effective operational cooperative mechanisms and that the Commission encourages the CPCs to be more involved in decision making and for the Commission to collaborate to the greatest extent possible with other RFMOs.	ongoing	none
	57. CPCs should be reminded of their duty to implement in their national legislations the conservation and management measures adopted by IOTC.	ongoing	none			
	58. The requirement to present national reports on the implementation of IOTC measures should be reinforced.	ongoing	none			
	59. The sense of accountability within IOTC seems to be very low; therefore more accountability is required. There is probably a need for an assessment of the performance of CPCs.	ongoing	none			
	60. Establishment of formal mechanisms of MCS (e.g. observers programmes) should be considered.	ongoing	relevant (included under heading 3.)			

<b>6. Market related measures</b>	61. As IOTC action in terms of measures relating to the exercise of rights and duties of its Members as market States are very weak, the non-binding market related measure should be transformed into a binding measure.	done	none	a) the Commission to consider strengthening the market related measure (Resolution 10/10 Concerning market related measures) to make it more effective.	not done	directly relevant
	62. The bigeye statistical document programme should be applied to all bigeye products (fresh and frozen). Catch documentation schemes for target species of high commercial value should be considered. Alternatively, expanding the scope of the current statistical document programme to address current loopholes should be considered.	pending	directly relevant	b) the Commission to consider to invite key non-CPCs market States that are the main recipient of IOTC catches as observers to its meetings with the aim of entering into cooperative arrangements.	Not done	none
<b>7. Fishing capacity (only PRIOTC02 )</b>				the Commission to consider non-compliance with fishing capacity related measures as a priority in the scheme of responses to non-compliance, in order to ensure the sustainable exploitation of the relevant IOTC species.	Not done	none



It results from table 1, that apart from the all relevant MCS part under heading 3, there are a further two headings under which elements of relevance to MCS and this study arise. These are as follows:

Under port state measures (heading 2):

*a) [...] the Commission to explore possible ways of including ports situated outside the IOTC area known to be receiving IOTC catches in applying port State measures established by the IOTC. (PRIOTC02)*

Under market state measures (heading 6):

*a) the Commission to consider strengthening the market related measure (Resolution 10/10 Concerning market related measures) to make it more effective. (PRIOTC02)*

*62. The bigeye statistical document programme should be applied to all bigeye products (fresh and frozen). Catch documentation schemes for target species of high commercial value should be considered. Alternatively, expanding the scope of the current statistical document programme to address current loopholes should be considered. (PRIOTC01)*

It will thus be of essence to review and make recommendations with regards to the specific port state measure arising under heading 2.

The two distinct market related measures arising under heading 6 will also require particular attention. The PRIOTC02 recommendation concerning the strengthening of trade restrictive measures (TREMs) relates to the sanctioning of parties not heeding their duties and obligations, an aspect that shall be covered in this study, as discussed under section 2.1. The PRIOTC01 recommendation focuses on the upgrading of the BET statistical document programme ("*expanding the scope of the current [...] programme*"), which will be discussed in conjunction with the development of an IOTC CDS in Chapter 3 of this study.

## **2.4 The current IOTC MCS framework**

Over time, IOTC has endowed itself with a multi-faceted MCS framework, made up of a number of highly relevant tools. The reach and effectiveness of these tools has improved over time as CMMs are reviewed and upgraded, notably in response to the two performance reviews undertaken in the past.

The seventeen IOTC Resolutions providing the foundation of all IOTC MCS tools (as covered in this report) are listed in Annex I. These CMMs range in dates of adoption from 2018, back to the last century (1999). Compliance clauses in other CMMs are generally limited to State duties with regard to reporting to the Commission, and generally do not apply in this context.

The list of the simplified listing of these seventeen MCS-related Resolutions, as used in the following section, is appended in Annex II.

#### **2.4.1 Regrouping MCS-related Resolutions into functional groups**

In order to gain a first overview of MCS measures in place, it is useful to segregate the various MCS-related Resolution into 5 functional groups. These functional groups are distributed across the four State types to which measures apply primarily,<sup>9</sup> embodying mostly MCS measures laid out to implement management measures through the putting in place of a pre-emptive monitoring and inspection framework. In the analogy of *the carrot and the stick* approach, these measures as a group would generally be referred to as the “*carrots*”. The fifth group contains all penalty mechanisms applying to non-compliant States, vessels, or individuals as straight enforcement measures (i.e. sanctions). These are the “*sticks*” in the same analogy.

##### **Coastal State MCS measures**

Resolution 14/05 Record of licensed foreign vessels & access agreement info

##### **Flag State MCS measures**

Resolution 18/06 Programme for transshipment by large-scale fishing vessels

Resolution 15/04 IOTC record of authorised vessels

Resolution 15/03 Vessel monitoring system (VMS) programme

Resolution 15/01 Recording of catch and effort data by fishing vessels

Resolution 10/08 Record of active vessels having fished for tunas and swordfish

##### **Port State MCS measures**

Resolution 16/11 Port State measures to combat IUU fishing

Resolution 05/03 Establishment of a programme of inspection in port

##### **Market State MCS measures**

Resolution 03/03 Amendment of the forms of statistical documents

Resolution 01/06 Bigeye tuna statistical document programme

##### **Penalty mechanisms targeting non-compliant States, vessels and nationals**

Resolution 18/07 Non-fulfilment of reporting obligations in the IOTC

Resolution 18/03 List of vessels presumed to have carried out IUU fishing

Resolution 16/05 Vessels without nationality

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<sup>9</sup> Note that some CMMs may “primarily” address one state type, but have similar or secondary implications for another state type. e.g. CMM 15/03 on VMS primarily applies to the flag state, but also has implications for the coastal and the port state.

Resolution 10/10 Market related measures

Resolution 07/01 Compliance by nationals of CPs and CNCPs

Resolution 01/03 Scheme to promote compliance by NCP vessels

Resolution 99/02 Actions against fishing activities by FOC LSTLVs

What can be gathered from pulling MCS-related Resolutions together into functional groups is that there is an important host of individual Resolutions applied in two specific groups, namely; under *Flag State MCS measures*, and under *Penalty mechanisms targeting non-compliant States, vessels and nationals*.

It is especially under the latter group where Resolutions span close to two decades, and where revision and consolidation work may result in efficiency gains and increased effectiveness of measures. Several of these Resolutions continue to exist in their original form, and have never been revised and/or updated.

In the former group (i.e. flag State measures), Resolutions are more recent, and have all undergone several reviews and updates since their inception in their original form.

In the other three functional groups (*Coastal State MCS measures*, *Port State MCS measures*, and *Market State MCS measures*), the number of Resolutions is limited to one or two per group. While the coastal and port State measures are of more recent origin, and have all undergone reviews and updates in the past, the two market State measures are dated, have undergone few changes, and are poised to be recommended for replacement through a CDS.

Overall, ten resolutions fall under pre-emptive (“carrot”) type-, and seven fall under penalty (“stick”) type resolutions.

#### **2.4.2 IOTC MCS framework**

In order to gauge its wholeness, it is useful to look at the IOTC MCS framework of Resolutions from the perspective of the fisheries it sets out to cover, and to subdivide it into the following chain-of-custody segments: a) pre-fishing, b) fishing, c) transshipping & landing, and d) post-harvest. Typical IUU activities that MCS tools seek to address are pegged against these individual segments. This allows achieving a broad overview, while it also provides the basic blueprint for the identification of gaps in the MCS setup, covered in the following section. It does not – however – lead to an assessment of the effectiveness of individual MCS measures currently in place. The latter requires an analysis of individual CMMs, their provisions and their implementation modalities. This is provided in a later section.

Based on the Resolutions listed and grouped above, an overall picture with regards to MCS tools in place at IOTC emerges in table 2. The first row provides potential and numbered types of IUU fishing along the chain of custody, while the rows below indicate which types of IUU fishing are covered by which CMMs – and within which functional groups.

The final row “Collaborative and integrated MCS” highlights Resolutions and provisions therein which foster for a more integrated and collaborative approach to MCS between CPCs, and the Commission as a whole.

**Table 2 Current IOTC MCS framework versus potential IUU fishing issues**

		Pre-fishing	Fishing	Transshipping & landing	Post-harvest
<b>Potential IUU issues</b>		1. misreported vessel specs and/or fishing gear 2. VMS dysfunctional or not fitted	3. fishing without a flag 4. fishing in IOTC AoC without CPC FS authorisation 5. fishing in IOTC AoC flying the flag of an NCP FS 6. fishing in CPC CS EEZ without CS authorisation 7. illegal fishing (gear, FADs, VMS, observer, sharks, quota, logbook, etc.)	8. transshipping to un-authorized receiving vessel 9. transshipping IUU catch (species, quota, license, etc.) 10. landing IUU catch (quota, species, license, etc.) 11. incomplete, fraudulent or absent reporting of fishing trip and harvest data, forms or other required documents	12. buying IUU catch 13. marketing illegal catch (domestically and into international trade)
<b>“Carrots”</b>	<b>Coastal State measures</b>		6: RESOLUTION 14/05	11: RESOLUTION 14/05	
	<b>Flag State measures</b>	1: RESOLUTION 15/04 & 18/06 2: RESOLUTION 15/03	4,5: RESOLUTION 15/04 4,5: RESOLUTION 10/08 6,7: RESOLUTION 15/03 7: RESOLUTION 15/01	8,9: RESOLUTION 18/06 10,11: RESOLUTION 15/01	
	<b>Port State measures</b>	1: RESOLUTION 16/11 & 05/03	5: RESOLUTION 16/11 & 05/03	10,11: RESOLUTION 16/11 & 05/03	
	<b>Market State measures</b>		4,5: RESOLUTION 01/06 & 03/03		12,13: RESOLUTION 01/06 & 03/03
<b>“Sticks”</b>	<b>Deterrent sanctioning mechanisms</b>		3: RESOLUTION 16/05 5: RESOLUTION 99/02 & 01/03	11: RESOLUTION 18/07	
			3,4,5,6,7,8,9,10,11: RESOLUTION 10/10 & 18/03		
			1,2,3,4,5,6,7,8,9,10,11,12,13: RESOLUTION 07/01		
<b>Collaborative &amp; integrated MCS</b>		RESOLUTION 01/06 – information of validating competent authorities is centralised (para. 3, 9, and 10) RESOLUTION 05/03 – information (inspection report) by PS inspectors to flag State and Commission in case of detected irregularities (para. 5) RESOLUTION 14/05 – information on competent authority for licensing is centralised (para. 7) RESOLUTION 15/04 – information on competent authority for ABNJ ops authorisation is centralised (para. 3) – CPCs importing species covered by SDP and flag States to cooperate so that documents are not forged (para. 9.b.iii) RESOLUTION 16/11 – Information on designated ports, competent authorities, etc. is centralised (para. 5)			

## 2.5 Effectiveness of current Resolutions, recommended modifications and integration

This section assesses the effectiveness of current MCS-related resolutions that are in force, as listed and grouped in the previous sections. The reader is invited to cover this section in conjunction with the latest compendium of active IOTC CMMs,<sup>10</sup> containing the versions of the Resolutions that are assessed below. For ease of reference, resolutions in this section are presented and discussed chronologically, from the most recent to the oldest on record.

### 2.5.1 Resolution 18/07 Non-fulfilment of reporting obligations in the IOTC

This resolution primarily addresses failure of CPCs to comply with IOTC data reporting obligations, specifically relating to reporting requirements of nominal catch data, catch and effort data, size data and FAD data to the IOTC Secretariat by the 30th June of each year. These

<b>Resolution 18/07</b>	
completeness	low
effectiveness	low
transparency	low
integration	low

obligations – alongside others – are provided for in resolutions 16/11, 15/02, 15/01, 14/05, 11/04, 10/08 and 01/06. Non-fulfilment of reporting obligations leads to data gaps, hampering the Scientific Committee to assess effective fishing effort, the status of stocks, and to provide sound management advice to the Commission.

Technical requirements under this resolution, providing a sanctioning mechanism for non-compliant CPCs, are limited to encouraging CPCs to devise effective mechanisms to collect the mandatory data and information, and to forward such data and information to the IOTC Secretariat in a recurrent manner, as provided for in the resolutions under which the data are requested.

The resolution's primary focus is the collecting of nominal catch data, including those – specifically mentioned – of sharks. Therefore, this resolution may be interpreted as addressing flag States primarily, and their nominal catch data reporting in particular. Failure to properly report under this resolution can – in the worst case scenario – lead to a CPC losing its

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<sup>10</sup> Compendium of Active Conservation and Management Measures for the Indian Ocean Tuna Commission (4<sup>th</sup> October, 2018). (can be accessed under: [http://iotc.org/sites/default/files/documents/compliance/IOTC\\_-\\_Compendium\\_of\\_ACTIVE\\_CMMs\\_04\\_October\\_2018.pdf](http://iotc.org/sites/default/files/documents/compliance/IOTC_-_Compendium_of_ACTIVE_CMMs_04_October_2018.pdf))

right to retain species for which insufficient data are reported to the IOTC Secretariat (paragraph 3).

### **Assessment**

The resolution addresses only one single issue of CPC non-compliance, *i.e.* reporting, singling this particular form of non-compliance out from all other forms of non-compliance. Given that another resolution (Resolution 10/10 on market related measures) addresses both CPC and NCP non-compliance and failure to deliver on their obligations in their respective capacities under the IOTC Agreement and/or under international law, this resolution is limited, lacks integration with existing similar RESOLUTION provisions, and duplicates (and weakens) provisions that are arguably covered by paragraph 2.a.i. of Resolution 10/10.

The worst that can happen to a CPC in case of non-fulfilment of reporting obligations is that its fleets are not allowed to retain/land specific species during the following cycle. Since identified CPCs are being pointed out as failing to report nominal catch data (chiefly) in the first place, the measure lacks critical enforcement capability. Only in limited cases, as for fleets sanctioned under this mechanism, transhipping onto foreign reefers or landing into foreign ports, can the provisions inherent to this resolution be enforced through peer oversight mechanisms; but overall enforcement rests largely with the sanctioned party itself, and the capacity of this resolution to deter and to achieve results is thus very limited.

### **Conclusions and Recommendations**

This resolution duplicates provisions of the much more complete Resolution 10/10 on market-related measures, which proposes a similar course of action for failures of both CPCs and NCPs to honour their duties. The sanctioning mechanism the resolution proposes is largely ineffective, and unlikely to produce the desired effect – including deterrence and voluntary compliance – is inadequate and would have to be substantially revised.

Since there is no strong justification to single out non-fulfilment of reporting obligations from any and all other obligations and duties of CPCs under the IOTC framework, paragraphs 1, 2 and 3 to be absorbed into an amended Resolution 10/10. The proposed revised text of Resolution 10/10 is appended in Annex IX.

The provisions of paragraph 4, detailing reporting of zero catches ought to become a natural part of Resolution 15/02 – including the related annex II – appended in Annex X.

## 2.5.2 Resolution 18/06 Programme for transshipment by large-scale fishing vessels

Transshipment operations are a recognised channel for laundering of illegal catches into unsuspecting markets. This resolution supersedes Resolutions 17/06, 14/06, 12/05, 11/05, 08/02 and 06/02, and is one of the most important resolutions in terms of combatting IUU fishing. It tackles the laundering of illegally caught fish by establishing a mandatory monitoring framework for transshipments, based on notifications, prior authorizations and data transmissions. The resolution is complex, and is segmented into several functional layers.

<b>Resolution 18/06</b>	
completeness	medium
effectiveness	medium
transparency	medium
integration	medium

As a general rule, transshipments are confined to ports, except under the programme to monitor transshipments at sea specified in section 2 of the resolution (paragraph 1).

Only large-scale tuna longline fishing vessels (“LSTLVs” of LOA 24m or above) may, under prescribed conditions, continue to tranship at sea, onto carrier vessels that also fall under a monitored regime. It is up to flag States to decide whether they authorise their LSTLVs to tranship at sea or not (paragraph 5), while LSTVs must tranship in port.

A formal IOTC record of carrier vessels authorised to receive transshipments at sea from authorized LSTLVs is created (paragraphs 6 and 7), and these vessels must carry VMS (paragraph 10). Transshipments made within the EEZ of a coastal State, requires the prior authorization of that coastal State (paragraph 11).

For every transshipment at sea, an LSTLV must obtain prior authorization from its flag State (paragraph 12) following the submission of detailed information on what products are to be transhipped (paragraph 13); the same rule does not apply for transshipments in port (ANNEX I; paragraphs 1 and 2), where the flag State of the catcher vessel is merely informed. Transshipment declarations are submitted to flag and port States at the end of operations (paragraphs 14, 16, Annex I – paragraphs 2.3, 3 and 4).

An observer programme provides for the mandatory placement of an IOTC observer aboard every duly authorised carrier vessel to monitor at-sea transshipments (paragraphs 18, 19, 20 and 21).

### **Assessment**

This resolution provides rules for both at-sea and in-port transshipments – the former being covered in the Resolution body text, while the latter is covered in Annex I to the resolution.



The IOTC e-PSM platform<sup>11</sup> provides a portal for logging of information of transhipments in port under this CMM (in-port transhipment declarations in particular), as well as the logging of the results of port inspections under Resolution 16/11 (and Resolution 05/03), and – importantly – the generation and transmission of advance requests for entry into port (AREP) and transmission and sharing of other information under Resolution 16/11. However, the e-PSM platform is not referenced in either Annex I or Annex III to this Resolution, and its use is not suggested, nor indeed made mandatory for in port transhipments.<sup>12</sup> However, at-sea transhipment information is submitted with the AREP prior to entry into port, and shared with flag and port States.

The following issues have been identified with the provisions of the resolutions, and are addressed in the revised draft;

Paragraph 5. Flag State CPCs may authorize or prohibit LSTLVs flying their flag to tranship at sea, but no record of vessels authorized to tranship is created<sup>13</sup> – to the opposite of authorized carrier vessels and the record established for them under paragraph 6. In addition to prior authorizations needing to be obtained for individual transhipments by individual LSTLVs, a transhipment-specific yearly authorization – distinct from the authorization to fish – should be made to apply and be formally recorded in the RAV, and be publically accessible and searchable.<sup>14</sup> In this way, flag States can deny the authorization to tranship at sea, by limiting the authorization to fishing only. It ought hence to be clearly established that LSTLVs not authorized in this manner by their flag States are also not eligible for individual at-sea transhipment authorizations. Active third party oversight and policing at-sea is leveraged and enhanced through such set of provisions.

Paragraph 7. The IMO number of the carrier vessel is not requested, which is inconsistent with international practice, and with paragraph 21 asking for an IMO number for Indonesian vessels.

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<sup>11</sup> See: <http://www.iotc.org/compliance/port-state-measures>

<sup>12</sup> In fact, the e-PSM is not mentioned once in any of the three CMMs for which it provides the communication, data logging, data submission, authorisation and data transfer platform.

<sup>13</sup> Note that when placed on the RAV in its current form, a fishing vessel is authorized to “fish and/or tranship”. The authorization to tranship is hence not issued separately, and is largely automatic. The RAV does not permit to distinguish between the two (fishing/transhipping) for fishing vessels.

<sup>14</sup> Note that vessels authorized to tranship at sea are publically searchable on the WCPFC RAV ([www.wcpfc.int/record-fishing-vessel-database](http://www.wcpfc.int/record-fishing-vessel-database)). While the RAV contains 3,996 vessel records, only 2,198 are listed as being authorized to tranship on the high seas (accessed on 08/11/2018)

Paragraph 10. The provision fails to provide rules for VMS transmissions. Authorised carrier vessel VMS transmissions should be identifiable to all coastal, flag, and port State CPCs and the IOTC Secretariat at all times (at sea and in port). Carriers do not engage in harvesting operations, therefore the sensitivity of their positions with regards to third party oversight is low. However, maximum transparency regarding carrier vessel movements throughout the IO will greatly enhance oversight that may be exercised over these vessels by all parties.

Paragraph 14. The delay for submitting a transshipment declaration from catcher to flag State authorities is 15 days – which is too long and ought to be substantially shortened. Since the transshipment declaration is to be signed by the masters of both giving and receiving vessels, the period of submission should be shortened to 24 hours.

Paragraph 15. The master of the carrier vessel may currently not access a listing, detailing which vessels are authorised to tranship at sea, as such record currently does not exist. He is hence limited to verify the authorization that is shown at sea. The format of the LSTLV flag State authorisation is not prescribed, and no electronic portal is created that would allow to verify any claim made on a loose piece of paper.

Paragraph 22. This study proposes to eliminate the BET SDP, replacing it with a CDS, and consequently paragraph 22 would become altogether superfluous, and should be eliminated once the CDS is adopted.

Paragraph 24. The meaning of this provision is difficult to understand, and given that it provides for port State action under given circumstances, is otherwise to be included under Resolution 16/11 on port State measures.

Annex I: Paragraph 2.3. The transshipment declaration is only submitted to the flag State. It should also be submitted to the port State and the IOTC Secretariat (applying the same rules as under Paragraph 16 of the CMM body text for at-sea transshipments). It should be noted that an automatic submission to the flag State and the port State is already in place under the e-PSM, while the Secretariat has access to all forms and data created by users.

The format to be used is not set out in Annex II (as erroneously Stated), but in Annex III, and would now ideally be directly referred to the e-PSM format/standard. The period for submission of the transshipment declaration to the flag State of the donor vessel is 15 days (see also paragraph 14 of the body text and the notes above), and is too long, and this period of submission should also be shortened to 24 hours.

The mandatory time period for submission of the transshipment declaration by the master of the donor vessel ought to be further defined, indicating that the fishing vessel cannot be authorized to leave port in the absence of a completed and duly submitted declaration to all foreseen parties.

Annex I: Paragraph 3. The mandatory time period for submission of the transshipment declaration by the master of the receiving vessel ought to be further defined also, indicating that the carrier vessel shall not be authorized to leave port in the absence of a completed and duly submitted declaration.

Annex I: Paragraph 4. "The master of the receiving carrier vessel shall, 48 hours before landing, complete and transmit an IOTC transshipment declaration, to the competent authorities of the landing State where the landing takes place." This provision is at least partly misleading, as it hints to the establishment of a new transshipment declaration in light of an imminent port entry and planned landing. At least one transshipment declaration has already been filled at sea or in port and is in possession of the master.<sup>15</sup> No transshipment declaration needs to be "completed" prior to a landing. What is needed here instead, is that the captain of the carrier vessel transmits to the "landing State" the list of transshipment declarations (or copies thereof) from which he is going to land product. An Annex should specify what that list is to look like. The Secretariat should collect copies of these lists, in order to do the reconciliation work stipulated in paragraph 5 of the same Annex (see below).

The stipulated 48 hour notice contradicts the 24 hour notice provided in paragraph 6.2 of Resolution 16/11.

Annex I: Paragraph 5. In actual fact, there is a need for the Secretariat to monitor, collate and reconcile all transshipment and landing data, instead of relying on port State authorities to do this between themselves in a non-specified manner, and in collaboration with the flag State of the LSTLV, as provided for in this paragraph. This owes to the fact that for multiple landings of single transshipments across more than a single port, the effective exercise of oversight between several parties breaks down – especially in the absence of a formal mechanism, which the

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<sup>15</sup> Note that generally speaking, by the time carrier vessels get ready to enter port to land their product, they are in possession of several transshipment declarations certifying the origin of the catch on board, since they generally receive catch from multiple donor vessels over a period of time. Paragraph 4 in its current form fails to convey this fact.

resolution does not provide. Importantly, the same reconciliation mechanism is not provided for at-sea transhipments.<sup>16</sup>

Annex I: “Landing State:” this State-type does not exist in mainstream fisheries vocabulary. The “Landing State” is the “Port State in which the landing occurs”, and should be referred to in that way – or similar.

Annex I: Paragraph 6. The transhipment details (data fields) for the annual reports by CPCs to the IOTC, asked for in this paragraph, are not specified. If all transhipment data were generated electronically, the need for this provision would cease to exist.

Discriminatory: Maldivian collector vessels are exempted from reporting, while Indonesian vessels rely on a national observer program. Exemptions and exceptions of this nature should be avoided, as they establish an uneven playing field, and embody gateways for illegal activities to go undetected.

Annex III: The ID numbers of the certificate of competence of both masters (or master’s certificate)<sup>17</sup> of both fishing and carrier vessel masters are not recorded. The name alone is generally insufficient to confidently identify the person.

Annex III: The IOTC vessel register number is to be indicated “if available”, while it is unclear what “IOTC Register” stands for. Assuming that it is the RAV, and the IOTC ID number assigned to an authorised vessel on the IOTC record of authorized vessels, this number must exist, otherwise the transhipment is illegal. This transhipment declaration should be reworded in this sense.

The transhipment location is not recorded. This is a crucial piece of information that must be added.

The table provided to fill the details of the products transhipped is inadequate and cannot be understood or used without interpretation, and has to be redone. Formal alignment and integration with the e-PSM standard is advisable at this point in time.

Transhipment declarations as provided are not numbered, and are not recorded centrally – embodying a very weak system. All transhipment

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<sup>16</sup> Note that when an e-CDS is introduced, all of these data naturally converge, and become the object of automated reconciliation routines, and alarms are triggered within the system in the case of discrepancies.

<sup>17</sup> See: International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (<http://www.imo.org/en/OurWork/HumanElement/TrainingCertification/Pages/STCW-Convention.aspx>)

declarations should be handled through a central electronic platform. This already exists for transshipments in port, while it has to be created for at-sea transshipments. [integration with eCDS]

Annex IV: Paragraph 6: There is no need for the observer to be asked to keep any information regarding fishing vessel ownership confidential. This provision should be eliminated. CMMs should consistently aim to provide for maximum transparency regarding vessel ownership, operator and master identity – not the opposite.

### **Conclusions and Recommendations**

It is recommended that the scope of this resolution be limited to at-sea transshipments, and be thus renamed “Programme for at-sea transshipments by large-scale fishing vessels”. Reference shall then be made to transshipments in port as being included and regulated under the current Resolution 16/11 on port State measures to combat IUU fishing – which shall be amended accordingly. In doing so, Annex I under this resolution is transferred to the amended Resolution 16/11, in order to regroup and integrate all port-related activities into a single set of consistent and contiguous rules.

Basic rules regarding transshipments, on transshipment declarations, use of an electronic interface, reconciliation of transshipment and landings data, etc. – shall apply in equal measure to all transshipments, regardless of their at-sea or in-port location.

The monitoring and reporting standards for transshipments ought to be substantially improved, in order to further curtail opportunities for laundering IUU harvests into markets. All issues discussed in the foregoing assessment sections are included in the revised version of the Resolution, which is appended in Annex III.

An electronic portal for at-sea transshipments, emulating the transshipment procedures, forms and data transfers under the e-PSM, should be developed by the Secretariat, and its use should become mandatory. While the access of the portal may be distinct to the e-PSM portal, existing data sets and routines (e.g. vessel identification) shall be shared between platforms, and not duplicated. The at-sea transshipment platform would technically embody a mere extension and added function of the e-PSM.

Once mandatory, all current data submission requirements outside of operational data submission will become superfluous, oversight will be maximised, and opportunities for illegal transshipments minimised.

### 2.5.3 Resolution 18/03 List of vessels presumed to have carried out IUU fishing

This resolution supersedes earlier versions of the resolution (Res. 17/03, 11/03, 09/03, 06/01, and 02/04), providing for a “list of vessels that have carried out IUU fishing activities”. It complements resolution 07/01 on Compliance by Nationals, another punitive resolution directly seeking to penalize IUU fishing at the operational level.

<b>Resolution 18/03</b>	
completeness	medium
effectiveness	low
transparency	medium
integration	low

The resolution lays down a step-by-step system for listing and delisting IUU fishing vessels, complete with the sanctions to be applied to such vessels by CPCs. The resolution defines the use of terms (paragraph 1) and IUU fishing (paragraph 4), the latter combining the principles of article 21, paragraph 11 of the UNFSA and article 3 of the FAO IPOA IUU. These definitions form the basis for further action by CPCs under the resolution.

The listing mechanism operates as follows:

- a) Submission of information of alleged IUU activities to the Executive Secretary at least 70 days prior to the annual meeting of the Compliance Committee (paragraph 5). This applies to all State types and is submitted with associated evidence and according to the format noted in Annex I of the resolution. The IOTC Executive Secretary circulates all such information to the flag State(s) of the alleged IUU vessels, and all CPCs;
- b) Flag States of alleged IUU vessels, whether CPCs or NPCs, are then requested to investigate the allegation, and to report back to the IOTC Executive Secretary within 60 days, to inform about the progress of the investigation. Returned and compiled information is then made available to all CPCs, and these may then individually decide whether to formally seek inclusion of individual vessels on the draft IUU list (paragraph 7);
- c) A draft IUU vessel list is drawn up by the IOTC Executive Secretary on the basis of the format set out in Annex II of the resolution, for circulation to all CPCs and the flag State(s) of the listed vessel(s) – 55 days ahead of the annual meeting of the Compliance Committee (paragraph 8);
- d) Flag States of listed IUU vessels may transmit further evidence up until 15 days prior to the annual Compliance Committee meeting (paragraph 10), and such information will then be forwarded to all CPCs by the IOTC Executive Secretary 10 days prior to the meeting (paragraph 11);
- e) Paragraphs 13 and 14 establish that it pertains to the Compliance Committee to establish a provisional IUU list on the basis of the draft IUU list, and any further information that may have been brought before it by

any interested party – including the flag State(s). If evidence is produced “that effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements” (paragraph 14.c), then the vessel is not included on/removed from the provisional IUU list. In all other cases, including the lack of flag States in providing any feedback whatsoever, the vessel is included on the provisional IUU list;

f) The Compliance Committee, on the basis of the provisional IUU lists, recommends to the Commission which vessels are to be included in the IUU vessel list – and which ones ought to be removed (paragraph 16).

g) On adoption by the Commission, the list becomes the “IOTC IUU Vessels List” (paragraph 13).

The resolution calls on flag States of vessels included in the list to notify owners of the facts, and to take all necessary measures to ensure IUU fishing activities are terminated (paragraph 20).

CPCs are requested to ensure that its vessels, nationals, companies, etc. forego any kind of business with listed vessels, including reflagging, port entry, transshipments and other transactions (paragraph 21).

### **Assessment**

The following observations arise from the analysis of the resolution:

Paragraph 2. “This Resolution applies to vessels, together with their Owners, Operators and Masters that undertake fishing and fishing related activities, [...]”; this statement, not reflected in the title of the Resolution (which is limited to listing IUU vessels), implies that not only vessels, but also owners, operators and masters are listed. However, Annex I A. regroups operators and master under the same item h., while Annex II – listing the definite items to be listed in the IUU vessel list) omits the master altogether. (see Resolution 07/01 also)

Paragraph 4.a. This provides an erroneous definition of unauthorized fishing, by inferring that the absence from the list of active vessels (which lists vessels active in the previous year), constitutes IUU fishing. This is not the case. A vessel may well be on the list of authorized vessel at the present time, without having been active in the previous year.

Paragraph 4.b. This paragraph suggests that flag State CPCs may engage in quota overfishing – or similar – without incurring the risk of being listed. If such is the intention, the provision should simply be eliminated.

However, given paragraph 4.k., it is unlikely that this was indeed the intention – indicating that the provision should be rectified.

Paragraph 7. This paragraph provides for the same mechanism regarding the request by a CPC to an offending party to investigate the matter, as a CPC, and as an NCP. Since it is the same procedure, the text should be simplified. Also, once the information has been submitted to the Secretary, it should be implicit that incriminating parties should investigate and report back – without the need to specifically have a CPC requesting it.

Paragraph 20.b. This paragraph states that “Following the adoption of the IUU Vessel List, the IOTC Executive Secretary shall request the flag State of every vessel that is included in the list: [...] b) to take all the necessary measures to prevent the vessel from undertaking IUU fishing activities, including [...] de-registering of the vessel [...].” This directly contradicts CMM 16/05, paragraph 6, providing that “Members and CNCPs are encouraged to cooperate with all flag States to strengthen their legal, operational and institutional capacity to take action against their flagged vessels [...], including the imposition of adequate sanctions, as an alternative to de-flagging such vessels, thereby rendering such vessels without nationality.” This constitutes a contradiction of basic principles recommended to dealing with IUU fishing vessels and their owners, operators and masters. In actual fact, by simply de-registering a vessel, a flag State seeks the simplest of outcomes enabling it to not further investigate, prosecute and sanction offenders. The principle enunciated under CMM 16/05 (see below) with regards to not delisting is much more solid in terms of seeking consistent results.

Paragraphs 20 and 21. The entire action (in terms of sanctions) under the resolution is aimed at IUU vessels, and how CPCs must refrain from doing business with these vessels. There is no provision that provides rules for taking action against masters, operators or owners, whether physical or legal entities. Resolution 07/01 is also silent on this matter, and it is opportune to assess whether the resolutions can be combined in order to provide a single resolution to cover all listings (vessels, companies and physical persons), and the action that should apply to them.

Annex II; point 3. Neither the name, nor the certificate ID number of the master of the vessel is requested, even though it is listed in the current IUU vessel list – in contradiction to the information officially required in the CMM. Only owner and operator are identified, but company registry number, identity details of physical people, or any other details are also not specified. It is not immediately clear that the owner and operator data, as



provided, are operationally and legally sufficient to link this information to real-world companies and physical persons.

### **Conclusions and Recommendations**

The mechanism and procedure provided for listing is solid, and may serve as a template for other similar listing procedures that may arise under the IOTC MCS framework, as under Resolution 10/10 on market related measures, for instance.

It should be noted that it is not vessels that are committing infractions, but the people owning and operating them. However, these people, together with their companies, are not normally the direct object of sanctions – even though paragraph 2 suggests that this may be the case. Often a time, when a vessel gets listed, it is reflagged, ownership changes nominally, and vessels continue to operate illegally – while avoiding major sanctions in the same process. There is a marked need to strengthen the resolution in this respect, ensuring that a maximum of information regarding company and physical person details and data be collected, and listed – where available. Currently the resolution falls short on seeking to gather those data, in properly listing them, and – importantly – in providing for measures to be taken against these elements. It is suggested that the resolution be expanded and completed in this sense.

It is also suggested below that Resolution 07/01, addressing the issue of compliance by nationals be strengthened in this sense, and that its provisions be absorbed into this resolution, so as to remain with a single resolution that covers all potential IUU listing categories (vessels, companies and people). In the same vein, Resolution 16/05 on vessels without nationality (embodying a specific form of IUU fishing status), may be wholly absorbed into this resolution. This would entail providing a new and broader title for this resolution.

The draft text of the revised resolution is appended in Annex IV.

#### **2.5.4 Resolution 16/11 Port State measures to combat IUU fishing**

The resolution, superseding Resolution 10/11 of the same title, provides for a comprehensive port State control scheme, significantly expanding the scheme originally provided for under Resolution 05/03 (Programme of Inspection in Port). It is a very cost effective control measure for developing States to apply to foreign fishing vessels. If combined with the requirement for a pre-fishing briefing and port visit prior to operations, it can be an

effective control mechanism to establish a baseline of catches by fleets operating within the coastal State's EEZ.

<b>Resolution 16/11</b>	
completeness	high
effectiveness	medium
transparency	high
integration	medium

With the exception of part 5 of the resolution (addressing flag States), provisions primarily address the port State. In doing so, the resolution establishes a comprehensive mechanism for a CPC port State control framework. The resolution calls on CPCs to integrate fisheries related port State Measures with broader port State controls, and also with measures to prevent, deter and eliminate IUU activities, and share this information between agencies (paragraph 4). It specifically calls on port States to:

- designate ports authorized to receive foreign fishing vessels and ensure they have sufficient capacity to conduct port inspections (paragraph 5);
- request advance port entry notice and issue entry authorizations or denials, depending of compliance profile of vessels requesting entry (paragraph 6);
- inspect at least 5% of all landings or transhipments each year – applying minimum inspection standards to its work; causing minimum interference (paragraph 10), and,
- to train its port inspectors in line with guidelines provided in the resolution (paragraph 14).

Further, paragraph 7 of Part 2 details the procedures to be taken by the port State after receipt of information (requested in paragraph 6) regarding approval for entry into port, and relevant steps to be taken by the port State and master in each case, including if necessary allowing the vessel to enter port solely for the purposes of inspection and subsequent actions (paragraph 7.5).

Although Part 2 addresses authorization (and denial) of port entry, port State measures also apply where a vessel has already entered port and is then found to have violated IOTC Resolutions, as noted in paragraph 9.1. Steps for denial of use of port services are detailed in paragraph 9.2 – 9.5.

Part 4 provides direction to port States for inspections and follow-up actions, including the 5% inspection requirement noted above, monitoring the entire landing or transhipment process (paragraph 10), criteria with respect to the conduct of inspections (paragraph 11) and follow-up actions with respect to inspection reports (paragraphs 12, 13, and 16).

## **Assessment**

The 2010 resolution – updated and superseded in 2016 by the current resolution – is one of the longest and most complex IOTC MCS resolutions. It is a unique resolution in the sense that it almost fully transposes the substance of the 2009 FAO Agreement on Port State Measures, and made its terms binding for IOTC CPCs, six years before the Agreement proper entered into force and became binding international law.<sup>18</sup>

The objective of the resolution is clearly defined (paragraph 2), and designated ports and competent authority info has been made publically available on the IOTC website.<sup>19</sup> The resolution applies to all CPC ports, regardless of their geographical location inside or outside IOTC AoC (paragraph 5.1). A wealth of training materials and information resources on implementing the scheme have been developed and made available by the Secretariat over time.

While the resolution largely overlaps with Resolution 05/03 establishing a programme of inspection in port (see further below), the same resolution is not referenced in the preamble.

The resolution does not cover pre-licensing inspections or related modalities – which are typically done in port also – and there is a gap in the IOTC ruleset regarding the need for such inspections. Foreign vessels often operate in coastal State EEZs without ever visiting a port of the same CPC, implying oversight weaknesses.

Paragraph 3.3 To respond to the requirement of Annex IV *Information systems* on port State measures, the Secretariat has developed the e-PSM platform, servicing primarily the operational communication, authorization, reporting and data submission needs under this resolution. Given the coming of age of the e-PSM platform itself, and the fact that all countries – including developing countries – nowadays have the full capacity to operate these platforms, the Commission should consider making the use of the platform compulsory – as planned.

Paragraph 7.2 This provision is superfluous for electronic authorizations. Given that it is the same port State competent authority (PSCA) that has provided the authorization, there is little reason to demand the master to show the same authorization to the same PSCA.

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<sup>18</sup> The PSMA entered into force on the 5<sup>th</sup> June, 2016.

<sup>19</sup> See:

[http://www.iotc.org/sites/default/files/documents/compliance/Designated\\_Ports\\_201712\\_19.xls](http://www.iotc.org/sites/default/files/documents/compliance/Designated_Ports_201712_19.xls)

Paragraph 7.3 This paragraph provides as follows: “In the case of denial of entry, each CPC shall communicate its decision taken pursuant to point 7.1, to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States and IOTC Secretariat. [...]” It fails to oblige the port State CPC to inform the IOTC Secretariat. This provision should be revised in order to make it a binding provision – including provisions relating to relevant transparency of resulting information access.

Paragraph 10. This provision fails to establish that all NCP tuna vessels calling into a CPC port ought to be inspected – as per the provision of Resolution 01/03 para. 3 and CMM 05/03 (paras. 4 and 7). This should apply, since the application of CMM 16/11 – as laid down in paragraph 3.1 – covers “vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports” – naturally encompassing CPC and NCP foreign-flagged vessels. This embodies a regulatory inconsistency between two texts regulating largely the same issue, and should be rectified and unified.

Paragraph 17.3. This provision provides that “Each CPC shall encourage vessels entitled to fly its flag to land, tranship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Resolution.” This non-binding “suggestion” ought to be expanded into a binding obligation, in order for port State controls to substantially increase in effectiveness.

### **Conclusions and Recommendations**

With the text of the resolution stemming directly from a major international agreement, the scope and modalities of the resolution are broad, consistent and largely complete. Recommendations that follow are largely limited to integrating earlier (pre-)existing IOTC regulatory substance with this resolution, and to consider the adoption of yet tighter port State control rules, such as practiced in other RFMOs.

A section on pre-licensing inspections should be included in this resolution, so as to ensure that vessels operating in the IOTC AoC, or in CPC coastal State EEZs bordering the IO, are inspected by at least one non-flag State third party on a recurrent basis (of which the periodicity should be neither too restrictive, nor too lax), in order to establish the conformity of the vessel with its dataset on the RAV and other CMMs (length, call sign, hold, gear, VMS, etc.).

IOTC’s e-PSM platform now ought to be formally established as a mandatory implementation tool for core functions, following a number of years of transitioning from paper forms to electronic submission of requests, authorizations and data between parties. The work load of all

involved parties – including those in developing countries – will be diminished as a result, while automated monitoring and automated forwarding and submission of mandatory information to interested parties will be enhanced.

With IOTC having played a leading role globally in the domain of port State control since 2010, the Commission ought to consider expanding the non-binding provision of paragraph 17.3 in order to formally limit vessels to land and/or tranship in designated ports only. This would emulate port State controls as practiced under the NAFO framework, for instance, ensuring a “closed-quarters” approach to landings and transhipments, strictly limited to designated ports within the CPC community. This would also directly reflect and pursue PRIOTC02 (2016) recommendation listed in green in table 1 under row heading “2. Port State measures”, suggesting that “the Commission explore possible ways of including ports situated outside the IOTC area known to be receiving IOTC catches in applying port State measures established by the IOTC.” Any port State not yet a CPC, but wishing to remain an eligible port State for receiving IOTC catches, would have to become an IOTC cooperating non-contracting party (CNCP) – as a minimum. It would also entail that CPCs failing to designate their ports cannot legally receive landings from, or allow transhipments by foreign vessels in their ports.

The revised resolution is appended in Annex V.

### 2.5.5 Resolution 16/05 Vessels without nationality

This resolution applies primarily to coastal, flag and port States. It encourages CPCs to take all possible action against fishing vessels without nationality (*i.e.* flying no flag or flying multiple flags) operating in the IOTC AoC, since such vessels are operating illegally outside IOTC rules. This approach is consistent with UNCLOS and the IPOA-IUU.

CPCs are encouraged to “take effective action [...], including, where appropriate, enforcement action, against vessels without nationality that [...] have engaged, in fishing or fishing related activities in the IOTC area of competence, and to prohibit the landing and transhipment of fish and fish products, and access to port services [...]” (paragraph 3) and to adopt relevant measures “including, where relevant, domestic legislation, to allow them to take the effective action” against

<b>Resolution 16/05</b>	
completeness	low
effectiveness	low
transparency	low
integration	low

fishing vessels without nationality operating in the IOTC area of competence (paragraph 4).

### **Assessment**

The resolution provides a singular focus on the Stateless fishing vessel; identification and enforcement measures regarding owners, operators and/or the master are not provided for – putting the resolution at odds with the more complete CMM 18/03. These latter elements should now be the formal object of IUU listings – as well as the vessel itself. However, the CMM is silent on listing identified vessels – while the same offence is also covered and addressed (complete with listing as an enforcement measure) under CMM 18/03 (para. 4.i.). In addition, paragraph 3 provides for the denial of landing and transshipment of catches in port, as well as denial of port services, mirroring the provisions of CMM 16/11 – but in a non-binding form (see above).

This CMM is thus both largely overlapping with CMM 18/03 and 16/11, and is inferior in terms of provisions and mechanisms regarding enforcement options and their implementation.

### **Conclusions and Recommendations**

It is recommended that this resolution be eliminated, since all of its key provisions now exist in binding form in more recent and more relevant IOTC regulatory substance.

#### **2.5.6 Resolution 15/04 IOTC record of authorised vessels**

This resolution supersedes resolutions 14/04, 13/02, 07/02 & 01/02, 05/02, and 02/05. It provides the foundation to identify CPC vessels greater than 24m (and less than 24m fishing beyond their EEZ) authorized by their respective flag States to fish. All fishing vessels, including auxiliary, supply and support vessels, not on the list of authorized vessels instituted through this resolution are not authorized to operate in the IOTC AoC (paragraph 1). This list is forthwith referred to as the record of authorized vessels – or RAV.

Paragraph 1 instructs the Commission to maintain a list for vessels greater than 24 m, and vessels less than 24 m fishing in waters beyond their EEZ. Such list shall include

fishing and all support vessels and shall include information required to be reported by the CPCs. The Secretariat is required to publicize this information on the IOTC website and take appropriate action when notified

<b>Resolution 15/04</b>	
completeness	medium
effectiveness	medium
transparency	low
integration	medium

of changes or information regarding actions of a vessel not on the authorized list.

Flag States must comply with controls of vessels flying their flag:

- Flag States must issue authorisations to fish and/or tranship (ATF) to their flag vessels to fish for species managed by the IOTC;
- The requirement of flag States to control their vessels, and limitations with respect to which vessels may be included in the list, are provided for in paragraphs 7, 8 and 9;
- Flag States must ensure that all its vessels carry the documents listed in paragraph 13, verify this each year and notify the Secretariat of any changes.
- Vessel and gear marking requirements are provided for in paragraphs 14 and 15,
- Flag States must ensure that their vessels operating in the IOTC AoC are included on the RAV (para. 16).

Paragraphs 9.a, 9.b.ii, and 9.b.iii provide the specific responsibilities of the coastal State CPC in this resolution to prohibit fishing, having onboard or transhipping tunas by vessels not on the IOTC Record and requirement of statistical documents to accompany all frozen bigeye tuna, caught by longline vessels, imported for verification against the IOTC Vessel Record and their authenticity.

### **Assessment**

No provision regulates control by third parties checking the truthfulness of vessel information contained on the RAV, nor the consequences of detected fraudulent registrations/declarations. The flag State is the sole arbiter of declarations regarding its vessel characteristics recorded on the RAV, and peer oversight mechanisms are lacking. This is addressed under CMM 16/11 (above) by proposing that a recurrent non-flag port State inspection regime be implemented via port States bordering the Indian Ocean.

Paragraph 2. This paragraph provides that vessel information to be included on the RAV should be submitted to the IOTC Secretary in electronic format, "where possible". This is now insufficient, and electronic submission should be binding on all CPCs for all information covered by this CMM – and more generally for all information covered by other Resolutions also.<sup>20</sup>

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<sup>20</sup> IOTC's ruleset with regards to electronic submission of data is inconsistent. This Resolution, which is of 2015, requires the submission of electronic information "where possible", while CMM 05/03 (of 2005) on a programme of inspection in port provides for the binding submission of electronic data in the following terms: "Each CPC shall submit electronically to the IOTC Executive Secretary [...] the list of foreign fishing vessels which have landed in their ports tuna and tuna-like species caught in the IOTC area in the

Computerization of government offices has now occurred throughout the IO region, and beyond, and though it may not be complete in some administrations, the capacity to communicate and to submit information electronically is now given in 100% of all cases.<sup>21</sup> The electronic platform that is planned to be created under the “e-MARIS” initiative<sup>22</sup> will provide, *inter alia*, a portal for RAV information to be directly managed by CPCs remotely.

With regards to vessel information, the size of the hold (in cubic meters) is not indicated. This is a critical piece of catcher and carrier vessel MCS information that must be added to the list. The target species is also not indicated – but it is asked for under Resolution 10/08 (para. 2), for instance. The RAV ought to centralise fishing vessel information as far as practically possible, and repetition of same information across other CMMs should be avoided wherever possible.

Paragraph 2.i. The name and address of owner(s) and operator is listed under this single line item. It should be split into two separate items, and the details to provide, including the identity of the physical persons at either level, embodying or representing the owner and operator, must be provided. For legal entities, the national license number of the entity (cooperative, company, etc.) ought to be provided. Also, the name, identity and certificate ID number of the master is not being recorded. All of this information is crucial in order to confidently identify operators linked to the vessel.

Paragraph 3. Details of national competent authorities issuing high seas fishing authorizations (template/name/address/details/seal) are not publically available on the IOTC website. Instead, they are placed on a secure portion of the website to which only CPCs have access. This lack of transparency implies that potential NCP actors are excluded from using (otherwise) public domain information centralised at IOTC to contribute to law enforcement efforts – under the general auspices of the UNFSA, for instance. This weakens MCS. There is no good reason why access to authorization templates and the identity of public administrations issuing such authorizations should be limited to IOTC CPCs.

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preceding year. [...]”. The non-binding formulation in resolution 15/04 embodies an anachronistic step backwards.

<sup>21</sup> Note that ten years prior to this provision, Resolution 05/03 on an IOTC Inspection Programme in Port established mandatory electronic submission of CPC reports to the IOTC Secretariat in its paragraph 8, providing a clear precedent.

<sup>22</sup> See: <http://iotc.org/documents/e-maris-technical-specifications>



Paragraph 14. The vessel marking scheme and related rules are not sufficiently defined, leaving it to flag States to define their own scheme.

Paragraph 15. Fishing gear marking rules are insufficiently defined, and it is unclear what gear and how gear should be marked – including the information that gear markings should bear.

Paragraph 16. Logbook keeping, updating, and filling rules are insufficiently defined in this resolution, and instead of defining parts of any logbook regime under this resolution – which is beyond its scope – the matter may be indicated, and then referred to the relevant resolution providing logbook regime and rules (currently CMM 15/01 – see below).

The resolution overlaps with Resolution 10/08 on the record of active vessels – and should integrate that Resolution. In order to do so, a short set of rules on the periodicity of updating the authorization period information on the RAV needs to be added. These might contain the following:

- Authorization periods should not exceed a full calendar year, and may start on any given date within any year (reflecting the spirit inherent to para. 13.b.)
- IOTC should be notified electronically on the day of authorization renewal to update the RAV

Otherwise, simple reporting on vessels active in the previous year serves little purpose, and may well be replaced with more accurate data generated through a Commission VMS.

### **Conclusions and Recommendations**

The IOTC RAV needs to be completed with the elements indicated in the previous section, in order to expand the dataset held for individual vessels. This notably covers details on physical and juridical persons linked to the vessel, some vessel characteristics and authorization details – notably on at-sea transshipment for all involved vessel types. Information relating to the authorities issuing authorizations (and updating the RAV) should become fully transparent, in order to maximise potential enforcement options and outcomes, and all information should be submitted to the Secretariat in electronic format at all times, and by all parties – pending the development and implementation of the e-MARIS platform, which will profoundly streamline these processes.

The Working party on the implementation of Conservation and Management Measures (WPICMM) established under Resolution 17/02 has already provided a proposal on amending Resolution 15/04, focusing on the need

for completeness of information provided to the Secretariat, before a vessel may be listed on the RAV. Those proposals are entirely integrated into the further proposals elaborated under this work.

The revised resolution is appended in Annex VI.

### 2.5.7 Resolution 15/03 Vessel monitoring system (VMS) programme

This resolution supersedes CMM 06/03 and provides that all vessels 24 m and longer, and vessels under 24 m that operate beyond their EEZ, and authorized to operate in the IOTC Area of Competence, carry and operate a VMS (paragraph 1). Most of the technical requirements are specified in Annex 1 to the Resolution.

<b>Resolution 15/03</b>	
completeness	medium
effectiveness	low
transparency	low
integration	low

This resolution targets flag States almost exclusively, however Annex 1, paragraph A notes that any CPC that has information to suspect that the VMS does not meet IOTC requirements or has been tampered with, that CPC shall report the matter to the IOTC Secretariat. This knowledge can come from a coastal State's at sea inspection (or a port State's port inspection) and thus becomes a reporting obligation for the coastal State (or the port State).

#### **Assessment**

The immediate objective(s) for the implementation of a VMS is/are not defined in the resolution. The preamble merely indicates how a VMS may be "of value for conservation and management measures, including compliance".

VMS rules should apply to AFVs on the RAV, instead of given vessel lengths and types (para.1), so as to ensure that rules are and remain consistent throughout the body of IOTC resolutions.

IOTC secretariat has no access to VMS data (Commission VMS) – peer monitoring means are thus extremely limited. In addition to this, while paragraph A in Annex I specifies that any VMS non-compliance should be reported to the flag State and the Secretariat, the same provision is silent on what the Secretariat is to do with the information it so receives. This is a general problem throughout the IOTC regulatory substance, in that the role of the Secretariat, to formally collect, analyse and report non-compliance information to the CoC is insufficiently provided for.

The operational period (and hence area) in which VMS signals must be sent/received is implied in paragraph 7 ("device at all times fully

operational” - i.e. at all times and everywhere). In practical terms, VMS are often switched off when vessels are in port, and there is a need to clearly define where and when VMS must be functioning (home port, EEZ, high seas, foreign EEZ, foreign ports, etc.).

Coastal State entitlements to VMS data by foreign vessels operating in their waters is not provided for – nor whether such entitlement covers EEZ or ocean-basin wide reporting, or otherwise. In the same vein, the Commission – through the Secretariat – does not have access to VMS data, implying that oversight exercised through VMS is limited to flag State jurisdiction. This is insufficient, and will need to be upgraded in the future. Such upgrade will support automatic reporting of active vessels, a high seas boarding and inspection regime, monitoring of effective flag State VMS implementation and enforcement, a future Catch Documentation Scheme (CDS), etc.

The enforcement dimension of VMS is not covered by the CMM. The validity of VMS data as prima facie evidence to establish violations is not covered, nor the need for CPCs to provide for this under domestic law.

### **Conclusions and Recommendations**

The VMS resolution, and the system as a whole is currently (2018) the object of a dedicated assessment, which will provide a consistent set of recommendations regarding the future of the system.

This study will hence limit itself to the comments made in this section, and indicate under CMMs related to this one which VMS functions (current or future) would be supporting enhanced MCS implementation modalities at those other levels.

#### **2.5.8 Resolution 15/01 Recording of catch and effort data by fishing vessels**

This resolution supersedes resolutions 13/03, 12/03, Recommendation 11/06, and Resolutions 10/03, 08/04, 07/03. The information it covers is critical for the work of the Scientific Committee. The intent of the resolution is to build on other measures, and to obtain detailed catch and effort and bycatch data for science analyses from purse seine, longline, gillnet, pole and line, handline, and trolling fisheries.

<b>Resolution 15/01</b>	
completeness	medium
effectiveness	low
transparency	medium
integration	low

The requirement for flag States to establish a data recording system and the scope of applicability of the system are provided in paragraphs 1 and 2. The data requested covers all vessels greater than 24 m and those less

than 24 m fishing inside and beyond their EEZ. The intent is to establish a consistent data recording system benefitting scientific assessment.

The resolution recognizes that the system for vessels under 24 m fishing inside EEZs would be challenging to set up for many developing States, so these were expected to start implementation through a phased approach as of 1 July 2016 (paragraph 11).

The requirement for a paper or electronic logbook is provided in paragraph 3, noting the required data details as per Annexes I to III, and the requirement for it to be in one of the two languages of the Commission is in paragraph 5.

The data information requirements are segregated by trip (Annex I – para. 6), set/shot or operation for specified fishing gear (Annex II – para. 7) and specifications for handline and trolling gears (Annex III para 8.).

### **Assessment**

Logbook templates are posted on the IOTC website, and are accessible to the general public, as provided in paragraph 4.<sup>23</sup> This element of transparency should be considered best-practice.

It is clear from the preamble to this resolution that its objective is to improve datasets from a scientific point of view. The MCS and enforcement dimension relating to logbook keeping and reporting has been largely overseen.

The resolution does not specify rules relating to the up-keeping/updating of the logbook over the course of a fishing trip (*e.g.* the logbook must always contain the full fishing data up to the previous day of operations included); the absence of these rules weakens boarding and at-sea inspection potential as nothing needs to be recorded. It also impacts the work of observers under Annex IV para. 5.a.iii of Resolution 18/06 on transshipments at sea, as observers cannot expect a duly filled and kept logbook at the time transshipments at sea take place.

A production logbook and the keeping of a stowage plan are not regulated. These are standard at NAFO, for instance, the former providing a running ledger of species and weights in the hold, as they are building up, and the latter providing details on where which catches are stored.

There is no provision that specifies when (or how long after a trip) the logbook must be submitted to the flag and the coastal State, compounding the earlier gaps on logbook keeping rules.

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<sup>23</sup> See: <http://www.iotc.org/compliance/fishing-logbooks-templates-samples>

Mandatory catch reporting provisions by vessels do not exist in the IOTC regulatory substance, which require masters to report all catch that is offloaded from their vessels through landings in port. With regards to transhipments, transhipment declarations and mandatory reporting is regulated (Resolution 18/06; see above). It is under this resolution that a mandatory catch reporting scheme – covering landings by both harvesting and carrier vessels – should be provided for.

Paragraph 10. No reference is made to resolution 15/02, under which the aggregated data are supplied to the Commission on a yearly basis, even though it is the data under this resolution that provide the foundation for the data submitted under Resolution 15/02.

### **Conclusions and Recommendations**

This CMM should be renamed “Recording and reporting of catch and effort data by fishing vessels”, completing the already existing transhipment declarations with catch declarations for landings under this resolution. The catch (or landing declarations) ought to apply to both carriers and harvesters, and apply in all cases where offloading does not occur in the form of a transhipment.

The resolution ought to be sub-divided into two sections, the first one covering (the current) recording of information into logbook(s) – the latter being duly expanded – while the second section details catch reporting obligations at the time of landing. While the e-PSM already provides an interface of offloading declarations to be filed by port State authorities, its use is neither binding, nor are catches thereunder reported by the master/agent of the fishing vessel, and in its current form it can only be used by CPC PSCAs – embodying an important gap in the reporting setup.

Observations, as per the above assessment, ought to integrate the revised resolution, of which the draft is appended in Annex VII.

#### **2.5.9 Resolution 14/05 Record of licensed foreign vessels & access agreement info**

This resolution supersedes resolutions 13/07, 12/07, 10/07, 07/04, 05/04, and 98/04. Its primary objective is to provide a transparent picture of tuna and tuna-like foreign fishing vessels licensed to operate in Indian Ocean CPC EEZs, and is the only MCS resolution primarily addressing the coastal State’s role. It also aims to create more transparency at the level of fisheries agreements under which such access is granted. It also serves as a cross check to the IOTC record of authorized fishing vessels under Resolution 15/04 and carrier vessels authorized to receive transhipments

from LSLTVs under Resolution 18/06. One of the overall outcomes sought is the strengthening of data collection, and the achievement of more complete statistics on fleets active in the IOTC Area of Competence.

<b>Resolution 14/05</b>	
completeness	medium
effectiveness	low
transparency	low
integration	low

The resolution primarily addresses coastal States, which may be authorizing access to foreign fleets. The resolution is split into three parts. The first part covers private access agreements (paragraphs 1 and 2), while the second part covers government to government access agreements (paragraphs 3, 4 and 5). The third part provides common provisions for access agreements including processes for denial of licenses, the requirements for coastal State license templates for foreign fishing vessels, and identification of Competent Authorities to license such third party vessels.

Coastal State CPCs must submit a record of foreign vessel licenses issued in the previous year to fish tuna and tuna-like species in their waters. This information should be submitted by the 15<sup>th</sup> February of every year. The list of items to report per vessel (9 in total) is specified in the resolution.

Under government-to-government agreements, the Resolution proposes that coastal and flag States – signatories to such agreements – make a joint notification of information from the Agreement to the IOTC Executive Secretary.

The scope of the resolution resides entirely on the provision of copies of Government-to-Government access agreements, coastal State licensing templates, and information on licensed foreign vessels to the IOTC Secretariat and the Commission.

### **Assessment**

While the objective of this resolution is not clearly defined, the resolution provides a modest means of verifying – on the basis of the previous year’s listings – that foreign fishing vessels authorized to fish in a coastal CPCs EEZ are indeed authorized by their flag States to operate in the IOTC AoC. In addition to this it provides some information to CPCs that may improve their MCS capabilities – notably through the provision of license templates for foreign fishing vessels. However, the resolution falls short of providing for a listing of coastal State licenses for individual fishing vessel EEZ fishing on a publically accessible record – such as the RAV (Resolution 15/04) – which diminishes its MCS value.

The resolution fails to clearly State in its opening paragraphs, that coastal State CPCs shall not license foreign vessels to fish for species covered by the mandate of the IOTC in their EEZ, unless these are duly listed on the RAV, and authorised by their flag States to do so. In addition to this, if this clause was provided for, the list of vessel details to provide under paragraph 2 becomes largely superfluous (only the IOTC number and period of coastal State license validity remain relevant), as the vessel only needs to be identified through its IOTC number.

Paragraph 1. Asks for information to be provided regarding foreign vessels licensed in the previous year. This mirrors the record of vessels active in the previous year. This information is clearly not good enough, and the current licensing status of fishing vessels operating in the AoC needs to be communicated, published, and transparently accessible by all parties with a stake in MCS.

The coastal State CPC ought to be requested to verify the accuracy and concurrence of license application vessel information versus RAV vessel data (most importantly including verification of the AFV license issued by the flag State), and provide for a course of action in case discrepancies are detected.

While the VMS resolution (Resolution 15/03) may cover for this (see below), it has to be established in the rules that foreign vessel VMS signals must be provided in real time to designated coastal State FMCs when operating inside such EEZs – and potentially beyond as well.

Paragraph 6. This paragraph provides that the coastal State CPC must notify the flag State of reasons for denial of a fishing license, clarifying whether the reason for denial is due to an infraction of IOTC Resolutions. In the latter case, such matter shall be addressed by the Compliance Committee. However, the provision fails to oblige the coastal CPC to submit such information to the Secretariat. The forwarding of a report to the Commission is implicit – but should be clearly spelled out.

Paragraph 7. This paragraph provides that: “The IOTC Executive Secretary shall publish the template of the coastal State fishing license and the above information in a secure part of the IOTC website for MCS purposes.” As for the details of the CA under Resolution 15/04 on the RAV (para. 3), this otherwise public information should not be unduly restricted to CPC access, as it limits the MCS and enforcement functions that could be exercised by non-CPC parties.

## **Conclusions and Recommendations**

This resolution ought to be maintained as a separate Resolution. The control elements pertaining to the coastal State CPC at the time of authorizing foreign vessels for fishing in their EEZ ought to be strengthened. Otherwise, a few minor revisions on wording, and improving transparency as noted in the foregoing section, is advised.

The revised resolution is appended in Annex VIII.

### 2.5.10 Resolution 10/10 Market related measures

This resolution translates the non-binding recommendation 03/05 into a binding resolution. However, the resolution falls short on providing a single “shall” clause – implying that there are no mandatory actions that must be undertaken by a CPC, the

<b>Resolution 10/10</b>	
completeness	low
effectiveness	low
transparency	low
integration	low

Commission, the Secretariat or the Compliance Committee. However, the resolution does endow actors of the IOTC with the powers to undertake action under the resolution – should they chose to do so. The resolution signals a step forward in the intent of the Commission to ensure that Resolutions are adhered to by CPCs and NCPs alike.

The primary objective of the resolution is to “identify” CPCs who fail to implement IOTC Resolutions and to level trade sanctions against them. The same applies to NCPs failing to discharge their duties under international law and undermining the effectiveness of IOTC Resolutions. A subsidiary element of the resolution is to gain a better understanding of market dynamics (imports and landings) in CPC markets / ports.

Paragraph 1 establishes that market States “should, as much as possible” collect and examine relevant data on imports. The same applies to port States for landings and transshipment data. In the latter instance, the collection of some of these data is mandatory under Resolution 18/06 on transshipment by LSTLVs.

The remainder of the resolution lays down actions to be undertaken by the Commission, the Secretariat and the Compliance Committee in the process of identifying, notifying, and undertaking possible actions against non-compliant CPCs / NCPs. In this process, CPCs are voting as members of the Commission to support or reject the proposals made by the Compliance Committee (paragraphs 2-8 inclusive).

The resolution encourages market States and port States to submit information on imports and landings/transshipments collected to the



Commission, annually, 60 days before its meeting (para. 1). This submission falls under the remit of Article X of the Agreement, and is largely unrelated to the trade restrictive measures covered in the rest of the resolution.

The resolution also encourages CPCs to notify the Commission of the measures (*i.e.* trade sanctions) taken nationally for the enforcement of market related measures levelled against another CPC or NCP, following a successful identification by the Commission (para. 7).

Finally, for CPCs and NCPs being identified as non-compliant by the Commission, they are given the option to respond in writing to the Commission 30 days before its meeting, providing elements in support of annulling the identification (paragraph 3 b).

Such elements could be in the form of evidence refuting allegations or plans of actions for improvement, and possible steps already undertaken.

### **Assessment**

This measure is the most critical punitive measure in IOTC's arsenal, aiming to exact compliance from failing CPCs and NCPs alike through the imposition of biting trade sanctions. The importance of it is underlined through the fact that PRIOTC02 recommended as follows "a) the Commission to consider strengthening the market related measure (Resolution 10/10 Concerning market related measures) to make it more effective" (see table 1). What follows in this section is an effort to respond to that call.

The possibility to issue trade sanctions against offenders (or repeat offenders) has now been given for close to ten years – targeting both CPCs and NCPs (!) – but has never been made use of. Only ICCAT has used trade sanctions to great effect in the landscape of RFMOs to date, levelling them against CPCs and NCPs alike.<sup>24</sup>

The resolution uses the term "market related measures" instead of "trade restrictive measures" – the latter being the commonly used term for designating a "trade sanctions" framework. Market related measures encompass all trade-related initiatives, including SDPs and CDS for instance, and do not need to have to be punitive in nature. Paragraph 7 of CMM 99/02 called for the development of "trade restrictive measures" to

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<sup>24</sup> For a fuller analysis, see: Hosch, G. (2016). Trade Measures to Combat IUU Fishing: Comparative Analysis of Unilateral and Multilateral Approaches. Geneva: International Centre for Trade and Sustainable Development (ICTSD).  
[https://www.ictsd.org/sites/default/files/research/trade\\_measures\\_to\\_combat\\_iuu\\_fishin\\_g-post\\_publishing\\_corrections\\_-\\_1\\_-\\_done.pdf](https://www.ictsd.org/sites/default/files/research/trade_measures_to_combat_iuu_fishin_g-post_publishing_corrections_-_1_-_done.pdf)

combat IUU fishing – using the terminology which makes it clear that punitive trade-based measures were being called for. Therefore, the scope of the Resolution by its current title is unclear, and the term – as used – is not defined in the CMM. Given that the Resolution introduces trade restrictive measures, its title should be changed in order to make this clear.

Paragraph 1: “CPCs [...] in whose ports [...] products are landed or transhipped, should, as much as possible, collect and examine all relevant data on [...] landing or transshipment and associated information and submit the following information to the Commission each year at least 60 days prior to the annual meeting of the Commission:” This provision is non-binding, overlaps with, and partly contradicts the tenets of CMMs 18/06, 16/11 and 05/03, where similar information must be verified and confirmed by the port State for landings and transshipments – and partly submitted to the Secretariat – in a binding manner. Duplication and contradictions regarding data collection and submission should be eliminated, and the best option is to eliminate paragraph 1. In light of a CDS being developed, import/export information for IO harvests (eliminating all others, which are currently collected – but which fall outside the scope of the IOTC mandate) will naturally converge at the IOTC Secretariat through a single mechanism in the future, and may be perused by the CoC or the Commission to establish inconsistencies, infringements and courses of action.

Paragraph 2.a.i. Failings of the flag State to comply with its obligations are highlighted as a potential target for trade restrictive measures. Port and coastal States also have binding obligations to honour, and should be equally targeted by the resolution, but are not.

The resolution vows repeatedly to be non-discriminatory, but discriminates against NCPs in two different provisions, undermining the effectiveness of the resolution by favouring (and being more lenient on) CPCs:

1. Paragraph 2.a.i. & 2.a.ii.: CPCs can be identified after “failing repeatedly to discharge their obligations under the IOTC Agreement”, while NCPs may be identified when they have failed to discharge their duty under international law. The “repetitive” nature of the offence does hence not apply to the NCP, making the provision more lenient on CPC offenders.
2. Paragraph 5: “In the case of CPCs, actions such as the reduction of existing quotas or catch limits should be implemented to the extent possible before consideration is given to the application of market related measures [...]. Market related measures should be considered only where such actions either have proven unsuccessful or would

not be effective.” Such other non-market related actions are not to be considered for NCPs.

Practice at ICCAT has shown that trade related measures are equally effective when levelled against non-compliant CPCs as well as NCPs, and the proposed alternative measures are extremely weak and near impossible to monitor vis-à-vis a CPC known to be flouting the rules in the first place. Therefore, this paragraph and the option it contains should be eliminated.

The overall procedure on identification, notification, evaluation and possible action – including timelines – is unclear, and a more detailed procedure (such as the one for IUU vessel listings - Resolution 18/03) is needed. Decision-making procedures in particular are amiss (consensus, voting, majority, etc.). It appears that the CoC identifies fully and solely and informs the Commission of this in a first round – and it is unclear what is decided in meeting, what is decided intersessionally, and how Stated timeframes can be complied with. A round of decision-making for identification could take a year – if no inter-sessional decisions are taken. There is a clear-need for a pre-identification step and a binding Commission decision.

Paragraph 7. The provision to notify the Commission on “measures that [CPCs] have taken for the enforcement of the non-discriminatory market related measures” is also non-binding, and no deadline is provided for the submission of this information. This is insufficient, since trade sanctions voted into place must be implemented “*en bloc*” by all parties in order to be successful – and fair on those implementing them (!). Implementation of trade sanctions voted into place by the Commission must thus to be mandatory and binding, reporting implementation and monitoring thereof must be transparent, and failure to implement as a CPC within stated timeframes ought to be sanctioned by the Commission with equal severity (!) – in order to guarantee their success.

### **Conclusions and Recommendations**

Paragraph 1 on collecting largely non-specific and non-standardised landings, transshipment and trade related information is to be eliminated, as it is achieved through other binding regulatory pathways in other resolutions. The granularity of the collected trade-related information is coarse enough to deny any hardnosed forensic trade analysis to be run on the basis of the collected datasets – including those stemming from the BET SDP. This article shall be replaced with the opening paragraphs of Resolution 18/07, establishing the monitoring function of the Compliance Committee with regards to CPC compliance with annual reporting duties.

The procedure leading to becoming nominated as a potential target for punitive trade sanctions, resulting in the formal identification of a CPC or an NCP, is to be developed into a more consistent set of steps.

The potential State types targeted by the resolution is to be expanded, and discriminatory provisions are to be eliminated, making all offenders – CPCs and NCPS alike – equal with regards to the law. A relatively important number of provisions shall be augmented from being “suggestive” to becoming “binding”.

The revised version of the resolution is appended in Annex IX.

### 2.5.11 Resolution 10/08 Record of active vessels having fished for tunas and swordfish

This resolution supersedes resolutions 07/04, 05/04, and 98/04. It can be understood as the mirror image of resolution 14/05 (Record of licensed foreign Vessels). Its aim is to establish – on a yearly basis – the vessels that have actively engaged in fishing in the IOTC Area of Competence in the previous year. Under this resolution, however, the information is not supplied by the coastal State, but exclusively by the flag State. The flag State is reporting the information on the 15<sup>th</sup> February of every year to the Secretary of the IOTC.

This record of active vessels ought to be distinguished from the record of vessels authorised to operate in the IOTC Area of Competence (RAV), established under Resolution 15/04, which does list tuna vessels that flag States authorise to operate in the Indian Ocean, but which falls short to providing indications as to whether listed vessels are also active in the area.

<b>Resolution 10/08</b>	
completeness	medium
effectiveness	low
transparency	medium
integration	low

The IOTC Secretary is tasked to prepare a report to the CoC, assessing compliance with this resolution (presumably identifying flag State CPCs providing incomplete records, or no records at all).

#### **Assessment**

The objective of the resolution is not defined – and the rationale for raising a list of vessels active in the previous year is quite unclear.

Paragraph 2. Instead of simply submitting the IOTC vessel number (as listed) as a consistent and encompassing vessel identifier, the CPC is requested to submit 9 pieces of information to identify each vessel that was active. This is a waste of time and resources, and serves no purpose.

Generally speaking, repetition of information to be reported should be avoided at all costs, as it creates excessive administrative burden, and diminishes the rate of return and compliance.

Information regarding vessels that were active is submitted *à posteriori*, and is void of any additional information (days spent at sea, catch, hold size, etc.); therefore the only resulting use of the information generated under this Resolution is to establish whether a given vessel has operated or has not operated in the previous year – void of any additional info. It hence seems largely useless as an exercise to contribute to the estimation of fishing capacity, as stated in the preamble to the resolution, since this represents one of the coarsest possible levels of measuring effort, and that such coarseness is not indicated or acceptable at a time when technological solutions provide for infinitely higher resolution.

Information should be submitted electronically by flag States at the time authorizations to operate in the IOTC AoC are issued. Otherwise, the Commission and all other parties are informed after the fact, which turns policing efforts in port and at sea into a blind exercise.

The distinction between authorized period for vessels on the RAV, and authorized period for vessels on the “record of active vessels” is unclear – should there be any.

In light of the putting in place of a future Commission VMS, the period of authorization must be notified *à priori*, while VMS will establish automatically the list of potentially active vessels – in real time.

### **Conclusions and Recommendations**

The rationale behind the unstated objective this CMM pursues seems redundant and the resulting information does not seem to have much practical use, while it creates a sizeable administrative burden in terms of compliance.

In the further absence of a Commission VMS, the list of active vessels could be provided for by adding a single provision under 15/02 for such list to be added to the otherwise aggregated data to be forwarded to the Commission on a yearly basis (by 30th June).

In light of the fact that a Commission VMS is being actively pursued, rendering all reporting on active vessels redundant, CMM 10/08 should be eliminated, and monitoring of active vessels for scientific and MCS purposes ought to be replaced by direct electronic means. Any interim provision for reporting active vessels would be absorbed into Resolution 15/04 (see Annex VI); specifically under its paragraphs 2.k. and 5.

### 2.5.12 Resolution 07/01 Compliance by nationals of CPs and CNCPs

This resolution transposes critical IPOA-IUU tenets to discourage nationals from supporting or engaging in IUU fishing.

The resolution targets natural (individuals) or legal persons (companies), by requiring States to effectively subject them to their jurisdiction, and to sanction them for proven offences. This approach is based on the tenets of the IPOA-IUU on the same matter, enshrined in its paragraphs 9.3, 18 and 19. It addresses all CPCs equally.<sup>25</sup>

<b>Resolution 07/01</b>	
completeness	low
effectiveness	low
transparency	low
integration	low

The resolution exhorts States to “take appropriate measures” against physical and legal persons, subject to their jurisdiction, with links to vessels listed in the IOTC IUU list (paragraph 1). CPCs are required to submit reports on undertaken to the Secretariat and other CPCs (paragraph 2).

#### **Assessment**

The resolution, although binding, is a mere re-iteration of a CPCs duty to enforce the law against physical and legal persons subject to their jurisdiction.

The resolution fails to define what “appropriate measures” are, a basic possibility being to opt for the principle of proportionality, where measures undertaken embody punitive measures cancelling, at a minimum, the proceeds derived from an infraction.

The other serious limitation in paragraph 1 is the fact that committed infractions are limited to the list of infractions in paragraph 4 of resolution

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<sup>25</sup> 9.3 Comprehensive and integrated approach: Measures to prevent, deter and eliminate IUU fishing should address factors affecting all capture fisheries. In taking such an approach, States should embrace measures building on the primary responsibility of the flag State and using all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in IUU fishing. States are encouraged to use all these measures, where appropriate, and to cooperate in order to ensure that measures are applied in an integrated manner. The action plan should address all economic, social and environmental impacts of IUU fishing.

18. In the light of relevant provisions of the 1982 UN Convention, and without prejudice to the primary responsibility of the flag State on the high seas, each State should, to the greatest extent possible, take measures or cooperate to ensure that nationals subject to their jurisdiction do not support or engage in IUU fishing. All States should cooperate to identify those nationals who are the operators or beneficial owners of vessels involved in IUU fishing.

19. States should discourage their nationals from flagging fishing vessels under the jurisdiction of a State that does not meet its flag State responsibilities.

18/03 on a list of vessels presumed to have carried out IUU fishing. This implies that infractions to be detected and sanctioned can only apply to people actively involved in fishing. People chartering IUU vessels, inciting masters to commit offenses, imposing slave-like working conditions aboard their vessels, knowingly buying and selling catch of illegal origin, etc. – and thus operating in the sector as economic agents in (illegal) business taking place before and after fishing, do not fall within the scope of this definition.

While resolution 18/03 (see above) provides a mechanism to list vessels recognized as IUU vessels, this resolution does not provide any such mechanism. It is obvious that for this mechanism to work, international operators – physical and legal – must be listed in order for measures to have a biting effect. And like vessels, they may only be delisted when it may be proven that sanctions have been issued and have been serviced – ideally with the option of listing repeat offenders indefinitely.

Technical issues in this resolution pertain to the fact that Resolution 18/03 is incorrectly referenced in paragraph 1 as “Resolution 17/03”, and that “paragraph 1 of the Resolution 06/01” is now paragraph 4, paragraph 1 containing a list of definitions. These references to paragraphs should be updated to the version of the resolution currently in force, else the user needs to revert back to the original texts (not included in the compendium of active resolutions), and figure out what the original paragraph said, if it still exists, and do a comparative analysis between resolution versions to establish whether elements have been removed, added or otherwise revised. This finding applies to a number of cross-resolution references throughout the body of IOTC Resolutions.

### **Conclusions and Recommendations**

This resolution should be merged with Resolution 18/03, and be eliminated as a stand-alone resolution. In Resolution 18/03, there is a need to add a section on the listing of physical and legal persons, which information should be listed, and what rules apply to listing and delisting of such people. This will further contribute to the consolidation of IOTC resolutions relating to MCS.

The revised text of Resolution 18/03 is appended in Annex IV.

### 2.5.13 Resolution 05/03 Establishment of a programme of inspection in port

This resolution supersedes resolution 02/01, and predates the more recent and much more complete PSM resolution (Resolution 16/11) by more than a decade. Its focus is on the central function of the port as a place for inspections and for the implementation of relevant controls over fishing operations. Large portions of this resolution have now been overtaken in more detailed form by the above mentioned Resolution 16/11 on Port State Measures.

<b>Resolution 05/03</b>	
completeness	low
effectiveness	medium
transparency	low
integration	low

The resolution provides that port States may inspect fishing vessels that are voluntarily in their ports (para. 3), but it does not go as far as CMM 16/11 and set requirements for such a mandatory process, or minimum inspection levels.<sup>26</sup>

However, port States are required to adopt national regulations to prohibit landings and transshipments from IOTC NCPs where it can be established that catches have been taken in a manner which undermines the effectiveness of IOTC conservation and management efforts (para. 4).

On the other hand, in the case of infringements by foreign CPC vessels detected in port, the resolution is silent on punitive actions the port State could or should undertake. It is merely indicated that the flag State is required to inform the Commission (but not the port State where the infraction was detected) on actions taken with respect to its vessel and the detected infringement(s) (para. 5). This resolution thus also introduces a measure of discrimination between NCP and CPC infractions.

Annually on 1<sup>st</sup> July, port States are required to submit to the IOTC Secretary the list of foreign vessels that have landed tuna and tuna-like species in their ports. This particular reporting requirement is not mirrored in Resolution 16/11 on Port State Measures.

An event-based reporting requirement is mandated in cases where a third party CPC vessel in port is detected to have infringed IOTC Resolutions. Port States are then required to notify such occurrences to the flag State and the Commission, providing full documentary evidence, including records of inspection (para. 5).

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<sup>26</sup> Resolution 16/11, Para. 10.1. "Each CPC shall carry out inspections of at least 5% of landings or transshipments in its ports during each reporting year."



## **Assessment**

Paragraph 4. This paragraph provides – in binding terms – that (foreign) NCP vessels for which IUU fishing has been determined shall not be authorized to tranship or land their catch in a CPC port. The same provision does not apply to (foreign) CPC vessels. This is both discriminatory, and inconsistent with the provisions of Resolution 16/11, where foreign vessels are largely treated as equals, irrespective of their RFMO membership status – including with regards to punitive action (!).

Paragraph 5. The information that should be notified to all relevant - States and the Secretariat, in cases of detected infringements, have been overtaken entirely by Resolution 16/11, para. 15.1.a – and now embody but a mere repetition that ought to be eliminated.

Paragraph 8. This paragraph provides – in binding terms – that all foreign landings (catch composition and volumes) should be notified to the Commission by the port State CPC. This implies – at a minimum (!) – that some form of monitoring of all foreign CPC vessels in port must be undertaken, forecasting the spirit of the PSMA at the time. The offloading declaration (OLT) which is provided for on the e-PSM platform caters for such monitoring, electronic data logging, and automated (*de facto*) submission to the Secretariat, providing a simple and highly effective way to comply with the tenets of this provision.<sup>27</sup>

Ideally, should mandatory catch declarations be introduced – in the same way as mandatory transhipment declarations already have – then the above provision and system could be replaced by OLTs filled by the master, rather than the PSCA, and would then be countersigned/validated by the PSCA in cases where monitoring has occurred.<sup>28</sup>

## **Conclusions and Recommendations**

The focus on NCPs for compliance monitoring in port, rather than all foreign fishing vessels, is anachronistic and discriminatory, and has been overtaken by events through the coming into being, and entering into force of the 2009 PSMA. That part of this resolution therefore ought to be eliminated.

The inspection, information sharing and submission, and enforcement provisions have been wholly overtaken by Resolution 16/11 – and some are

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<sup>27</sup> When a formal port inspection is undertaken, giving rise to a PIR, the same verified offloading information – as contained in a facultative OLT – is also contained in the PIR.

<sup>28</sup> Note that the current OLT e-PSM interface allows the PSCA to distinguish between OLTs where an inspector actively monitored the landing, and those where no official monitoring took place.

now inconsistent between Resolutions, which is why this part of the Resolution also ought to be eliminated.

After those two deletions, the resolution then only retains its final paragraph (para. 8), containing the obligation to monitor foreign landings in port. This reporting provision can then be included in Resolution 16/11, focusing on port State duties. This measure should then be regarded as an interim measure until mandatory landing declarations with copy to the Secretariat have been instituted.

See the revised version of Resolution 16/11, appended in Annex V, reflecting these suggested changes.

#### **2.5.14 Resolution 03/03 Amendment of the forms of statistical documents**

This Resolution, providing an amendment of the forms found in original annexes to Resolution 01/06 on a BET statistical document programme, and forms an integral part of that resolution. It is mentioned here separately for the sake of being complete, and for avoiding a misunderstanding in the sense that this resolution might have been overseen. Please refer to Resolution 01/06 immediately below.

#### **2.5.15 Resolution 01/06 Bigeye tuna statistical document programme**

This resolution establishes a Statistical Document Programme (SDP), also sometimes referred to as a Trade Information Scheme (TIS). These schemes are the precursors of modern-day catch documentation schemes (CDS), and were first put in place by ICCAT in the mid-nineties.

The IOTC SDP originally aimed to reduce uncertainty about Bigeye tuna (BET) catches through the collection of market data, and to reduce the opportunities to trade illegally harvested catches.

##### **Resolution 01/06**

completeness	low
effectiveness	low
transparency	low
integration	low

BET caught by purse seine and pole and line (bait) vessels whose catches are destined to canneries in the IOTC Area of Competence are exempted from this programme (see para. 1).

CPC market States must demand that imports of frozen BET into their State/Territory are accompanied by an IOTC Big-eye Tuna Statistical Document or re-export certificate (para. 1).

In the case of re-exportation, an IOTC BET Re-Export Certificate must be validated by a government official of the re-exporting State (para. 2).

CPCs exporting and/or importing BET must compile all SDP data arising under this programme. CPCs as importers of BET products must report to the Executive Secretary twice per year, April 1<sup>st</sup> for data covering the period 1<sup>st</sup> July – 31<sup>st</sup> December of the previous year, and 1<sup>st</sup> October for the period covering 1<sup>st</sup> January – 30<sup>th</sup> June of the same year (para. 5).

### **Assessment**

This resolution is the only non-punitive market-related measure currently in IOTC's arsenal of Resolutions, and the large gaps (and the resulting overall ineffectiveness) of the resolution has been singled out nine years ago by PRIOTC01 in the following terms: "62. The bigeye statistical document programme should be applied to all bigeye products (fresh and frozen). Catch documentation schemes for target species of high commercial value should be considered. Alternatively, expanding the scope of the current statistical document programme to address current loopholes should be considered" (see table 1). While the PRIOTC01 recommendation does not provide a distinct route/option to address the situation with the existing version of the resolution and its objective/undertaking, the following points may be derived from the recommendation:

1. Running an SDP without covering all products is ineffective;
2. Hence, if the SDP is to persist, it must be improved;
3. Developing CDS for commercially important species should be envisaged;
4. Expanding the scope of the current SDP (in terms of number of commercially important species covered – plus closing gaps) should be considered, in case a CDS is not developed (as an "alternative").
5. It is thus implied that SDP and CDS are mutually exclusive and embody either/or propositions.

The objective of the resolution is not clearly defined, but the preamble mentions IUU fishing. This may imply that the unintended consequences of the ICCAT SDP – which ultimately led to the levelling of trade sanctions against a range of non-compliant NCPs and CPCs – form the main objective of the IOTC SDP.

Since the resolution covers BET only, and of that only a limited range of products (*i.e.* frozen BET), it is extremely limited – and harbours enough gaps for IUU elements to exploit. The "initial stage" (para. 13), which is covering frozen products only, has never been superseded. This set of facts is sufficient to propose the elimination of a resolution which in now close to two decades old, has never managed to evolve into the monitoring and law enforcement tool that may have originally been envisaged.

The resolution also suffers from a host of further design issues;

- several types of authorities are empowered to validate certificates – which is inconsistent;
- there is no open online central repository of information regarding the identity of accredited validating agencies, seals and model forms, meaning that a receiving/importing NCP authority – asked to participate in/apply/verify SDP paperwork (para. 15) – cannot establish the basic validity of certificates;
- EU member States are afforded special validation rules not afforded to any other CPCs (para. 14), which is discriminatory (and also partially inconsistent with CMM 15/04 para. 9b which explicitly rules on flag State validation of SDP forms);
- the SDP data recording system is paper-based, and lacks a central registry, which is highly ineffective, largely lacks the capacity to detect fraud in real time, and is hostage to individual country (import/export) monitoring, collaboration and denunciation;
- the resolution fails to provide for compliance or enforcement action by the Commission on the basis of inconsistent data and/or detected violations;
- rules for operating the SDP are provided across several other Resolutions also (*e.g.* Resolution 15/04 para. 9b; Resolution 18/06 para. 22), rather than consolidating rules in a single Resolution – the latter being more consistent for an RFMO ruling through individual resolutions, rather than a single and consistent body of rules (*e.g.* NAFO). The same applies to the Annexes to the resolution, which were updated and published as a separate resolution (Resolution 03/03).

### **Conclusions and Recommendations**

The 2007 KOBE meeting suggested that tuna RFMOs overcome SDPs, recognized eleven years ago to being ineffective, and to move to CDS.<sup>29</sup> The same recommendation has been made by PRIOTC01 in 2009 – barring the improvement of the current resolution – which ultimately remained elusive for close to two decades. In the meantime, both ICCAT and CCSBT have developed CDS for species they cover, and their respective success in eliminating high degrees of IUU fishing, and fuelling stock recovery have been documented.

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<sup>29</sup> Joint Tuna RFMOs. 2007. Report of the Joint Tuna RFMO Working Group on Trade and Catch Documentation Schemes. Raleigh, NC, USA.

It is therefore suggested that this resolution be no further amended, and that it be replaced with a CDS, covering all of IOTCs commercially important species, all product forms and all trade routes, using State of the art CDS design and electronic implementation approaches – as recently provided for by the FAO through a series of technical papers<sup>30</sup> and a non-binding CDS instrument.<sup>31</sup>

#### 2.5.16 Resolution 01/03 Scheme to promote compliance by NCP vessels

This resolution addresses the alleged fishing operations of a vessel flagged to a Non-Contracting Party in the IOTC Area of Competence contrary to the IOTC Resolutions and presumed to be undermining the IOTC CMMs (Paragraph 2).

Any observation by vessel or aircraft of an NCP fishing vessel believed to be fishing contrary to IOTC Resolutions is to be reported immediately to the flag State of the observing platform which shall inform the flag State authorities of the vessel fishing and the Executive Secretary of IOTC (Paragraph 1). The Executive Secretary shall inform all other CPCs.

<b>Resolution 01/03</b>	
completeness	low
effectiveness	medium
transparency	low
integration	low

Any NCP flagged vessel that enters a CPC port shall be inspected and not permitted to land or transship any fish or fish products until the inspection is complete (paragraph 3).

If the inspection reveals IOTC species, no landings or transshipment of fish shall be permitted unless the vessel can establish that the fish was caught outside the IOTC Area of Competence, or in compliance with IOTC CMMs (paragraph 4).

The resolution calls on CPCs to report observation/inspection of NCP vessels, indicating there are grounds for believing that the vessel is/was

<sup>30</sup> Hosch, G. 2016. Design options for the development of tuna catch documentation schemes. FAO Fisheries and Aquaculture Technical Paper No. 596. Rome, FAO.

([www.fao.org/3/a-i5684e.pdf](http://www.fao.org/3/a-i5684e.pdf))

Hosch, G. & Blaha, F. 2017. Seafood traceability for fisheries compliance: country-level support for catch documentation schemes. FAO Fisheries and Aquaculture Technical Paper No. 619. Rome, FAO. ([www.fao.org/3/a-i8183e.pdf](http://www.fao.org/3/a-i8183e.pdf))

Hosch, G. 2018. Catch documentation schemes for deep-sea fisheries in the ABNJ: their value, and options for implementation. FAO Fisheries and Aquaculture Technical Paper No. 629. Rome, FAO. (<http://www.fao.org/3/ca2401en/CA2401EN.pdf>)

<sup>31</sup> FAO. 2017a. Voluntary Guidelines for Catch Documentation Schemes. Rome. 20pp. ([www.fao.org/3/a-i8076e.pdf](http://www.fao.org/3/a-i8076e.pdf))

fishing contrary to IOTC Conservation or Management Measures. Reports are to be submitted to the flag State of the vessel and the IOTC Secretariat.

### **Assessment**

CPC port State action against NCP vessels in port, with denial of transshipment and landing, was provided eight years ahead of the PSMA being developed.

Paragraph 2. The provision fails to indicate what happens to the information, and what action will be levelled against the vessel/and or the flag State via the CoC. As a minimum, the procedure under CMM 18/03 should apply, and in case of repeated infringements, the procedure under Resolution 10/10 should be referred to.

NCP vessels fishing in the IOTC area of competence are identified as falling under the definition of IUU fishing under paragraph 4.a. of Resolution 18/03.

Resolution 16/11 on PSM, under its paragraphs 7.1, 7.3, 7.4, 7.5, 7.6, 9.1 and 9.3, fully covers the port State action provided for under paragraphs 3, 4 and 5 of this resolution, with the exception that all NCP vessels must be inspected (para. 3).

### **Conclusions and Recommendations**

This CMM, which was trail blazing at the time of its adoption, has now been overtaken by developments in international law and related IOTC resolutions, and should be wholly absorbed into Resolution 18/03, Resolution 16/11 and Resolution 10/10, most of which has been done over time – complete with the provisions regarding potential punitive responses.

The referred revised resolutions are appended in annexes IV, V and IX.

#### **2.5.17 Resolution 99/02 Actions against fishing activities by FOC LSTLVs**

This resolution addresses the issue of flag of convenience (FOC) vessels –NCP vessels by definition – calling on CPCs not to not allow such vessels to engage in any types of activities in areas over which they have jurisdiction (ports, EEZ, registries, licensing, etc.).

<b>Resolution 99/02</b>	
completeness	low
effectiveness	low
transparency	low
integration	low

The resolution also calls on States to “urge” their nationals and companies not to engage in business activities with FOC LSTLVs, and the products flowing from these.

## **Assessment**

This resolution predates the NPOA-IUU.

The actions called for under the resolution are now also provided for under Resolution 01/03, Resolution 05/03, Resolution 10/10 (resulting from para. 7 of this resolution – which called for its development), Resolution 14/05, Resolution 16/11, and Resolution 18/03, exhorting States not to license NCP vessels to fish in their EEZs, to subject them to port inspections and not to allow them to transact in their ports if IUU fishing has been established (landings or transshipments), and to inform the Secretariat of sightings so as to launch punitive actions that may lead to their listing on the IOTC IUU vessels list.

The key provisions of paragraph 3 are all suggestive in nature, and lack binding or otherwise biting provisions. No sanctions, or sanctions framework, other than the denying of port services, is provided for.

## **Conclusions and Recommendations**

For reasons of consistency, and streamlining of the regulatory framework, as well as the fact that FOC LSTLVs deserve no more special category of action, than any other forms and platforms of IUU fishing, the resolution should be eliminated, and absorbed into the existing (and revised) resolutions – much of which has already occurred.

No single provision that is not covered in enhanced terms elsewhere remains in this resolution, and therefore no reference to any specific other revised CMM is made here.

### **2.6 Integrating and streamlining existing MCS Resolutions**

The result from the foregoing sections, providing assessment, recommendations and consolidation proposals of existing resolutions, provides the following picture with regards to streamlining and integration of CMMs:

#### **Coastal State MCS measures**

Resolution 14/05 Record of licensed foreign vessels & access agreement info

#### **Flag State MCS measures**

Resolution 18/06 Programme for transshipment by large-scale fishing vessels

Resolution 15/04 IOTC record of authorised vessels

Resolution 15/03 Vessel monitoring system (VMS) programme

Resolution 15/01 Recording of catch and effort data by fishing vessels

~~Resolution 10/08 Record of active vessels having fished for tunas and swordfish~~

### **Port State MCS measures**

Resolution 16/11 Port State measures to combat IUU fishing

~~Resolution 05/03 Establishment of a programme of inspection in port~~

### **Market State MCS measures**

~~Resolution 03/03 Amendment of the forms of statistical documents~~

~~Resolution 01/06 Bigeye tuna statistical document programme~~

### **Penalty mechanisms targeting non-compliant States, vessels and nationals**

~~Resolution 18/07 Non-fulfilment of reporting obligations in the IOTC~~

Resolution 18/03 List of vessels presumed to have carried out IUU fishing

~~Resolution 16/05 Vessels without nationality~~

Resolution 10/10 Market related measures

~~Resolution 07/01 Compliance by nationals of CPs and CNCPs~~

~~Resolution 01/03 Scheme to promote compliance by NCP vessels~~

~~Resolution 99/02 Actions against fishing activities by FOC LSTLVs~~

Of the current 17 MCS-related resolutions, it is suggested that only eight are maintained, while eliminating and integrating the remaining nine into the existing texts; or in the case of the market State measures Resolutions 03/03 & 01/06, to replace them with a resolution on an IOTC eCDS. This entails that more than 50% of the existing MCS resolutions may be eliminated, while maintaining, strengthening or expanding their original provisions. The texts of the revised resolutions are appended in the Annexes to this report.

The foregoing sections make it clear that IOTC's current regulatory substance on MCS is unwieldy, by virtue of the fact that it is subdivided into separate and stand-alone resolutions that have been generated over a period spanning two decades, which do overlap and contradict each other to various degrees, provide gaps in other cases, and which are difficult to maintain coherent over time. In time, IOTC is advised to explore the option of moving to the regulatory substance to a format different from the one it is currently encapsulated in.

A much more robust, and coherent approach to RFMO rule-making is the development of a single text covering the entire regulatory substance, and



that may be revised by the Commission on a needs-be basis. NAFO yields one of the very good RFMOs examples of such a regulatory framework.<sup>32</sup>

### **2.6.1 Key integration, streamlining and revision efforts undertaken**

This section briefly summarises the key elements that have been streamlined, integrated and/or expanded through the above exercise. All changes are integrated and reflected in the revised resolutions appended in annexes III to X. In providing this summary, the key elements are not tagged to their individual resolutions, but presented as MCS-related subjects, indicating what is being proposed.

#### ***Records and data reporting***

Transparency is improved across the board. Copies of key documents, and data are forwarded to the Secretariat. In general terms, all submissions of data and documents is moved to electronic submissions, cutting out submission of paper copies. Mandatory CPC reporting routines are consolidated under a reduced number of resolutions. The logbook regime is strengthened and the keeping of records is improved.

#### ***Landing and transshipment declarations***

Absence of landing declarations represents one of the biggest gaps in the IOTC MCS framework, and is now addressed – providing also for all related data to be copied to the IOTC Secretariat. Transshipment declarations are expanded to in-port transshipments, and a system of event-specific in-port transshipment authorizations is proposed. Reporting provisions for at-sea transshipment are tightened.

#### ***Record of Authorised Vessels***

Transparency and access to information concerning the RAV is increased by removing certain information barriers for non-CPCs, and more critical information is to be included (foreign EEZ access; transshipment authorizations; etc.).

#### ***IUU listing***

This has been expanded substantially, to move being simple vessel listings. So-called “Entities” are added, covering physical and legal persons. The definition of IUU fishing is expanded, to include notions such as slavery.

#### ***Foreign entities and NCPs***

The current focus put on NCPs, FOCs and no-nationality vessels is shifted to “foreign”, particularly to respond to the tenets of the PSM framework.

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<sup>32</sup> See: <https://www.nafo.int/Fisheries/Regulations>

Non-discrimination is addressed and improved under several resolutions, notably the resolution on trade restrictive measures.

#### *Trade restrictive measures*

A shift in language is proposed, in order to provide clarity as to what the object of this resolution is. The identification procedure is strengthened, and discriminatory clauses are eliminated.

#### *Vessel Monitoring System*

No specific proposals are made in this report, beyond the fact that a Commission VMS is considered as a *conditio sine qua non* to move MCS in IOTC to the next level, and to support in a critical manner the adoption of new instruments, such as an e-CDS.

#### *BET SDP*

This program is to be discontinued and wholly replaced by an e-CDS, in line with PRIOTC01 proposals and Kobe 2007 findings.

#### *Port State Measures*

Landings and transshipments are now confined to designated CPC ports, in which PSM measures (including reporting obligations) - as adopted by the Commission - may be implemented. Landing and transshipping in non-CPC ports is no longer authorized.

### **2.7 IUU profile and identification of semantic gaps in MCS setup**

MCS schemes are best modelled on the basis of the IUU profile of a fishery. In the case of IOTC, the MCS scheme has been constructed, and updated in large parts over the last two decades, and has been revised continuously. The work undertaken above in streamlining and integrating measures reflects the latest effort in this domain.

The IUU profile of tuna fisheries in the Indian Ocean is quite diverse, and establishing such a profile is partly based on assumptions and guesswork. One of the more important elements missing in the IOTC MCS setup, which generally contributes a lot of information to raising an IUU profile for a fishery in general is a boarding and inspections scheme. Once a consistent program – complete with consistent and transparent reporting – is in place, “guess-timating” the IUU profile of any particular fishery becomes a lot easier, as it may be based on consistent data sets yielding numbers of inspections, and numbers and types of infractions detected.

It is believed, that today, owing to dynamics in tuna fisheries globally, the impact of stateless or otherwise non-authorized vessels in the IOTC area of competence – the latter vessels often falling under the “FOC-vessel” denomination – is a concern that has diminished substantially since the mid-nineties. This was largely corroborated through the Indian Ocean Commission (IOC) air patrols and sea patrols that were undertaken in the earlier years of this decade under the auspices of the Smartfish ERS project. The large majority of infractions are believed to be perpetrated by otherwise duly registered and authorized vessels, flouting rules pertaining to license conditions and the general framework of IOTC CMMs. Illegal practices cover a wide range of infraction types, such as operating illegally in EEZs of other States where no licenses are held – or operating in otherwise closed areas, tampering with VMS transponders, transshipping illegally, misreporting catches (by volume, species and/or area), flouting quota allocations, etc.

Some of these infractions can only be detected through advanced forms of monitoring presence on the fishing grounds (VMS; boarding and inspection; aerial patrols), while the implementation of advanced reporting obligations, coupled with advanced data analysis capabilities can also support the detection of inconsistencies and infractions. In the latter domain, the consistency of the routines, transparency considerations and data accessibility for analysis, and the implementation of dedicated verification routines is of importance. In this domain, important gaps do also exist.

What can be said, after completing the above exercise on revising MCS-related resolutions, is that centralised reporting overall is weak, starting with the all-important absence of a Commission VMS, and corroborated by the fact that a lot of additional trip specific operational fishing information only goes back to the flag State, and is then (partially) reported in generally consolidated form to the IOTC Secretariat – often for scientific purposes, and not for MCS purposes.

The e-PSM framework marks an exception to this general state of affairs, which is in the process of slowly changing at this particular level. However, with the e-PSM managing to centralise more operational data, the second part of the equation – another gap – needs to be addressed. And this relates to the data analysis routines that ought to be run by the IOTC’s compliance section, reporting to the Compliance Committee, aimed at detecting and reporting suspected/established infractions, by CPCs and/or individual vessels and/or operators alike. These routines remain very poorly defined throughout IOTC’s regulatory substance, and the mandate of the Secretariat to run these routines – in general – is not established.

An example of such a gap in monitoring and data analysis routines at the present time is the fact that transshipments at-sea are individually authorized, recorded and centrally reported, but are not discounted against individual landings. Especially for carrier vessels, typically landing in several different ports, such monitoring routines should be undertaken centrally at the level of the Secretariat, in a an agreed and results-oriented manner, and would go a long way in detecting the laundry of undeclared, misreported and/or illegally transhipped catches into the supply chain.

With regards to the latter set of gaps (centralised reporting and dedicated data analysis), the development of an effective CDS provides the foundation for addressing such gaps to a very large extent. As for the e-PSM, a modern e-CDS will centralise all data relative to individual fishing trips, all harvests and off-loadings (transshipments and landings) are accounted for, and can be discounted against each other – as may be the case – in order to ensure that the supply chain is sealed and the entry of non-originating product is denied. The important element – as for the e-PSM data – will be to ensure that the MCS-oriented monitoring routines are put into place, with a clear mandate for the Secretariat to carry them out.

The development of a high seas boarding and inspection regime, and the development of an e-CDS thus come to the fore as the two most obvious gaps that ought to be addressed through the development of new and hitherto non-existing regulatory frameworks (resolutions).

Regarding dedicated monitoring, analysis and infraction-detection routines, it should be sufficient to endow the Secretariat with the mandate to develop and implement such routines in close consultation with the WPICMM – based on all data collected, regardless of their confidentiality status – and to submit the results of all such work on a recurrent basis to the CoC for its pertinent action. The CoC and the Secretariat should thus liaise directly to establish which routines are of interest, without any need to specify (and limit) such work through individual listing of routines in dedicated resolutions and provisions. The only element that must be guaranteed and monitored, is that the implementation of these routines is non-discriminatory, and applies equally all parties – regardless of their membership status. An overall blanket mandate for the Secretariat to act in this domain is then sufficient to guarantee vast improvements in this domain.

## 2.8 Proposed new processes, new systems and new Resolutions

From the foregoing discussion, there are three key elements that ought to be considered for addition to the IOTC MCS framework. These are as follows:

### *Commission VMS*

The VMS situation at the IOTC is currently the object of a dedicated and stand-alone exercise. The adoption of an e-CDS in the absence of a Commission VMS is an unsound starting condition. And the launching of a high-seas boarding and inspection regime in the absence of centralised and accessible VMS signals would also be unsound and largely substandard as an approach.

For these two reasons alone, a Commission VMS should be considered as a top MCS priority, and should be developed and implemented as soon as practically feasible. The continued absence of a Commission VMS denies most avenues for central real time monitoring of the fisheries, and is instrumental in assisting IUU operators and lenient flag States to not having their infringements detected, and duly sanctioned.

The proposal for a **VMS resolution** is made separately from this report, in a dedicated stand-alone report and proposal.

### *Electronic Catch Documentation Scheme (e-CDS)*

CDS have been around in the RFMO arena for close to three decades now, and all arguments for considering their adoption have been made. These arguments are re-visited in the following chapter of this report – which is dedicated to the development of an e-CDS. Included in the arguments in favour of an IOTC e-CDS is the fact that the IOTC performance review has suggested the adoption of a CDS in 2009 – exactly a decade ago – at a time when both ICCAT and CCSBT were in the process of rolling out the CDS covering bluefin tuna, and almost ten years after CCAMLR had started implementing its CDS covering two species of toothfish.

The proposal for an e-CDS resolution is appended to this report in Annex XII.

### *High seas boarding and inspection regime*

The need for this active sea patrolling regime, targeting high seas operations in the IOTC AoC has been actively discussed since 2013, a study and a CMM proposal have been developed, but so far, no text has been adopted by the Commission. A high seas boarding and inspection regime is critical in order to provide an avenue capable of enforcing key IOTC management provisions that can only be enforced while vessels are at sea,

and in doing so, addressing some of the critical high profile IUU issues that IOTC fisheries in general are understood to suffer from. These include, but are not limited to tampering with VMS transponders, failing to honour logbook up-keeping provisions and providing complete catch reporting, infringing management rules such as the installation and operation of bird scaring devices or honouring shark finning provisions, misreporting in general, and illegally transshipping at sea.

The proposal that has been prepared – with the latest amendments added in 2016 – stands and is re-appended in Annex XI. The assessment that was made of the proposal under the assignment contained in this report finds that it is a solid proposal, that it should be reconsidered by the Commission, and that any reasons for not adopting it should be clearly argued, minuted and reported, so that an amended resolution mindful of any such justified reservations may be prepared, and adopted in the future.

Finally, if the resolution fails to pass – given its overall importance to complete the IOTC MCS framework – a motion ought to be submitted in order to adopt the resolution by majority vote, instead of consensus.

## Chapter III – Development of a Catch Documentation Scheme

### 3.1 Introduction to Chapter III

What follows in this chapter embodies the first formal study commissioned by IOTC to look into the ins and outs for a catch documentation scheme (CDS) for the RFMO – complete with a resolution proposal appended in Annex XII. This section provides a brief introduction to CDS. Readers intimately familiar with CDS may skip this section and continue with section 3.2.

#### *What is a CDS, its overarching goal, and its principal function?*

The idea of CDS evolved from trade documentation schemes (TDS) and trade information schemes (TIS), which were based on a statistical document programme (SDP). The first TDS, developed and implemented by ICCAT in 1992, covered Atlantic Bluefin tuna.

The existing CDS embody market-based tools to combat IUU fishing, spanning the entire supply chain, from harvest until the final territory of importation. Combatting IUU fishing is the overarching goal of CDS.

The law establishing the EU CDS clearly stipulates this goal, and the CCAMLR, ICCAT and CCSBT CDS resolutions (see below) operate in this general sense. An examination of the multilateral schemes, their functions and modes of operation reveals the pursuit of the same goal.

The 2013 United Nations General Assembly Resolution on Sustainable Fishing and the 2014 FAO Committee on Fisheries both refer to CDS as tools to combat IUU fishing.

A CDS allows CPCs involved in the supply chain to deny of market access to products derived from IUU fishing. If market access is denied, product cannot be sold, forfeiting the financial incentives of operating illegally. Market denial – through the system put in place by the CDS – is the principal function of the CDS. This function is rooted in a solid-as-can-be traceability system, which is nested within the certificate system on which the CDS is based.

It is hence clear that for all CDS, protection of stocks (and the related sustainable fisheries management outcomes) through the combating of IUU fishing is the goal,<sup>33</sup> and denial of market access for fisheries products

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<sup>33</sup> IPOA-IUU. Para. 70. "Stock or species-specific trade-related measures may be necessary to reduce or eliminate the economic incentive for vessels to engage in IUU fishing."

derived from IUU fishing is the principal function, by which that goal is attained.

The goal and key functions of existing CDS mirror this understanding, even though they may not be explicitly spelled out in the resolutions establishing them. This goal and this principal function – as provided above – apply to the IOTC CDS, as proposed in this study.

The notion that a CDS must be able to effectively prevent IUU-derived product from “entering” the supply chain is key, is reflected in the IPOA-IUU also,<sup>34</sup> and must be emphasized.

The definition of a CDS is provided two sub-sections further down.

### *CDS and international law*

A binding international fisheries-specific agreement on trade-related measures, such as the UNFSA on the management of straddling and transboundary fish stocks, or the PSMA on port State measures, does not exist. And this may well be one of the primary reasons why CDS, despite their enormous potential, have been slow in developing (see below).

Through UNGA Resolutions on Sustainable Fisheries N° 61/105 of 6<sup>th</sup> December 2006 and N° 62/177 of 18<sup>th</sup> December 2007, the United Nations General Assembly urged States, individually and through Regional Fisheries Management Organisations, to adopt and implement trade measures in accordance with international law, including principles, rights and obligations established in World Trade Organisation Agreements. However, UNGA resolutions embody statements on intent, and do not embody international law.

### *CDS in voluntary instruments and formal definition*

CDS are covered in the 2001 IPOA-IUU under the chapter on Internationally Agreed Market-Related Measures (Articles 65 to 76). Principles of transparency, non-discrimination, multilateralism, standardization (harmonisation) and compatibility with the WTO framework are emphasized.

A recent set of international voluntary guidelines on CDS specifically was adopted by the FAO Council in July 2017.<sup>35</sup> CDS are a politically sensitive topic, owing to their trade-related nature and their potential to disrupt trade in fisheries commodities. The voluntary FAO guidelines represent a cautious first step in defining the scope and nature of CDS, their objective, and

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<sup>34</sup> Internationally Agreed Market-Related Measures. Para. 66.

<sup>35</sup> FAO (2017). Voluntary Guidelines for Catch Documentation Schemes. Rome. 20 pp. [www.fao.org/3/a-i8076e.pdf](http://www.fao.org/3/a-i8076e.pdf).



laying out general principles and functional elements with which CDS ought to be endowed.

In the Guidelines, which now embody the international standard to follow and to apply in matters of CDS, the term “CDS” is defined as follows;

*“Catch Documentation Scheme”, means a system with the primary purpose of helping determine throughout the supply chain whether fish originate from catches taken consistent with applicable national, regional and international conservation and management measures, established in accordance with relevant international obligations, hereinafter referred to as “CDS”.*

#### ***Additional FAO work on CDS systems***

In addition to the 2001 IPOA-IUU and the 2017 Voluntary Guidelines on CDS, FAO has engaged on a flurry of normative work on CDS in recent years. This work includes the following technical papers:

- FAO (2016) Design Options for the Development of Tuna Catch Documentation Schemes. Technical Fisheries and Aquaculture Paper No. 596
- FAO (2017) Seafood Traceability for Fisheries Compliance: Country-Level Support for Implementing Catch Documentation Schemes. Technical Fisheries and Aquaculture Paper No. 619
- FAO (2018) Catch Documentation Schemes for Deep Sea Fisheries in the ABNJ: their Value, and Options for Implementation. Technical Fisheries and Aquaculture Paper No. 629

While the most recent technical paper in the above list focuses on deep-sea fisheries (DSF), its core findings and proposals are equally applicable to tuna fisheries, which share many characteristics with DSF. Amongst these key characteristics are the facts that: a) the lion’s share of harvests enter international trade, and, b) that species are – with very few exceptions – distributed across the regulatory areas of more than one RFMO (no single RFMO oversees all stocks of one same species, and can hence no oversee or regulate all trade).

Fundamental principles underlying the proposed CDS in this study espouse principles inherent to the 2001 IPOA-IUU and the 2017 Voluntary FAO Guidelines on CDS. The technical substance, regarding the coverage, the functions and the implementation modalities of a future IOTC CDS, closely follows the findings and resulting recommendations of the above FAO Technical Papers – where and as appropriate.

### *CDS in the world today - multilateral and unilateral systems*

There are three multilateral – or RFMO-based – CDS in existence today. The oldest of these schemes is the CCAMLR CDS, covering two species of toothfish and dating back to 2000. The introduction of the two single-species tuna CDS of ICCAT and CCSBT (Atlantic bluefin tuna and Southern bluefin tuna respectively) followed each other closely, almost a decade later.

The three schemes have been subjected to performance reviews and upgrades throughout their lifetimes. Two out of three schemes are electronic today (CCAMLR and ICCAT), all three of them having originally started out as paper-based schemes. The remaining, paper-based scheme at CCSBT operates a manual and well-designed central registry capable of detecting inconsistent trades, and feasibility studies to move the scheme across onto an electronic platform have been prepared in the recent past.

One of the common traits of these three schemes is that they cover fisheries with relatively modest harvests. The combined total allowable catch (TAC) under the three schemes was less than 52,000mt in 2016, equivalent to less than 0.1% of the world wild capture harvest by volume.

An IOTC CDS, by virtue of coming to life within an RFMO, would naturally be multilateral in nature.

**Table 3 Existing multilateral and unilateral CDS in 2018**

Organization	Species	CDS start	Annual volume (2016-indicative)
<b>Multilateral CDS</b>			
<b>CCAMLR</b>	Antarctic and Patagonian Toothfish	2000	17,000 mt
<b>ICCAT</b>	Atlantic Bluefin Tuna	2008	19,000 mt
<b>CCSBT</b>	Southern Bluefin Tuna	2010	14,000 mt
<b>Unilateral CDS</b>			
<b>European Union (EU)</b>	Wild capture marine finfish exported to EU	2010	6.2 million mt

(Source: adapted from Hosch, G. 2016a)

The European Union (EU), one of the very large and currently also most important end-market “State” for fisheries product imports by value,<sup>36</sup> started implementing a unilateral catch documentation scheme in 2010. The stated objective of this scheme is to ensure that products harvested illegally may no longer enter the market. All non-EU countries exporting

<sup>36</sup> Value of seafood imports in 2016: USD27.2 billion

marine-caught finfish to the EU must comply with the tenets of this CDS, and duly submit the requested paperwork. The scheme does however recognize equivalence of the existing multilateral schemes, and it is likely that a future IOTC CDS would also gain equivalence, if it is designed to a standard which is at least equal to those schemes currently in existence.

The USA started implementation of its Seafood Import Monitoring Program (SIMP) in early 2018, also aiming to curb importation of illegally harvested seafood products. However, the scheme is devoid of a documentation system spanning the supply chain – with the noteworthy absence of catch certificates validated by competent authorities – and does hence not appear to fall under the definition of CDS.

Table 3 summarises the key information pertaining to these four schemes.

### **3.2 Rationale for the adoption of a CDS at IOTC**

The resolution proposal contained in this study is to cover all commercially important tunas and tuna-like species falling under the mandate of the IOTC, and beyond. It follows a 2013 resolution proposal – bereft of an accompanying study – submitted to the Commission by the European Union to apply a CDS system to Bigeye, Yellowfin and Skipjack tuna, and which failed to garner support by the Commission to date.

#### ***Why would a CDS be good for IOTC?***

IOTC has been implementing a trade documentation scheme (TDS) for BET for many years now, and the formal results of this programme – which have engendered important amounts of administrative burden along the supply chain for industry and administrations alike – have remained very modest. A quantification of trade flows of IUU product that might have been abetted through the operation of this scheme does not exist, while trade data resulting from it are incomplete, owing to the exemptions of given product forms, undermining to a large degree the usefulness of those data too. Finally, being limited to a single species makes abstraction of the fact that all commercially valuable species could or should be afforded the benefits of the protection of a trade measure such as a TDS or a CDS.

Recent work on CDS impacts has revealed that in the cases of CCSBT, and ICCAT in particular, the CDS was instrumental in largely eliminating quota-overfishing fishing by otherwise legally registered and licensed fleets – embodying, at the time, the most important IUU fishing phenomenon afflicting those two fisheries. The impact of CDS implementation at ICCAT is both measurable and profound, and led to a measurable, massive recovery of one of the commercially most valuable tuna stocks within the lapse of half a decade. The take away message is that a CDS does enable

the RFMO and national CPC authorities to monitor all harvests, and to ensure that illegally harvested resources (FOC vessel, over quota, illegally transhipped, absence of VMS or observers, etc.) will have great difficulty to make it into legal markets, that are cooperating with the scheme. The value of IUU harvests is thus diminished to such a large extent that the incentives for flouting the rules are eliminated. Important forms of IUU fishing – hitherto largely undetectable and unquantifiable in IOTC, but known to exist – are made to subside.

The other critical benefit of a CDS is that it provides a key-in-hand solution for catch monitoring in close-to-real time. This is particularly important in fisheries where total allowable catches (TACs) and quotas are introduced. The time for TACs and quotas is upon the IOTC, and output limitations have been debated for a number of years now – and their introduction in the foreseeable future is likely. It is a known fact that TAC and quota systems devoid of a solid real-time quota monitoring system are prone to abuse – and ultimate failure. The experience of both ICCAT and CCSBT and the TAC and quota managed bluefin tuna fisheries they oversee, prior to the coming into force of their respective CDS systems, is living testimony to this. The important element to bear in mind is that exemptions within the scheme must be limited to an absolute minimum in order for the CDS system to be useable as a quota monitoring tool; this implies a) that all foreign and domestic landings are covered by the scheme,<sup>37</sup> and b) that all mainstream commercial product types fall under it.

A CDS can cover multiple species, as both the CCAMLR and the EU CDS have shown. IOTC thus has the opportunity to confer the protection of a CDS to all of its commercially important species – through the putting in place of a single scheme.

Ultimately, the CDS embodies a very solid option to reduce a swathe of known and hitherto unquantified IUU phenomena in IOTC fisheries to a minimum. Once this is achieved, the work of the Scientific Committee and the guidance it produces for management is enhanced, and the foundation for solid sustainable individual tuna stock management is laid. Reported harvest volumes will correspond closely to actually harvested volumes – one of the primary conditions for sophisticated fisheries management measures to be successfully introduced.

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<sup>37</sup> For IOTC, this implies that CMM 16/11 provisions on vessel monitoring/inspection coverage in port – currently limited to foreign vessels – will have to be expanded to all vessels for the specific purposes and needs of the CDS.

### *Duplication with existing schemes?*

When the EU proposal for an IOTC CDS was submitted in 2013, it was successfully argued that such an initiative would overlap substantially with the EU CDS – at least for those catches that would be headed for the EU market. And it was also argued that those countries exporting catches to the EU, including catches of species not falling under the IOTC mandate, had put in place administrative processes and procedures to comply with the EU CDS, and that an IOTC CDS would add similar administrative burdens by duplicating the number of CDS a country would have to comply with, without necessarily adding value.

This assessment is certainly correct from a WIO coastal or port State IOTC CPC point of view, from which the majority of exports flow to the EU market – owing partly to their ACP status and preferential trade relationship with the European Union. Those countries would indeed have to manage and ensure compliance with two separate CDS, in order to export IOTC and non-IOTC harvests to the EU market. Yet, for countries exporting exclusively tuna products, only the IOTC system would apply, as it is likely that the EU would recognize equivalence – as it has done for all currently existing multilateral (*i.e.* RFMO) schemes.

However, the important point is that the EU CDS does not confer protection to all harvested stocks falling under the IOTC mandate, because only a fraction of those harvests is exported to the EU. This engenders a situation where more pressure for legal origin and sourcing applies to harvests flowing to one market, while less pressure applies for harvests flowing to other markets. The result – in very simple terms – is that IUU fishing is not effectively combatted, and may, if anything, merely lead to subtle shifts in trade flows.<sup>38</sup> While the EU CDS may confer some protection to the EU market regarding the importation of IUU products, it confers little, if any, protection to IOTC fisheries as a whole from IUU operations. However, it is this latter consideration that is the most critical, and that is of ultimate interest.

Therefore, from the perspective of managing IOTC stocks, and providing protection from IUU fishing through a trade-related instrument, the CDS must apply to all harvests across the IOTC AoC, regardless of the ports and markets into which those harvests are landed and/or traded. This can only be achieved through a multilateral CDS functioning at the level of the IOTC,

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<sup>38</sup> Such shifts in trade flows have been documented within the EU territory, between EU ports and with regards to the implementation of the EU IUU regulation and its CDS, owing to differences in the effective application of port state controls between EU member states. (Mundy, 2018)

and covering all harvests of species and stocks falling under the mandate of the IOTC.

### *Which species to cover?*

The CCAMLR and EU CDS have demonstrated that more than a single species can be subjected to the strictures of a CDS, without adding layers of complexity, hiking costs of developing or operating the system, and that covering multiple species largely amounts to the same as covering a single species. It would therefore be uneconomic not to subject all commercially valuable species – known to be targeted by, and known to be driving IUU operations – to the strictures of the system.

Therefore, it is proposed that any future CDS system should be covering, as a minimum, the species provided in table 4 below.<sup>39</sup>

**Table 4 IOTC species to be covered by a CDS**

English vernacular name	Scientific name	FAO Apha-3 Species Code
Yellowfin tuna	<i>Thunnus albacares</i>	YFT
Skipjack	<i>Katsuwonus pelamis</i>	SKJ
Bigeye tuna	<i>Thunnus obesus</i>	BET
Albacore tuna	<i>Thunnus alalunga</i>	ALB
Blue Marlin	<i>Makaira nigricans</i>	BUM
Black Marlin	<i>Makaira indica</i>	BLM
Striped Marlin	<i>Tetrapturus audax</i>	MLS
Swordfish	<i>Xiphias gladius</i>	SWO

### **3.3 CDS effectiveness in the wider IOTC and t-RFMO context**

Current multilateral CDS cover species and all related stock units throughout their global ranges,<sup>40</sup> and must therefore be understood as fisheries-management measures that support the conservation and management of the species as a whole – combatting IUU fishing holistically, as affecting species as a whole. Any species harvested under an RFMO-based CDS today is subject to the protection conferred by the CDS.

<sup>39</sup> There is good reason to discuss/envisage the inclusion of shark species and/or products as well.

<sup>40</sup> Antarctic toothfish is one out of 4 CDS-covered species which actually partly falls outside the AoC of CCAMLR, leading to a number of practical challenges for the effectiveness of the CDS, discussed in the 2018 FAO TP629. That discussion largely forms the basis of the guidance provided in this section.

### 3.3.1 The critical elements that render a CDS valuable

Apart from the fact that a CDS must be designed to meet its objective – *i.e.* its functions must make it fit-for-purpose – there are two framework conditions of particular importance that will influence the effectiveness, and the ultimate impact that a CDS will have in the end. These are the following:

1. The CDS must be implemented by all relevant coastal, flag, port and processing States, which play a direct role in the management and exploitation of the resource. At the same time, there is no need for end-market (consumer) States to collaborate with the scheme;
2. The species falling under the CDS should be covered throughout its global range.

The following two sections clarify why these framework conditions are critical, and what they imply.

#### *Point 1. CDS and RFMO membership*

The CDS spans the full supply chain, from harvest (flag State) to the market of final importation (end-market State) and consumption. This implies that every time, a unit of product is landed and/or moves through international trade from one State to the next along the supply chain, certificates are issued, paperwork (whether physical or electronic) is verified, inspections may be carried out, and the legality of transactions is ascertained (through automated routines and/or manually on the basis of risk analysis routines).

One of the core provisions of the CDS will establish that none of the species listed in table 4, and falling under the remit of the IOTC CDS, may be traded to another territory in the absence of mandatory CDS-related paperwork.

For this to occur, the States that participate in the supply chain must be CPCs, and must be bound by the provisions of the Resolution establishing the CDS. This is especially important for port and processing States, as product is almost invariably exported or re-exported from those States.

This implies that the membership of IOTC will most likely have to be enlarged under a CDS, and that new members will have roles that are limited to their status of port or processing States (the latter sometimes limited to importing and exporting products in the same form), and will have no part in the Commission as a coastal or a flag State.

In case many port and processing States (of convenience) – handling important volumes of IOTC harvests – would exist, persist, and decide not to join IOTC, and allowing the landing or the importation of IOTC species without CDS certificates, the CDS will not be able to eliminate the grossest forms of IUU fishing in the IOTC AoC. This mirrors the situation of CCAMLR

and the toothfish fisheries, where a combination of unlicensed (pirate) fishing went hand in hand with the existence of an important number of port and market States of convenience that did accept the landing and/or the importation of toothfish in the absence of the mandatory CDS paperwork – basically dealing a “carte blanche” to pirate operators to absorb their harvests, allowing them to exchange them for cash, bypassing the CDS altogether. Therefore, the salient IUU fishing problems in CCAMLR had to be addressed through different, much more expensive and muscular forms of MCS – foremost of which high-seas patrolling – which have led to the chases of renowned unlicensed IUU vessels, and their sometimes mediatised destruction and sinking.

### *Point 2. Global species coverage*

The four species of albacore, bigeye, yellowfin, and skipjack tunas and the three species of bluefin tunas (BFT, SBT, PBT) fall into 23 individual stocks, of which two stocks of Atlantic Bluefin tuna (BFT) are covered by the ICCAT CDS and one stock of Southern Bluefin tuna is covered by the CCSBT CDS. The single stock of PBT, on the other hand, falls under the management competence of both the IATTC and the WCPFC. Both existing tuna CDS cover the full geographic extent of the respective species – that is, no part of a BFT or SBT stock is fished outside the remit of these CDS and the AoC of the two RFMOs operating them. Hence the existing RFMO CDS covers all stocks and the global range of the species that are covered under the respective schemes.

All other tuna species – including all of the species in table 4 (above) – are constituted of four to six distinct stocks distributed across the globe. This entails that they are not limited to the area of competence of any single tuna RFMO, including IOTC, and any single RFMO implementing a CDS would hence not apply to all of the catches, nor all of the trade of such species. Therefore, the important question that must be asked is: What would happen if IOTC was to develop an IOTC Tuna CDS, covering species with a global distribution, without the other t-RFMOs following suit?

Thailand, as one pertinent example, is the most important tuna processing State globally: it sources tuna globally and processes up to 800,000 mt a year – representing some 20% of the global tuna harvest. This means that tuna is sourced from all major ocean basins, and from the areas of competence of all t-RFMOs. What mechanism would prevent individual processors from buying tuna without certificates from a CDS-managed fishery and re-labelling it as tuna from a fishery not covered by CDS?



The inconvenient answer is that no current traceability mechanism outside of a CDS allows for the proper accounting of all oceanic sources of tuna at the border – neither in Thailand, nor in any other processing State. Such a mechanism would have to be instituted by each country individually, trying to establish the portions of species originating from individual RFMO AoCs – and then demanding certificates for the portions that ought to be covered by catch certificates. However, depending on how far the product has travelled, and how many times it has changed ownership (often referred to as “supply chain stops”), such effort – in the absence of a mandatory documentation scheme – is unable to confidently verify and ascertain claims that are submitted by importers.<sup>41</sup>

Verifications at the border are unable to consistently detect false claims and submissions, and an overall system of oversight (provided by a CDS covering the species globally) does not exist. In the real world, a system of fragmented individual country border controls is doomed to failure because of the resource implications for setting it up and implementing it, the lack of central oversight, the futility of inspections largely unable to detect fraud, and the resulting differences in implementation between countries. Differences between countries would also provide opportunities to be exploited by IUU fishing interests, hence creating channels and opportunities through which non-originating fish could reach markets.

If one of the four<sup>42</sup> major tuna RFMOs was to set up its own CDS covering any or all of the major commercial species without mirror schemes in the other three, the resulting CDS would be ineffective and unable to achieve its objective. With large quantities of tuna of the same species legitimately traded without certificates, an IOTC CDS would be severely compromised in its ability to combat IUU fishing. This was recognized in the 2008 report of the Tuna RFMO Chair’s Meeting, which noted: *“It was also recognized that tracking systems for the same species should be established and [...] be harmonized around the world, emphasizing the desirability to move toward use of CDSs.”*

In ICCAT, catches taken in the Atlantic have been misreported as having been taken in the Indian Ocean, where no quota limits applied (ICCAT, 2005). This shows that IUU fishing operators exploit gaps and the lack of harmonization among RFMOs with regard to tuna fisheries management rules. “Fragmented” tuna CDS covering but portions of global catch would

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<sup>41</sup> In complex supply chains, which are typical in tuna fisheries, importers themselves often do not have the ability to confidently ascertain any claims regarding oceanic origin in the absence of a catch documentation scheme.

<sup>42</sup> There are 5 tuna RFMOs. However, CCSBT is excluded, as it only manages one species, and that species is already covered by a CDS.

fare no better. IUU catches taken in the IOTC AoC, and subject to a CDS, could simply be “re-labelled” as originating from another t-RFMOs’ AoC where no CDS applies, and legally enter markets devoid of CDS-related paperwork without great difficulty.

Labelling requirements for tuna consumer products in the major markets (USA and EU), showing the ocean and RFMO area where the source products were harvested are not usually robust enough to support CDS in terms of counteracting fraud. For example, EU labelling requirements for canned tuna allow for multiple areas of catch origin to be displayed on cans – a tell-tale sign that underlying ocean-basin source reporting along supply chains is inconsistent, or rather, is not a mandatory requirement.

Harmonization of CDS – or the development and adoption of a single e-CDS platform serving all t-RFMOs (*i.e.* “super-CDS”) – would save significant resources, reduce the burden of compliance for private and public sector stakeholders, and unleash the potential of the system to effectively extinguish most financial incentives driving a whole range of critical IUU fishing phenomena. With regard to the major commercial species with global distribution, harmonized and simultaneous CDS coverage by all t-RFMO arises as the only viable approach, if an effective and results-driven tuna CDS is to be achieved. This view is also shared by major industry leaders in tuna sourcing and processing.<sup>43</sup>

Experience with the existing RFMO CDS shows that if a super-CDS were implemented to cover all t-RFMOs, oversight of tuna harvesting, processing and trade would reach new levels of effectiveness, and damaging forms of IUU fishing could be reduced by very large margins.

A tuna super-CDS would also enable t-RFMOs to monitor quotas and TACs for species where such output controls would contribute significantly to improved resource management, eliminating the risk of ocean-basin hopping and misreporting, at the source.

### **3.3.2 Way forward regarding the two critical elements above**

#### ***IOTC membership from a CDS perspective***

The development of a CDS entails that work in expanding IOTC membership lies ahead. A CDS, spanning the entire supply chain, can typically only be handled by CPCs, bound by the tenets of the RESOLUTION establishing the CDS.

CCAMLR provides examples of States that have joined the organization in their capacity as pure processing States (*e.g.* Singapore), so that they

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<sup>43</sup> See FAO TP 596 (2016).

would be able to legally import and re-export toothfish products. Similarly, the territory of Hong Kong, a major toothfish importer, is currently in the process of preparing to become a CCAMLR CNCP, in order to apply the tenets of the CCAMLR CDS to all in- and outbound toothfish trade. These States/territories have been actively invited by CCAMLR to establish a dialogue, with the view of bringing them into the fold of the organisation, and to close the loopholes – embodied by important markets of convenience, exploited by IUU fishing operators, and actively undermining the effectiveness of the CDS.

With regards to port States, a simpler and otherwise much more effective approach ought to be envisaged. Under paragraph 17.3 of RESOLUTION 16/11 (revised), it is proposed that the use of ports by CPC vessels be limited to CPC ports only. This means that IOTC harvests may only be landed in a designated IOTC CPC port. This mirrors the core tenets of the highly effective port State regime at NAFO and NEAFC. Apart from tightening and strengthening the regime of effective port State controls under RESOLUTION 16/11, it operates in direct support of an effective CDS. Once this provision is adopted, ports located in States that are not CPCs may no longer be used, and pure processing States<sup>44</sup> remain the only potentially difficult set of States that need to be integrated.

#### *An all t-RFMO super-CDS approach - options*

There are three options to address tuna species coverage, and the fact that the IOTC does not have global competence for any single tuna species it manages – resulting in the conclusion that a CDS limited to IOTC would not be able to achieve its goal.

#### **Option 1**

IOTC, together with ICCAT, IATTC and WCPFC, launch a Kobe-type round of negotiations, focusing on the development of a Tuna Super-CDS, which is to serve all four RFMOs.

IOTC could take the lead in building the system, on the basis of an architecture that is open for any t-RFMO to use. Once the Commission of any of the other t-RFMOs has provided its green light to doing so, the RFMO could then start using the platform also.

The system would have to be designed in a way that ensures the core functions and principles regarding catch certification, traceability, mass-balance monitoring, trade certification, automated reconciliation routines

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<sup>44</sup> "Pure processing states" means that such states do not have a function and status other than that of a processing state within the IOTC framework (e.g. as a flag state).

and system alarms, that are needed to make a CDS fit-for-purpose. Therefore, these core principles and functions would need to be formally agreed upon by the group of RFMOs. RFMOs could then be given relatively wide discretion as to how they will work with, and enforce occurrences of non-compliance with regards to infractions detected by CPCs or NCPs under their sphere of influence.

For this option to be viable, a binding text would need to be adopted between the RFMO's that defines what these core principles and functions are, establishing that those of existing multilateral system provide a guide in terms of minimum standards to strive for.<sup>45</sup> These would then become a foundational element of the RESOLUTION establishing the CDS at the level of each individual RFMO.

Finally, the RFMO building the system could start implementing the CDS in the absence of the other three, which is akin to option 3, but bearing in mind that in the prolonged absence of the other RFMOs all joining in, the implementation of the CDS in isolation will eventually avail itself as a largely pointless endeavour.

## **Option 2**

The second option pertains to a system design, where IOTC builds its own system, and allows other – future systems – to access some of its data, and vice versa. Such sharing of data between systems is primarily needed to detect and counteract “double spend” fraud. Fishing vessels having operated between ocean basins have the ability to (fraudulently) apply for the same catch certificate under two separate RFMOs. If the RFMOs do not exchange data – two certificates will be established to cover the same harvest. This provides the operator with a full certificate, allowing him/her to launder non-originating (IUU) fish into the legally certified supply-chain. The same phenomenon can occur at the level of processing, when tuna of different origins is exported to different destinations under different schemes – the permutations and possibilities for fraud are endless. In essence, the challenge inherent to the potential of “double spend” fraud is one of the primary reasons why a single super-CDS is the most viable option for tuna.

One of the challenges at this level, apart from the to-be-expected compatibility issues between different systems, are data confidentiality matters and rules. It is likely that most Commissions will be reluctant to

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<sup>45</sup> This opens the door for RFMOs with existing schemes (CCSBT in particular) to integrate a future tuna super-CDS, providing as a minimum the same standards that are already in place.

share sensitive CDS data with other RFMOs, even if the confidentiality of these data – in their high resolution form – is guaranteed, and their use is limited to data monitoring and reconciliation routines.

The other major drawback, is that a multiplication of isolated tuna CDS systems occurs under this option, which will increase the burden on operators and administrations alike. Processing State jurisdictions such as Thailand, or major port States such as Mauritius, will have to develop the ability to handle all of the paperwork across a number of different (ideally) electronic platforms. Major flag States will likely have to be able to operate all of them for issuing catch certificates. And last but not least, border inspection post of market States across the world will have to become competent in understanding the multiplying nature of tuna CDS schemes, their individual ways of filling and filing certificates – including the differing rule sets – and in confidently effecting inspections.

Finally, under this option, the risk that the one or the other RFMO never will develop a scheme remains, undermining the progress and the value of the made by all others.

### **Option 3**

Finally, there is the option to disregard the above arguments relating to global distribution of species, and the need to subjecting them to a unified trade control instrument, by simply forging ahead and developing a stand-alone IOTC CDS. This is the option that WCPFC has been pursuing for a full decade, but which has yet to result in the adoption of a RESOLUTION.

While this option – once an IOTC RESOLUTION on CDS is adopted – will result in the implementation of an IOTC CDS, it will also result in the following consequences:

1. an ineffective CDS with regards to its ability to curbing IUU fishing incidence;
2. a further erosion of international coordination in trade-related matters where harmonization is needed, and widely recommended as best practice;
3. the severe erosion of the potential for tuna RFMOs to ever successfully pursuing option 1 (super-CDS), since IOTC will then have signalled to be interested in an individual system only.

#### **3.3.3 CDS from a t-RFMO membership perspective**

105 individual countries and territories are either full members or cooperating non-members of the four tuna RFMOs referred to above (CCSBT, IATTC, ICCAT and WCPFC). 74 of those countries and territories

are CPC to a single RFMO only – and 19 of those single t-RFMO memberships are with IOTC. The total number of IOTC CPCs is 33, implying that 15 IOTC CPCs also have CPC status in at least one other RFMO. This in turn implies that, if all tuna RFMOs were to develop non-harmonised, stand-alone (or isolated) CDS schemes in the future,<sup>46</sup> almost half of IOTC flag State CPCs would have to handle at least 2 tuna CDS, while some would have to comply with 5 of those.

**Table 5 Multiple t-RFMO membership**

Country/Entity	IOTC	WCPFC	IATTC	ICCAT	count	CCSBT
China	a	a	a	a	4	
EU	a	a	a	a	4	a
France	a	a	a	a	4	
Japan	a	a	a	a	4	a
Korea	a	a	a	a	4	a
Liberia	b	b	b	a	4	
Canada		a	a	a	3	
El Salvador		b	a	a	3	
Indonesia	a	a	b		3	a
Mexico		b	a	a	3	
Panama		b	a	a	3	
Philippines	a	a		a	3	
Taiwan, China		a	a	b	3	a
USA		a	a	a	3	
Vanuatu		a	a	a	3	

Legend: a=CP; b=CNCP; count=number of CPC statuses in different RFMOs by country (CCSBT excluded)

Table 5 shows that 2 IOTC flag State CPCs would have to comply with three schemes, and 6 would have to comply with four schemes. When adding CCSBT into the mix, this number rises, and three “States” – the EU, Japan, and Korea – would have to comply with 5 different schemes. From a port, processing and market State point of view, compliance needs with individual RFMO-centric CDS depend on the intensity and diversity of the port and market State business of individual countries with regards to tuna fisheries.

It arises that for a number of major players, including China, the EU, France, Korea, Japan, Indonesia and the USA, the fragmentation and proliferation of tuna CDS is not a healthy scenario – were it only for matters of burden of compliance falling on their fleets, and the burden of implementation and enforcement falling on the respective administrations.

<sup>46</sup> Note that ICCAT and CCSBT already have a CDS in place (!), therefore the scenario analysis and perspective provided in this section is not purely hypothetical in nature.

Developing a single scheme, covering all tunas, and monitoring all tuna harvests and trade in an effective and results-oriented manner, and taking into account that trade in tuna products is a global, cross-cutting phenomenon, implicating the interests of all t-RFMOs, arises as the most solid and meaningful option.

The States that are CPCs of at least three t-RFMOs, listed in table 5, and including Australia and South Africa when CCSBT is taken into account, should be regarded as the group of CPCs that have the most interest in championing a coherent t-RMO-wide approach, States which ought to be considered key in participating in potential Kobe-type meetings regarding the discussion of this subject matter in the future.

### **3.4 CDS design, conceptual framework, and system functions**

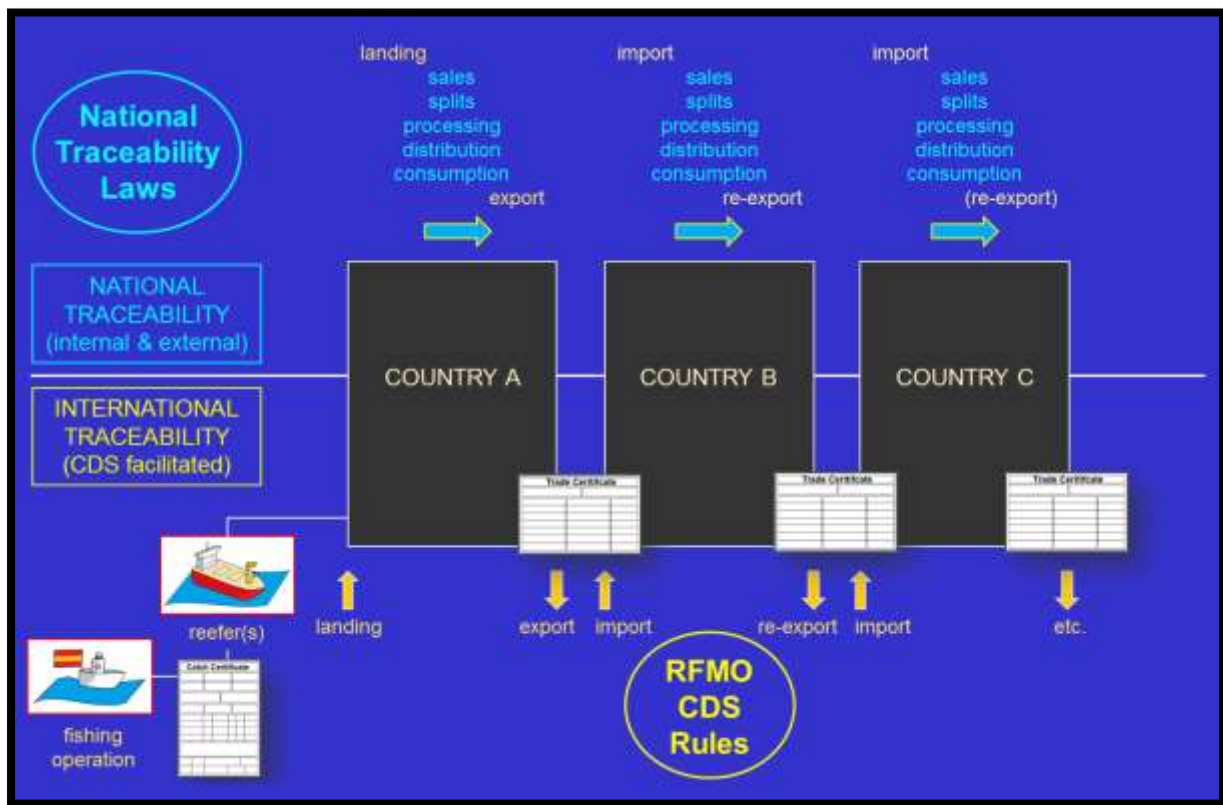
Regardless of the “implementation modality” discussed in the foregoing sub-sections under 3.3, and whether IOTC is going to develop a standalone CDS, or whether t-RFMOs will agree on the development of a commonly shared super-CDS, the CDS will need to be designed in a way, and have functions, which allow it to achieve its objective – which is to keep illegal fish out of legally certified supply chains throughout international trade. These elements of system design and functions are to the largest extent independent of the implementation modality – as presented under 3.3.2 – and the option that will eventually be decided upon.

The following sections draw largely from the FAO TP 596 on Tuna CDS, and represent a condensate of the subject matter presented and discussed in that paper. It is wholly pertinent and applicable to the IOTC situation – IOTC having been one of the tuna-RFMOs for which that technical paper was written. Those readers that would like to gain an as-complete-as-possible understanding of this subject matter are invited to consult the technical paper for a more circumspect discussion of concepts.

#### ***Conceptual framework for CDS design***

It is of essence to posit the CDS conceptually, and to clarify how it works, and where it works – and conversely – what it does not do and not achieve, and to which domain(s) this applies. Given the relative complexity of CDS constructs, this conceptualisation is truly important, in order for the reader to gain a full understanding of how a CDS needs to be laid out in order to achieve the results we expect of it, and to avoid shortfalls in system design, or overburdening the system with elements not useful in achieving the primary objectives for which the system ought to be designed.

**Figure 1 Conceptual framework for a multilateral tuna CDS**



(source: FAO TP 596)

Figure 1 shows which product flows along the supply chain are directly covered by the CDS and which are covered by other means. There are segments in the supply chain that are isolated from the CDS, and are hence dealt with as a “black box” in the CDS system, without undermining system-bound traceability.

Figure 1 renders in simple visual terms the following elements:

- national and international traceability segments of the supply chain, above and below the horizontal line respectively;
- possible supply-chain stops in the national supply chain (text above the country boxes);
- possible supply-chain stops in the international supply chain (text below the country boxes);
- regulatory frameworks governing these segments (to left, above and below the horizontal line); and
- three notional countries – A, B and C – that model product flow along an international supply chain and trade.

At the harvesting end of the supply chain, figure 1 limits itself to a simple fishing operation and a single transshipment. The potentially more complex



events, such as multiple transshipments, mixed unloadings, etc. are omitted for the sake of simplicity.

Catch and trade certificates are shown at the stops in the supply chain where they are issued and validated for the first time. These embody the “document system”, currently existing in the same form in all multilateral CDS, and which is discussed in more detail further below.

To minimize administrative and compliance burden, and to assure effectiveness, the simpler the conceptual framework, the simpler and the more intuitive the resulting CDS will be.

### *National and international supply chain segments*

Harvesting of tuna, and trade of tuna between countries fall into the “international” segments of the CDS. This is because harvesting, trade and the movement of products occur outside (or between) the countries involved in the supply chain. Trade and distribution within a country are referred to as “national” segments, because they occur inside a country, regardless of whether the product re-emerges to re-enter international trade, or whether it is consumed. National segments are made up of internal (inside companies) and external (between companies) traceability sub-segments. It is of essence to maintain these two critical dimensions separate.

In figure 1 the supply chain runs from left to right, from fishing operations, transshipment, and landing to products entering the first country (through a landing) and being processed before being traded on to the next country.

The part of the graph below the horizontal dividing line represents the international dimension of the CDS. All harvesting operations prior to landing, export, import, re-export, import and re-export are subject to the regulatory mechanism of the CDS, and these transactions are all recorded by the CDS. In short, the CDS only directly covers the international segments. These are:

1. all events up to landing and the issue of a catch certificate establishing the legality of the catch; and
2. every trade event that occurs when the product moves between countries, which involves the issue of trade certificates and the creation of links with source certificates.

In this way, system-bound traceability and accountability is provided for by the CDS, and maintained until the final country of importation.

The upper part of figure 1 represents the national traceability segments of the supply chain. National traceability is limited to national segments through which product moves. These segments are not directly covered by the CDS. They are invariably governed by national traceability laws and regulations. No CDS traces individual transactions through national distribution chains. The only CDS records generated cover the product's entry into and exit from national supply chains – as landings/ importations, and as exportations/re-exportations.

The first and last transactions in the national supply chain – entry and exit (in/out) – overlap with the transactions recorded by the CDS, and hence have both national and international attributes.

The fact that none of the current multilateral CDS have system-bound mechanisms to trace movements of products through national supply chains should be regarded as best practice: i) because the mechanism has been shown to work for the tuna (and toothfish) CDS currently in operation; and ii) because the alternative option of covering national segments through a CDS-bound traceability mechanism would introduce prohibitive complexities.

National (or domestic) supply chains are thus dealt with as “black boxes” by the CDS. The CDS captures data on what enters and what exits a country, but the system does not “see” what happens inside. Nonetheless, the system remains fully capable of establishing important indicators for any country; these include:

- a) species, product form and volume imported into the country under specific certificates;
- b) species, product form and volume leaving the country sourced from specific certificates; and
- c) the balance between (a) and (b).

This balance is critical in terms of oversight at the country level. It can take three forms (based on net fish weight):

- i. exports > imports: non-originating materials are laundered into the certified supply stream; FRAUD is thus occurring;
- ii. exports = imports: 100 percent of imported products are processed and re-exported, and there is no domestic consumption; and
- iii. exports < imports: the balance of what is not exported/re-exported is consumed domestically.

To be relevant, the CDS these balances must take into account processing yields, because the form and volume of the product changes during processing, and weight loss ensues. Failure to account for processing yields

provides an opportunity for non-originating product to fraudulently enter the certified supply stream. This is discussed further below.

An effective CDS automatically detects all potentially fraudulent discrepancies at certificate level when trade certificates are prepared for products to be exported/re-exported (*i.e.* case i. above). What the CDS cannot do is to identify the individual operator that has given rise to the discrepancy in national supply chains – unless the exporter was also the importer, and products have not changed hands domestically.

It pertains to individual national competent authorities to enforce national supply chain integrity under the CDS, while the CDS detects and identifies individual inconsistent trades for which discrepancies must be investigated.

### *Document system*

The CDS document system consists of two basic types of certificates: i) **the catch certificate** covering the harvesting segment of the supply chain; and ii) **the trade certificate** covering the trade segment(s) of the supply chain following landing.

The best option for a tuna CDS is to limit certificates to these two types, and to make provision for a simplified mechanism for artisanal fisheries (see below). Tuna fattening (or aquaculture) – currently not practiced in the IOTC AoC – must be foreseen, and can be accommodated in such a scheme by providing farm-specific sections in catch certificates. This is also foreseen in the certificate model developed for IOTC.

Catch certificates should establish what has been harvested, by whom, and how it has reached land. Once catch has been landed, it must be graded to determine the mix of species and verified weights, and the recipient(s) (*i.e.* buyer(s)). Splits occur at this stage, and must be accommodated by the catch certificate system. Catch certificates are first validated on the basis of estimated weights by the flag State before unloading, and then counter-validated by the port State on the basis of verified/confirmed weights, following grading. Once the catch certificate has been counter-validated and graded weights are known, no more sections need be added to establish complete, verifiable and traceable information, and the catch certificate constitutes the formal starting point of CDS traceability.

Trade certificates are issued at the next stop in the supply chain when product leaves a country as an exportation, on the basis of a verified catch certificate. Trade certificates provide four crucial pieces of information: i) a product table listing source certificates and resulting product – line-by-line – detailing product type and weight used and obtained (in processing) from individual source certificates; ii) the identity of the exporter; iii) the identity

of the importer; and iv) transport details. This is a static document which does not evolve once issued – as opposed to the catch certificate where grading establishes final verified weights.

Trade certificates may be issued repeatedly along a supply chain to repeat re-exportation and re-processing events as often as necessary in the supply chain without loss of traceability – as long as product of a given source continues to be traded between countries. Grouping occurs at this stage, and the trade certificate must be able to accommodate more source certificates - repeatedly.

Tags can and should be used for purposes of scientific research, but they should not be used as a substitute to CDS certificates. Doing so prevents the CDS from being used as a quota-monitoring tool and undermines traceability as soon as tuna is cut up/split in processing and trade.

The document system must be linear, logical and based on the minimum information needed for consistent traceability, and it must prevent overlaps between catch certificates and trade certificates. Trade information in catch certificates should be limited to identifying the first buyer. Catch certificates and trade certificates are firmly linked line-by-line through the product table, providing direct links between original and resulting certificates, and enabling certificate-level mass-balance reconciliation.

The resulting option for a document system involves two static certificate types – catch certificates and trade certificates – which do not evolve once the essential information is recorded and validated. Any downstream supply chain events give rise to new certificates linking obtained products with their source certificates to maintain supply-chain traceability and mass-balance reconciliation at all stages.

A set of rules is needed to establish at what point in time certificates are issued, and how they deal with a number of complicating factors, including splits. The latter are the most important complicating factor in a CDS, and must be fully and consistently regulated and applied.<sup>47</sup>

### *Simplified certification for artisanal fisheries*

The inherently different nature of operations and landings in artisanal fisheries must to be considered and catered for, as artisanal products cannot normally comply with the same administrative procedures as industrial products.

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<sup>47</sup> The discussion on CDS document system rules is very technical. Interested readers may consult FAO TP 596, sections 6.5 and 6.6, to assimilate the detail.

Generally, throughout the industry, catches from several small-scale artisanal fishing vessels are pooled by collectors. Pooling catches in artisanal fisheries is primarily a matter of logistics. Individual fishers are generally not able to bring individual tuna or small volumes of tuna to international markets, and hence collection operations pool catches and bring them to market in economically viable quantities.

There are two basic options for certifying artisanal catches: i) vessel by vessel, to maintain traceability back to individual fishing vessels; and ii) collection-run by collection-run, which merely indicates the vessels from which the tuna was sourced and the original quantities involved. The EU CDS practice of having a simplified catch certificate to cover such catches is to be considered best practice. No such mechanism exists in current RFMO-based tuna CDS, but must be foreseen under any future IOTC CDS, since important volumes of catch from small-scale fisheries originating in the IOTC AoC enter international trade.

With the exception of minor differences in raising of the catch certificate, the CDS applies in exactly the same way to small-scale fisheries, as it does to industrial fisheries.

### *Traceability standard*

The standard of traceability to be pursued by a CDS is a question that no existing CDS fully addresses. In current schemes the traceability standard is largely implicit in the RESOLUTION establishing the CDS: in general it amounts to the desired ability to trace products in end markets back to the fishing vessel that harvested the source material – but this is usually a matter of interpretation of the text of the RESOLUTIONS.

The traceability standard must be clearly defined in order to establish the data that must be collected and the means whereby “soft” and “hard” data links between certificates are to be established to maintain the desired standard throughout the supply chain. Failure to do this will result in failure to achieve the desired traceability target.

All existing multilateral CDS are designed – with variations – to respond to the following standard, which has been called the “*detailed country black box*”<sup>48</sup> standard in FAO TP 596.

This standard involves traceability through international supply-chain segments only, the application of yield factors to all changes in the form of

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<sup>48</sup> This designation implies that traceability along international trade segments is detailed and high resolution, while domestic transactions and distribution is dealt with as a black box by the system – *i.e.* it is not covered by the CDS.

the product and allowance for mass-balance reconciliation between certificates is given: the product can be tracked from the fishing vessel through all stages of the supply chain to the point of importation into the end market. Owing to splits and pooling of products from different sources in production, the identification of the source fishing vessel for individual consumer items (*e.g.* a tuna can) will often not be possible, but the tracing back to the batch of products – and hence the group of vessels – from which the item has been produced, is possible.

Under this standard, countries are treated as black boxes, while all international harvest and trade transactions are recorded and subject to a system of catch and trade certificates: this results in a traceability system that maintains a direct link between batches of certified products circulating in international trade, and the original certificates from which they were sourced.

Product form resulting from on-board and land-based processing is an essential data element in catch and trade certificates of existing CDS systems: this enables the back-calculation of processed product to its original unprocessed weight and oversight of yields in general.

A **central registry** system (or **data repository**) is a given in all multilateral CDS, and are the cardinal structural element in the architecture of the traceability system of the CDS, covering international trade, in the absence of which the CDS cannot achieve its objective.

The above represents the best-practice traceability standard to be considered for the IOTC tuna CDS. It allows for: i) certification and recording of all catches of a group of species by product type and weight by a particular fishing operation; ii) identification of the point of introduction of this product into the first market; and iii) traceability along the supply chain through international trade and all countries importing and re-exporting it to the point of final importation.

Traceability involves a “line-by-line” process that enables identification of any product moving along the supply chain, and tracing back to the source certificate. This in turn enables mass-balance reconciliation of all product lines between mother (source/import) and child (product/export) certificate pairs along the entire supply chain, taking into account processing yields.

Mass-balance reconciliation is effected between certificate pairs, and anomalies can thus be detected at country and certificate levels. Potential fraud can thus be detected, and addressed by national authorities. When such imbalances are detected, the system can block certificates until discrepancies have been effectively addressed – see next section also.

### *Traceability and mass balance monitoring/reconciliation*

The concept of “mass-balance” refers to the notion that the form and volume of fish exiting a country as an exportation under a given trade certificate must be able to balance out with the original form and volume of certified fish that has entered the same territory. Only when it is possible to reconcile these two amounts, can it be established with a good degree of confidence that the products circulating in international trade are of legal origin. The cardinal rule is that the sum of products exported from any given mother certificate cannot exceed the volume on the mother certificate.

The most important element of CDS traceability is thus the ability of linking sequential certificates. Without this ability, the CDS is unable to monitor mass-balance from one step in the supply chain to the next – a major imperfection in most existing CDS. Traceability is undermined, and with it the ability of consistently detecting fraud.

When mass-balance cannot be, or is not being monitored, and mass balance anomalies are not detected between sequential international supply-chain stops (*i.e.* import/export), opportunities for fraud arise in the form of laundering non-originating product into the supply chain. The first and most important task of the CDS is to prevent this, which it does by establishing hard traceability links between CDS certificates, from the initial catch certificate to the final trade certificate.

This ability hinges on the proper design of the catch table in the catch certificate and the product table in the trade certificate. The three hard traceability links to be maintained are:

- i. between the first and second buyer of bulk tuna in a full catch certificate;
- ii. between a catch certificate and a trade certificate; and
- iii. between a trade certificate and a subsequent trade certificate.

This is based on the “cascade” concept: the system links source certificates with “child” certificates and monitors the mass-balance along the supply chain. Product types also cascade from the initial round fish through intermediate product types such as gilled-and-gutted or dressed to final product types – loin, saku block or neck meat, for example.

The CDS does not try to establish, trace or monitor mass-balance between an apex source catch certificate and the population of certificates that are derived from it. The CDS connects and monitors pairs of “mother” and “child” certificates, and the monitoring framework enables the detection of mass-balance anomalies between individual certificate pairs. When a

“child” certificate becomes the basis for a further transaction, it becomes the “mother” certificate for the next transaction: all the CDS traceability system and the related monitoring routines do is to ensure a hard connection between subsequent certificates, and that mass balance remains integer.

This hard-link approach “wall-fences” the flow of legal tuna products through international supply chains and prevents fish derived from IUU fishing from entering the supply chain.

The reader is invited to consult section 7.4.1 of FAO TP 596 to read up on the detail of how this is achieved in practice, with focus on certificate design.

### *Processing yields*

Yield factors, yield ratios, conversion factors or processing yields, establish how much weight is lost (or gained) when material being processed changes from its original form to the processed form. Weight is usually lost, and the yield factor is then a number between 0 and 1. The closer it is to 0, the smaller the amount of end product derived from the original material; the closer it is to 1, the smaller the amount lost in processing. A typical yield factor in the tuna industry applies to bulk tuna from purse seine vessels as it is used to produce tuna in cans: the figure fluctuates around an average of 0.45, which means that a little more than half of the round weight of tuna is lost in production of the canned product.

Yield factors are associated with weights because they make it possible to estimate the weight of the material in different stages of processing. Two important uses of yield factors are:

- i. estimating the volume of round fish caught if processing on board the vessel alters the original volume of fish harvested; and
- ii. monitoring processing yields throughout the supply chain to ensure that any laundering of non-originating material into the supply chain can be detected.

Point (i) above is particularly important when a CDS is to be used as a quota-monitoring tool. Figures obtained from back-calculation can also be cross-checked with logbook entries to monitor the accuracy and consistency of logbook reporting by masters.

Point (ii) is fundamental from a CDS perspective: it is a critical tool that enables competent authorities to detect instances where non-originating materials are laundered into the certified supply chain. Without the reporting and monitoring of processing yields, the supply chain is open to



fraud. If 1,000 mt of landed and certified tuna provides 1,000 mt of certified tuna in cans, it is obvious to the trained eye that some 1,000 mt of non-originating product has been laundered into the supply chain.

### *Competent authorities and mandatory validation of certificates*

Certificates should be validated by authorities. This is of special importance regarding the catch certificate.

The catch certificate establishes the legality of the fishing operation, and it is the relevant competent authorities that should be tasked in establishing the validity of such claim. The authorities that are competent for establishing such claims are the flag State authority of the fishing vessel – tasked with oversight – and the coastal State in whose waters catches may have been realised. Port States should be included in this list, as validators at the end of a series of official validations, following the landing of product in a port. This is especially important in tuna fisheries, as the final mix of species and true weights is in most cases only established following landing, and the port State authority is the only authority that can provide a meaningful validation of a catch certificate within a context of effective competent authority oversight.

Current practice is that flag States validate catch certificates, while coastal and port States have no statutory functions under any current scheme.

But port States are provided increasing PSM-related powers, and have the possibility of blocking landings, alerting flag State authorities as to the existence of detected infringements, and demanding the annulment of issued catch certificates. In the proposed system for IOTC, port States are given the function of counter-validating adjusted weights after grading on catch certificates, while coastal States are given non-objection powers, allowing them to block certificates validated by flag States, if fishing in their waters has resulted in the detection of infringements.

Regarding trade certificates, official validation by competent authorities is less critical, owing to the tight-knit traceability system provided by the CDS. If a buyer and a seller agree on a trade, and it is fully logged in the electronic platform, and mass-balance monitoring finds no offense in the trade, it should naturally be approved by the system, and may be done so without competent authority validation – at least technically.

However, this does not imply the lack of oversight. A competent authority for these purposes should be designated, and it makes a lot of sense to designate the same competent authority in charge of catch certification.

That competent authority must then develop tight collaborative linkages with commerce, customs and veterinary services.<sup>49</sup>

### *Nature of the proposed system and user types*

The CDS shall be fully electronic, consisting of an electronic online platform, which allows different types of users to log into the platform, to generate, to log, to correct, and to query data. Validations of submitted paperwork<sup>50</sup> shall also be done electronically, leaving users the choice to print out physical copies of any accessible and contiguous dataset – including those that form validated catch and trade certificates.

Users of the CDS fall into four principal categories. These are:

- a) System administrators;
- b) The Executive Secretary(ies) and the CoC(s) of participating RFMOs;
- c) Private sector users (masters, buyers, processors, traders);
- d) National administrations (inspectors, validators [of the competent authority], customs, etc.).

### *Data confidentiality considerations*

The importance of data confidentiality cannot be overstated. The fact that ICCAT CDS data are wholly confidential and cannot be accessed by anybody for any purpose underscores the significance of the issue and the sensitivities of stakeholders. The tuna industry is concerned about e-CDS data confidentiality, in that leaked data could enable competitors to access commercially sensitive and otherwise confidential information. The e-CDS will contain hundreds of thousands of commercial invoices – for instance – containing information that individual companies do not want to be visible to competitors.

With regard to e-CDS data, 67 percent of surveyed tuna industry representatives at the 2015 Brussels Seafood Show held that price information should never be shared, and a third stated that information about supply-chain actors and FAO fishing area statistics should remain confidential. The same representatives also thought that price and supply-chain information should be restricted to private sector stakeholders with an immediate involvement in those links.

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<sup>49</sup> FAO TP 619 is entirely devoted to the country-level action of competent authorities and related national agencies in support of implementing CDS.

<sup>50</sup>The word “paperwork” is used to refer to coherent datasets required under the scheme, like the data making up the assemblage of all information recorded in a catch certificate. It is more intuitive to talk about information, documents, certificates and paperwork, rather than data, contiguous datasets, validated datasets, and data repositories in general.

The important point is not to stifle the e-CDS by declaring all data off-limits: it is essential to lay down rules to determine which parties may access which data and for what purposes. However, all data should be accessible for law enforcement purposes at their respective levels (country/RFMO) – while falling under non-dissemination rules.

The ICCAT CDS works within the limits placed on CDS data access largely because the largest share of Atlantic Bluefin tuna is exported to Japan and other likewise responsible end-market States, effectively giving this group of States the power to enforce the CDS. In a situation where markets are much more diverse and contain markets not minding the absence of certificates at import, the situation is different, and a higher degree of data access and analysis would likely be required to substantially counteract IUU fishing and laundering of fish through the system.

A sound option is to charge national authorities with the primary burden of oversight, to grant them full access to national data and to ensure that any related upstream or downstream supply-chain data are stripped of sensitive details but retain the potential to detect and address fraud. Non-compliance detected by the e-CDS is automatically reported to the Executive Secretary as a system function, and these events are to be addressed by the CoC, while CPCs and CNPCs must address them operationally and report back to the Commission on any remedial action that has been taken.

Sensitive data issues identified by industry stakeholders that need to be borne in mind include those set out below;

- i. Not all vessel operators want buyers and other downstream supply-chain actors to see the volumes of fish unloaded because the information allows other parties to estimate the efficiency of operations, which in turn affects commercial negotiations and pricing. This can be partially addressed by not making available the data in full catch certificates when trade certificates are circulated;
- ii. In quota-managed fisheries, remaining TAC and quota figures for any country, operator or vessel are sensitive; displaying them on the e-CDS interface is disputed because it could affect commercial negotiations and the pricing of products;
- iii. Information on commercial invoices uploaded into the e-CDS should be limited to competent authorities to enable them to establish the veracity of submissions for catch and trade certificates before validation. No other use should be allowed;
- iv. The identities of upstream supply-chain actors should be protected because they are commercially sensitive. The information should be restricted to the essentials with regard to access by downstream

businesses: this can be achieved by displaying country names instead of upstream supply-chain actor identities. Competent authorities must have access to all supply-chain information, including the names of companies along the entire supply chain.

### *Enforcement*

The CDS will have to come complete with all needs and options for enforcement covered. This is especially important in an RFMO context – and in the context of IOTC specifically – as effective enforcement, implying the levelling of punitive measures against offenders, are often quite weak at the RFMO level, and opaque at the CPC level.

The CDS should be designed in a way that ensures that all inconsistent transactions recorded in the system, and that are indicative of an infringement having taken place, give rise to automated system alarms. These alarms cannot be overridden, and will be generated on the basis of the rule set inherent to the CDS.

### **Country level**

States responsible for oversight, whether coastal, flag, port or market State, depending on the detected infringement, shall then have the duty to investigate, and to undertake the necessary actions to address the underlying actions that have given rise to alarms. One simple option is to deny the validation of a catch certificate, which entails that the products may not enter international trade – at least not until the point in time where a case has been investigated, and the sanctions – if due – have been applied and serviced.

### **RFMO level**

At the RFMO level, the design of the CDS platform is the first element conditioning enforcement options. The CDS can be designed, and then primed, to refuse the issuing of requested certificates, based on detected inconsistencies.<sup>51</sup>

In a CDS where multiple RFMOs share the same platform, individual RFMOs are provided the option to decide whether they want to make use of automatic blockage functions, or whether a system of alarms is sufficient.

The other major and important function to be covered at RFMO level is the monitoring of CDS data for;

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<sup>51</sup> An example would be the submission of a catch certificate for tuna caught in the high seas of the western IO, when the system establishes – on the basis of available VMS data - that the entirety of the fishing trip took place inside the EEZs of eastern IO coastal States.

- a) detecting inconsistencies, at the level of data elements not covered by automated oversight mechanisms and alarms;
- b) monitoring, recording and listing system generated alarms for inconsistent submissions;
- c) engaging with CPCs regarding such alarms, requesting feedback on potential action taken, and preparing reports for the CoC meeting;
- d) informing the CoC of recorded alarms, established infringements, breaches, etc. – enabling the CoC to act on these.

The CoC then has, on the basis of these transactions, the possibility to establish whether CPCs are in compliance with the CDS, have fallen afoul of its rules, or have been shown to repeatedly undermine the CDS. In the latter case, and upon a recommendation by the CoC, the Commission then has the option of issuing trade-restrictive measures against such parties, which – at the level of the CDS – would translate into a system-wide blockage of catch certificates from a given flag State, or a blockage of catch certificates counter-validated in a given port State, or a blockage of trade certificates emanating from given processing States – depending on which State type is identified.

### **3.5 CDS integration with other MCS tools**

The CDS will need to be integrated with a number of MCS tools, of which some are already in existence at IOTC. Such integration is important for two reasons:

- a) reduction of the need to build CDS system components, because they already exist in other systems in same or similar forms to the ones needed, and could thus simply be made use of directly through system integration efforts;
- b) improvement of MCS outcomes by linking more data sources at the systems-level, enabling system-bound data cross-checking and automated detection of violations. Integrating CDS with VMS is the most evident example in this domain.

Under a scenario of building a CDS platform that will be shared by more than one RFMO, the integration of different platforms must be mindful of the fact that not all RFMOs are operating the same type of related platforms, and that the platform must be designed in a way that allows for the integration of optional additional blocks. In practice, and as an example, this means that if an RFMO – such as IOTC – is operating an e-PSM, the CDS will provide it with the option to link to the e-PSM, in order to ensure consistency with e-PSM data. Another RFMO, on the other hand, not

operating an e-PSM, will simply not be able to do that – while this will not impact the operation of the CDS as a whole, at its specific level.

The following sections briefly outline which platforms, and which elements should be considered for integration with the CDS platform.

### *e-PSM*

IOTC has recently launched a comprehensive, state-of-the-art e-PSM platform, which is used by industry stakeholders and flag and port State authorities to monitor the entry into port, under the terms of RESOLUTION 16/11 on port State measures.

The e-PSM provides proof, that a given vessel has entered a given port on a given date, and that a given amount of catch has been landed. All of these elements are reflected in the same way on the catch certificate. For this reason, it is critical, that IOTC construct an interface between its e-PSM and CDS platforms, in order to ensure that data on both platforms agree for all transactions.

In addition to this, the integration effort can be managed in a way, that the raising of a catch certificate already pre-determines (or locks) the information that may be indicated on an advance request for entry into port (AREP).

### *Record of Authorised Vessels*

A number of databases exist, at the level of IOTC, as well as internationally, listing fishing vessels. At IOTC, the record of authorised vessels (RAV) is also operated in electronic form, and it contains all the vessels authorised to fishing in the IOTC AoC. Conversely, any vessel not on this list may safely be regarded as not authorised, and should also not be eligible to have an IOTC catch certificate issued.

The e-CDS should naturally interface with this list, at the time when vessel operators initiate the raising of a catch certificate. The fishing vessel for which a catch certificate is to be raised should naturally be chosen from the list provided by the platform, which itself is chosen by the e-CDS, on the basis of the user login, and the vessels on the RAV, operated by that user.

Such integration ensures that only vessels authorised to operate in the IOTC AoC can have a catch certificate issued, ensuring thus an automatic enforcement of the authorised vessel rules of the RFMO.

All tuna RFMOs operate some form of an electronic RAV. As for e-PSM, the CDS platform needs to be designed in a way that is flexible enough, allowing individual RFMOs to make use of this option as they individually deem appropriate.

### *Vessel Monitoring System*

CCAMLR and WCPFC operate Commission VMS systems, whereby the Secretariats have direct access to VMS data of vessels operating in their areas of competence. IOTC, along with CCSBT, IATTC and ICCAT have mandatory VMS in their areas of competence but have no direct access to the data, which are only accessible to the flag State of the fishing vessel.

A vessel's area of operation is a fundamental element to establishing the legality of a fishing operation. Because area of operation is reported on the catch certificate, the existence of VMS transponders aboard fishing vessels covered by the CDS is critical.

A Commission VMS is clearly the best arrangement in a CDS, and it must be considered by IOTC. It provides a layer of monitoring the flag State, which would directly discourage weak flag State competent authorities from validating catch certificates for fishing trips outside their licenced zones of operation – or for fishing vessels simply not operating VMS. In the absence of a Commission VMS the flag State competent authority remains the sole arbiter of the legality of a fishing operation, which is not appropriate for a fishery that operates in international waters under the mandate of an RFMO.

In 2013, the CCAMLR Secretariat verified 600 *Dissostichus* catch documents against Commission VMS position data in response to requests by US authorities in their capacity as the end-market State overseeing importation of the products. This shows that a Commission VMS can generate a good deal of additional work and cost – owing to the fact of not being integrated directly with an electronic CDS platform.

The IOTC e-CDS should be designed to integrate VMS and catch certificate data to cross-check a fishing vessel's area and period of operation automatically. Issues can then be flagged automatically for the attention of the authorities tasked with validating submitted certificates, while a trace of any occurrence is logged in the system to the attention of the Executive Secretary.

### **3.6 e-CDS roadmap and budget**

The development of an e-CDS is a momentous undertaking. Currently no CDS has been created in electronic format from the start. Both CCAMLR and ICCAT CDSs were developed as paper-based CDS, and were upgraded to fully electronic systems after many years of paper-based operations. This should clearly not be repeated at IOTC, and the system should be made electronic right from the start. The expertise to do this exists, and should be made use of. Given the amount of data that these systems must be able

to handle – including the rules to enforce – only electronic systems are truly capable of ensuring effective compliance upgrades in the widest sense, notably by detecting and undermining fraud at the source via automated routines, alarms and system blocks.

The phases that ought to be considered for the development of the e-CDS are the following:

1. Full e-CDS concept paper, as a foundation to discuss the development of an e-CDS at IOTC, and within the wider t-RFMO community. Includes this study.
2. Launching a Kobe-type t-RFMO consultation regarding the development and sharing of a single e-CDS platform for all tuna species with shared competence, including options for platform hosting and financing and a draft RESOLUTION providing minimum e-CDS terms);
3. Consideration for adoption/rejection of the e-CDS RESOLUTION by the various Commissions – including IOTC;
4. e-CDS platform development;
  - a. developing a dedicated project for development of platform;
  - b. securing budgets and recruiting project team;
  - c. projections of data load and infrastructure needs;
  - d. detailed description of individual e-CDS functions;
  - e. deciding on programming language;
  - f. purchase of installation of hardware and software;
  - g. programming of the platform;
  - h. testing (internal);
5. Roll-out
  - a. developing information and training materials;
  - b. training (content, targets, number of sessions and costs);
  - c. testing the system (external);
6. Operation and maintenance.

The table below provides an estimate of time and budgetary requirements for the various phases of the project.

**Table 6 e-CDS project implementation: time and cost**

project phase	time requirement	estimated costs
1. Detailed e-CDS concept paper	3 months	USD30,000
2. Kobe-type t-RFMO consultation and proposal (draft RESOLUTION)	12 months	USD250,000
3. Adoption/rejection of RESOLUTION by IOTC	6 months	USD -



project phase	time requirement	estimated costs
4. Developing a dedicated project for development of platform (wit TOR and CPC validation);	2 months	USD100,000
5. e-CDS platform development		
a. securing budgets and recruiting project team;	6 months	USD10,000
b. projections of data load and infrastructure needs;	1 month	USD 900,000
c. detailed description of individual e-CDS functions;	2 months	
d. deciding on programming language;	1 month	
e. purchase of installation of hardware and software;	2 months	
f. programming of the platform;	9 months	
g. internal testing	3 months	
5. Roll-out		
a. developing information and training materials (including printing)	6 months	USD50,000
b. training (content, targets, number of sessions and costs)	12 months	USD250,000
c. testing the system with CPCs	9 months	USD150,000
<b>TOTAL DEVELOPMENT AND ROLL-OUT COSTS</b>		1,740,000
6. Operation and maintenance	recurrent	75,000/year

Under the options outlined above, the preliminary work of phases 1 to 3, including a Kobe-tape consultation, and refining and adopting an e-CDS by IOTC – and any interested other t-RFMO parties, would require the better part of two years to eventuate.

The practical phase of developing the platform (phase 4) would require about a year and a half. The activities under points a. b. c. d. and e. can be implemented in parallel, and the totality of these activities would require about 6 months, while the development of the platform and testing (points g. and h.) would be about a year.

Rolling out the system, is the last major phase of the project, and will require three specific activities, all of which can run in parallel – while activity 5.a. (preparation of training materials) can be largely undertaken during phase 4.). Roll-out – including testing – should hence require no more than one year.

Finally, operation and maintenance of the platform (under point 6. above) should be entrusted to a permanent IOTC staff member, and a position for a *CDS officer* ought to be created for this function under IOTCs regular budget. The profile of the CDS officer is that of an IT expert, with a solid fisheries background. The CDS officer is tasked with operating the platform on a daily basis, responding to CPC queries, and liaising with the other staff of IOTC’s compliance section. CDS operations are naturally embedded within this section.

Overall, four and a half years’ worth of inputs are estimated to be required to go from dedicated launching of the initiative, to the implementation of a fully functional, and shared e-CDS platform to cover all commercial tunas under the purview of the IOTC – and other tuna RFMOs buying in. The total price tag is estimated to amount to USD1,740,000.

Platform development costs can (and should) be shared between participating RFMOs, according to a modality that is to be agreed between parties during the consultations.

### **3.7 Proposal for a draft CDS RESOLUTION**

A draft RESOLUTION, based on the considerations presented in this chapter, is appended as Annex XII. The draft RESOLUTION is complete and enabling for the minimum terms (platform and capabilities) discussed above.

## Chapter IV – Summary and Conclusions

This report is split into two basic parts, tackling two separate domains, which both directly relate to the IOTC MCS framework.

The first part, covered in chapter II, assesses all MCS-related resolutions, takes stock in the PRIOTC01 and PRIOTC02 recommendations, and makes proposals for the strengthening of the framework, leading to both an expansion and strengthening of MCS provisions, as well as a consolidation of MCS-related resolutions.

The second part, covered in chapter III, provides an encompassing proposal for the development of an IOTC eCDS.

In the following sections, the key features, recommendations and conclusions arising under these two chapters are provided.

### 4.1 Development of a Comprehensive MCS System

Chapter II assess all MCS-related resolutions, individually. Seventeen resolutions are assessed. Re-arranged into relevant responsibility domains, these are the following:

Resolution 14/05 Record of licensed foreign vessels & access agreement info

Resolution 18/06 Programme for transshipment by large-scale fishing vessels

Resolution 15/04 IOTC record of authorised vessels

Resolution 15/03 Vessel monitoring system (VMS) programme

Resolution 15/01 Recording of catch and effort data by fishing vessels

Resolution 10/08 Record of active vessels having fished for tunas and swordfish

Resolution 16/11 Port State measures to combat IUU fishing

Resolution 05/03 Establishment of a programme of inspection in port

Resolution 03/03 Amendment of the forms of statistical documents

Resolution 01/06 Bigeye tuna statistical document programme

Resolution 18/07 Non-fulfilment of reporting obligations in the IOTC

Resolution 18/03 List of vessels presumed to have carried out IUU fishing

Resolution 16/05 Vessels without nationality

Resolution 10/10 Market related measures

Resolution 07/01 Compliance by nationals of CPs and CNCPs

Resolution 01/03 Scheme to promote compliance by NCP vessels

Resolution 99/02 Actions against fishing activities by FOC LSTLVs

Individual assessments are contained in section 2.5 of this report, representing one of its most important technical parts. On the basis of the findings in this section, individual resolutions are either proposed for elimination, or provisions are changed and/or added in order to strengthen the resolutions. For those resolutions that are eliminated, residual provisions retaining their original value are absorbed into the resolutions that are maintained.

The resolutions that are maintained – in modified manner – are appended in Annexes III to X. Of the original seventeen resolutions, only eight remain – signifying a contraction of more than 50% of MCS substance in terms of number of resolutions, and thus a high degree of consolidation.

The key elements that have been strengthened, integrated and/or expanded can be summarised as follows:

#### Records and data reporting

Transparency is improved across the board. Copies of key documents, and data are forwarded to the Secretariat. In general terms, all submissions of data and documents is moved to electronic submissions, cutting out submission of paper copies. Mandatory CPC reporting routines are consolidated under a reduced number of resolutions. The logbook regime is strengthened and the keeping of records is improved.

#### Landing and transshipment declarations

Absence of landing declarations represents one of the biggest gaps in the IOTC MCS framework, and is now addressed – providing also for all related data to be copied to the Secretary. Transshipment declarations are expanded to in-port transshipments also, and a system of event-specific in-port transshipment authorizations is proposed. Reporting provisions for at-sea transshipment are tightened.

#### Record of Authorised Vessels

Transparency and access to information concerning the RAV is increased by removing certain information barriers for non-CPCs, and more critical information is to be included (foreign EEZ access; transshipment authorizations; etc.).

#### IUU listing

This has been expanded substantially, to move being simple vessel listings. So-called “Entities” are added, covering physical and legal persons. The definition of IUU fishing is expanded, to include notions such as slavery.

#### Foreign entities and NCPs

The current focus put on NCPs, FOCs and no-nationality vessels is shifted to “foreign”, particularly to respond to the tenets of the PSM framework. Non-discrimination is addressed and improved under several resolutions, notably the resolution on trade restrictive measures.

#### Trade restrictive measures

A shift in language is proposed, in order to provide clarity as to what the object of this resolution is. The identification procedure is strengthened, and discriminatory clauses are eliminated.

#### Vessel Monitoring System

No specific proposals are made in this report, beyond the fact that a Commission VMS is considered as a *conditio sine qua non* to move MCS in IOTC to the next level, and to support in a critical manner the adoption of new instruments, such as an e-CDS.

#### BET SDP

This program is to be discontinued and wholly replaced by an e-CDS, in line with PRIOTC01 proposals and Kobe 2007 findings.

#### Port State Measures

Landings and transshipments are now confined to designated CPC ports, in which PSM measures (including reporting obligations) - as adopted by the Commission - may be implemented. Landing and transshipping in non-CPC ports is no longer authorized.

#### High Seas boarding

The absence of a formalised high seas boarding regime is recognized as a semantic gap in IOTC’s MCS framework, and the standing proposal for such a scheme is considered appropriate, and the Commission is invited to reconsider it – overcoming earlier blockages that have led to its non-adoption.

### **Outlook**

IOTC is currently being guided and ruled by a series of active resolutions, which are evolving in a perpetual cycle of being adopted, amended, and then becoming obsolete. Specific provisions across resolutions may be partially repeated, and have been found to be contradicting each other. Overall, the assimilation of all rules by stakeholders, whether private or public sector, is cumbersome, owing to the fragmented nature of provisions, contained in separate texts. Finally, the fragmented nature of resolutions, generally pursuing very specific targets, leads to gaps and oversights across the regulatory substance as a whole.

Following the adoption of proposed amendments to the MCS framework, it is recommended that IOTC adopt a consolidated format for rule making, by espousing a NAFO-type approach – where all provisions are contained in a single text called “Conservation and Enforcement Measures”.<sup>52</sup> This would require a dedicated effort, to transcribe all existing provisions into a single regulatory text, segmented into chapters and sections reflecting the diversity of domains currently regulated by resolutions. A single consolidated and coherent framework would result from this.

The single text is re-published every year in its totality, reflecting all changes that have been made to its content.

## **4.2 Development of a Catch Documentation Scheme**

Chapter III covers the adoption of an e-CDS for IOTC.

The objective and nature of a CDS are covered, providing insight of what CDS systems are meant to achieve, how they achieve their objective, and what functions they need to be endowed with. The sections covering these elements are sourced from FAO TP 596, which was developed for t-RFMOs – including IOTC – which have not yet developed a CDS.

The salient element in this proposal, which will need careful assessment, is the assertion that the development of an IOTC CDS in the absence of CDS covering the same species in the other three tuna RFMOs (ICCAT, IATTC and WCPFC) is of limited benefit. CDS are trade measures, whose effect comes to bear primarily along the supply chain and throughout international trade. If only a fraction of given species are covered by mandatory certificates, global gaps and loopholes of enormous proportions remain, that would allow all illegally harvested Indian Ocean tuna to enter trade regardless of the existence of the IOTC CDS.

Chapter III provides a blueprint for a project approach to developing a CDS, estimating a total project cost of USD 1.75 million, and some 4.5 years to go from the decision to develop the system to full and final implementation.

### **Outlook**

Should the Commission find solace in the proposals made in this document, and the decision is taken to move in the direction proposed, the launching of a Kobe-type process amongst the four interested tuna RFMOs (IOTC, ICCAT, IATTC and WCPFC) must be launched by IOTC – with the view of securing buy-in for a single CDS-platform. During these consultations, the

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<sup>52</sup> See: <https://www.nafo.int/Fisheries/Conservation>

topics of platform hosting and funding have to be discussed and agreed upon.

If this approach does not find support, IOTC remains with the option of developing a CDS platform into which other t-RFMOs may buy into at a later date. However, as indicated above, the impact of such a CDS will fall short of expectations. IOTC would therefore be well-advised to ponder the benefits of continuing to pursue the agenda of an all t-RFMO system vigorously, rather than moving forward to developing a stand-alone CDS system.

It is hoped that the arguments clarifying why a consistent and integrated global t-RFMO CDS approach – based on a shared electronic platform – is the one option poised to effectively eliminate the most damaging forms of IUU fishing – globally.

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## **Annex I – List of active MCS-related Resolutions (2018 included)**

Resolution 18/07 On Measures Applicable in Case of Non-Fulfilment of Reporting Obligations in the IOTC

Resolution 18/06 On Establishing a Programme for Transshipment by Large-Scale Fishing Vessels

Resolution 18/03 On Establishing a List of Vessels Presumed to Have Carried out Illegal, Unreported and Unregulated Fishing in the IOTC Area of Competence

Resolution 16/11 On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing

Resolution 16/05 On vessels without nationality

Resolution 15/04 Concerning the IOTC record of vessels authorised to operate in the IOTC area of competence

Resolution 15/03 On the vessel monitoring system (VMS) programme

Resolution 15/01 On the recording of catch and effort data by fishing vessels in the IOTC area of competence

Resolution 14/05 Concerning a record of licensed foreign vessels fishing for IOTC species in the IOTC area of competence and access agreement information

Resolution 10/10 Concerning market related measures

Resolution 10/08 Concerning a record of active vessels fishing for tunas and swordfish in the IOTC area

Resolution 05/03 Relating to the establishment of an IOTC programme of inspection in port

Resolution 03/03 Concerning the amendment of the forms of the IOTC statistical documents

Resolution 07/01 To promote compliance by nationals of contracting parties and cooperating non-contracting parties with IOTC conservation and management measures

Resolution 01/06 Concerning the IOTC bigeye tuna statistical document programme

Resolution 01/03 Establishing a scheme to promote compliance by non-contracting party vessels with resolutions established by IOTC

Resolution 99/02 Calling for actions against fishing activities by large scale flag of convenience longline vessels

## **Annex II – List of active MCS-related Resolutions (simplified titles)**

Resolution 18/07 Non-fulfilment of reporting obligations in the IOTC

Resolution 18/06 Programme for transshipment by large-scale fishing vessels

Resolution 18/03 List of vessels presumed to have carried out IUU fishing

Resolution 16/11 Port state measures to combat IUU fishing

Resolution 16/05 Vessels without nationality

Resolution 15/04 IOTC record of authorised vessels

Resolution 15/03 Vessel monitoring system (VMS) programme

Resolution 15/01 Recording of catch and effort data by fishing vessels

Resolution 14/05 Record of licensed foreign vessels & access agreement info

Resolution 10/10 Market related measures

Resolution 10/08 Record of active vessels fishing for tunas and swordfish

Resolution 05/03 Establishment of a programme of inspection in port

Resolution 03/03 Amendment of the forms of statistical documents

Resolution 07/01 Compliance by nationals of CPs and CNCPs

Resolution 01/06 Bigeye tuna statistical document programme

Resolution 01/03 Scheme to promote compliance by NCP vessels

Resolution 99/02 Actions against fishing activities by FOC LSTLVs

## Annex III – Resolution 18/06 Programme for transhipment by large-scale fishing vessels (revised)

### RESOLUTION 18/06 ON ESTABLISHING A PROGRAMME FOR TRANSHIPMENT **AT-SEA** BY LARGE-SCALE FISHING VESSELS

**Keywords:** transhipment

**The Indian Ocean Tuna Commission (IOTC),**

TAKING ACCOUNT of the need to combat illegal, unregulated and unreported (IUU) fishing activities because they undermine the effectiveness of the Conservation and Management Measures already adopted by the IOTC;

EXPRESSING GRAVE CONCERN that organized tuna laundering operations have been conducted and a significant amount of catches by IUU fishing vessels have been transhipped under the names of duly licensed fishing vessels;

IN VIEW THEREFORE OF THE NEED to ensure the monitoring of the transhipment activities by large-scale longline vessels in the IOTC area of competence, including the control of their landings;

TAKING ACCOUNT of the need to collect catch data of such large scale long-line tuna to improve the scientific assessments of those stocks;

ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, that:

#### SECTION 1. GENERAL RULE

1. Except under the programme to monitor transshipments at sea outlined below in Section 2, all transhipment operations of tuna and tuna-like species and sharks caught in association with tuna and tuna-like fisheries in the IOTC area of competence (hereinafter referred to as “tuna and tuna like species and sharks”) must take place in port<sup>1</sup>.
2. The flag Contracting Parties and Cooperating Non-Contracting Parties (collectively termed CPCs) shall take the necessary measures to ensure that large scale tuna vessels <sup>2</sup>(hereafter referred as the “**LSTVs**”) flying their flag comply with the obligations set out in **Resolution 16/11** when transshipping in port.
- ~~3. Maldivian flagged collector vessels registered on the IOTC Record of Authorized Vessels listed in Annex II of this Resolution shall be exempted from the data reporting requirements specified in Annex I and Annex III. This exemption shall be valid for a period of 1 year.~~

#### SECTION 2. PROGRAMME TO MONITOR TRANSHIPMENTS AT SEA

4. The Commission hereby establishes a programme to monitor transhipment at sea which applies only to largescale tuna longline fishing vessels (hereafter referred to as the “LSTLVs”) and to carrier vessels authorised to receive transshipments from these vessels at sea. No at-sea transhipment of tuna and tuna-like species and sharks by fishing vessels other than LSTLVs shall be allowed. The Commission shall review and, as appropriate, revise this Resolution.

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<sup>1</sup> Port includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying (as defined by FAO Port State Measures Agreement)

<sup>2</sup> Large Scale Tuna Vessel (LSTV) – fishing vessels targeting tuna and tuna like species that are over 24m LoA and are on the IOTC Record of Authorized Vessels.

5. The CPCs that flag **LSTLVs** shall determine whether or not to authorise their **LSTLVs** to tranship at sea. However, if the flag CPC authorises the at-sea transhipment by its flag **LSTLVs**, such transhipment shall be conducted in accordance with the procedures defined in Sections 3, 4 and 5, and **Annexes III** and **IV** below.

### **SECTION 3. RECORD OF VESSELS AUTHORISED TO RECEIVE TRANSHIPMENTS-AT-SEA IN THE IOTC AREA OF COMPETENCE**

6. The Commission shall establish and maintain an IOTC Record of Carrier Vessels authorised to receive tuna and tuna-like species and sharks at sea in the IOTC area of competence from **LSTLVs**. For the purposes of this Resolution, carrier vessels not entered on the record are deemed not to be authorised to receive tuna and tuna-like species and sharks in at-sea transhipment operations.
7. Each CPC shall submit, electronically where possible, to the IOTC Executive Secretary the list of the carrier vessels that are authorised to receive at-sea transhipments from its **LSTLVs** in the IOTC area of competence. This list shall include the following information:
  - a. The flag of the vessel;
  - b. Name of vessel,**
  - c. Vessel register number;**
  - d. IMO number;**
  - e. Previous name (if any);
  - f. Previous flag (if any);
  - g. Previous details of deletion from other registries (if any);
  - h. International radio call sign;
  - i. Type of vessels, length, gross tonnage (GT) and carrying capacity;
  - j. Name and address of owner(s) and operator(s);
  - k. Time period authorised for transhipping.
8. Each CPC shall promptly notify the IOTC Executive Secretary, after the establishment of the initial IOTC Record, of any addition to, any deletion from and/or any modification of the IOTC Record, at any time such changes occur.
9. The IOTC Executive Secretary shall maintain the IOTC Record and take measures to ensure publicity of the record through electronic means, including placing it on the IOTC website, in a manner consistent with confidentiality requirements notified by CPCs for their vessels.
10. Carrier vessels authorised for at-sea transhipment shall be required to install and operate a Vessel Monitoring System (VMS).

### **SECTION A. RECORD OF LSTLVs AUTHORISED TO TRANSHIP AT SEA IN THE IOTC AREA OF COMPETENCE**

- A. The Commission shall establish and maintain a record of LSTLVs authorized to tranship tuna and tuna-like species and sharks at sea in the IOTC area of competence onto authorized carrier vessels, as part of the IOTC Record of Authorized Vessels. For the purposes of this Resolution, LSTLVs not entered on the IOTC Record are deemed not to be authorised to tranship tuna and tuna-like species and sharks at sea.**
- B. All provisions applying to the creation and updating of vessel record information on the IOTC Record of Authorized Vessels apply, as per CMM 15/04.**

### **SECTION 4. AT-SEA TRANSHIPMENT**

11. Transshipments by **LSTLVs** in waters under the jurisdiction of the CPCs are subject to prior authorisation from the Coastal State concerned. CPCs shall take the necessary measures to ensure that **LSTLVs** flying their flag comply with the following conditions:

#### **Flag State Authorization**

12. **LSTLVs** are not authorised to tranship at sea, unless they have obtained prior authorisation from their flag State, **which is distinct from the authorization under paragraph 4, and issued separately for every single transshipment event.**

**E. In pursuance of paragraph 6, LSTLVs carrying harvests made in the IOTC AoC shall not be authorized to transship onto a carrier vessel not listed on the IOTC Record of Authorized Vessels, except in cases of force majeure.**

#### **Notification obligations**

##### ***Fishing vessel:***

13. To receive the prior authorisation mentioned in paragraph 12 **above**, the master and/or owner of the **LSTLV** must notify the following information to its flag State authorities at least 24 hours in advance of an intended transshipment:
- Name of the LSTLV;**
  - Vessel number in the IOTC Record of Vessels, and its IMO number, if issued;**
  - The name of the carrier vessel;**
  - Carrier vessel number in the IOTC Record of Carrier Vessels authorised to receive transshipments in the IOTC area of competence, and its IMO number, and the product to be transhipped;**
  - The tonnage by product to be transhipped;
  - The date and location of transshipment;
  - The geographic location of the catches.
14. The **LSTLV** concerned shall complete and transmit to **the IOTC Secretariat, its flag State and the flag CPC of the carrier vessel, within 24 hours of the completion of** the transshipment, the IOTC transshipment declaration, along with its number in the IOTC Record of Fishing Vessels, in accordance with the format set out in Annex III.

##### ***Receiving carrier vessel:***

15. Before starting transshipment, the master of the receiving carrier vessel shall confirm that the **LSTLV** concerned **is listed on the IOTC record of vessels authorized to transship at sea**, and has obtained the prior authorisation from their flag State referred to in paragraph 12. The master of the receiving carrier vessel shall not start ~~such~~ transshipment without such confirmation.
16. The master of the receiving carrier vessel shall complete and transmit the IOTC transshipment declaration to the IOTC Secretariat, **its flag State** and the flag CPC of the **LSTLV**, along with its number in the IOTC Record of Carrier Vessels ~~authorised to receive transshipment in the IOTC area of competence~~, within 24 hours of the completion of the transshipment.
17. The master of the receiving carrier vessel shall, 48 hours before landing, transmit **copies of all** IOTC transshipment declarations **for product to be landed**, along with its number in the IOTC Record of Carrier Vessels ~~authorised to receive transshipment in the IOTC area of competence~~, to the competent authorities of the **port** State where the landing takes place.

**F. The masters of both LSTLV and carrier vessel fill and sign two (2) originals of the transshipment declaration at sea (with the format set out in Annex III) at the end of the transshipment. These originals shall remain onboard both vessels for the entire length of the trip, and must be presented to inspectors upon request – either during inspection at sea, or inspection following entry into port.**

**G. Vessel operators shall keep a record of transshipment declaration originals on file for 3 years.**

**H. The Commission may instruct the IOTC Secretariat in the future to develop a mandatory electronic at-sea transshipment recording and reporting platform, emulating the already existing e-PSM platform for transshipments in port. Once the platform comes online, reporting obligations under paragraph 23 a. and b. will expire.**

***Regional Observer Programme:***

18. Each CPC shall ensure that all carrier vessels transshipping at sea have on board an IOTC observer, in accordance with the IOTC Regional Observer Programme in Annex IV. The IOTC observer shall observe the compliance with this Resolution, and notably that the transhipped quantities are consistent with the reported catch in the IOTC transshipment declaration.
19. Vessels shall be prohibited from commencing or continuing at-sea transshipping in the IOTC area of competence without an IOTC regional observer on board, except in cases of “force majeure” duly notified to the IOTC Secretariat.
20. In the case of the eight Indonesian wooden carrier vessels listed on the IOTC Record of Authorised Vessel prior to 2015 and listed in **Annex V**, a national observer programme may be used in place of an observer from the regional observer programme. National observers shall be trained to at least one of tuna-RFMO regional observer programme standards and will carry out all of the functions of the regional observer, including provision of all data as required by the IOTC regional observer programme and the reports equivalent to those prepared by the ROP Contractor. This provision shall only apply to the eight specific wooden carrier vessels referenced in this paragraph as indicated in **Annex V**. Replacement of those wooden carrier vessels are only permitted if the material of substitute vessel shall remain wooden and the carrying capacity or fish hold volume not larger than the vessel (s) being replaced. In such case, the authorisation of the replaced wooden vessel shall be immediately revoked.
21. The provision of Paragraph 20 will be implemented in consultation with the IOTC Secretariat as a two-year pilot project. The results of the project, including data collection, reports and the effectiveness of the project shall be examined in 2019 by the IOTC Compliance Committee on the basis of a report prepared by Indonesia and analysis by the IOTC Secretariat. This review shall include whether the programme offers the same level of assurances as those provided by ROP. It shall also explore the feasibility of obtaining an IMO number for the vessels concerned. The extension of the project or the integration of the project into ROP programme shall be subject to a new decision of the Commission.

**SECTION 5. GENERAL PROVISIONS**

22. To ensure the effectiveness of the IOTC Conservation and Management Measures pertaining to species covered by Statistical Document Programs:
  - a. In validating the Statistical Document, flag CPCs of **LSTLVs** shall ensure that transshipments are consistent with the reported catch amount by each **LSTLV**;
  - b. The flag CPC of **LSTLVs** shall validate the Statistical Documents for the transhipped fish, after confirming that the transshipment was conducted in accordance with this Resolution. This confirmation shall be based on **verification of transshipment declarations from both sources (fishing vessel/carrier vessel)** and **any further** information obtained through the IOTC Observer Programme;
  - c. CPCs shall require that the species covered by the Statistical Document Programs caught by **LSTLVs** in the IOTC area of competence, when imported into the territory of a Contracting Party, be accompanied by statistical documents validated for the vessels on the IOTC record and a copy of the IOTC transshipment declaration **signed by both masters (see paragraph F.)**.
23. The CPCs shall report annually before 15 September to the IOTC Executive Secretary, **using data/report submission templates provided by the Secretariat**:
  - a. The quantities by species transhipped during the previous year;
    - i. to be provided in annual total kg per species**
  - b. The list of the **LSTLVs** registered in the IOTC Record of Fishing Vessels which have transhipped during the previous year;

**i. to be provided as a list of fishing vessels that have transhipped at least once (vessel name and IOTC record number)**

- c. A comprehensive report assessing the content and conclusions of the reports of the observers assigned to carrier vessels which have received transhipment from their **LSTLVs**.
24. All tuna and tuna-like species and sharks landed or imported into the CPCs either unprocessed or after having been processed on board and which are transhipped, shall be accompanied by the IOTC transhipment declaration until the first sale has taken place.
25. Each year, the IOTC Executive Secretary shall present a report on the implementation of this Resolution to the annual meeting of the ~~Commission~~ **Compliance Committee** which shall review compliance with this Resolution.
26. The IOTC Secretariat shall, when providing CPCs with copies of all raw data, summaries and reports in accordance with paragraph 10 of **Annex IV** to this Resolution, also indicate **other** evidence indicating possible infraction of IOTC regulations by **LSTLVs**/carrier vessels flagged to that CPC. Upon receiving such evidence, each CPC shall investigate the cases and report the results of the investigation back to the IOTC Secretariat three months prior to the IOTC Compliance Committee meeting. The IOTC Secretariat shall circulate among CPCs the list of names and flags of the **LSTLVs**/Carrier vessels that were involved in such possible infractions as well as the response of the flag CPCs 80 days prior to the IOTC Compliance Committee meeting.
27. Resolution 17/06 *On establishing a programme for transhipment by large-scale fishing vessels* is superseded by this Resolution.

<b>Conservation and Management Measures linked to Resolution 18/06 <a href="#">or return to the Table of Contents</a></b>			
Links from within this CMM		Links from other CMMs	
None		None	
<b>Resolution 16/11</b>			

**ANNEX I**  
**CONDITIONS RELATING TO IN-PORT TRANSHIPMENT**

**General**

~~1. Transshipment operations in port may only be undertaken in accordance with the procedures detailed below:~~

~~**Notification obligations**~~

~~2. Fishing vessel:~~

~~2.1. Prior to transshipping, the Captain of the LSTV must notify the following information to the port State authorities, at least 48 hours in advance:~~

- ~~a) the name of the LSTV and its number in the IOTC record of fishing vessels;~~
- ~~b) the name of the carrier vessel, and the product to be transhipped;~~
- ~~c) The tonnage by product to be transhipped;~~
- ~~d) the date and location of transshipment;~~
- ~~e) the major fishing grounds of the tuna and tuna-like species and sharks catches.~~

~~2.2. The Captain of a LSTV shall, at the time of the transshipment, inform its Flag State of the following;~~

- ~~a) the products and quantities involved;~~
- ~~b) the date and place of the transshipment;~~
- ~~c) the name, registration number and flag of the receiving carrier vessel;~~
- ~~d) the geographic location of the tuna and tuna-like species and sharks catches.~~

~~2.3. The captain of the LSTV concerned shall complete and transmit to its flag State the IOTC transshipment declaration, along with its number in the IOTC Record of Fishing Vessels, in accordance with the format set out in Annex II not later than 15 days after the transshipment.~~

~~3. Receiving vessel:~~

~~Not later than 24 hours before the beginning and at the end of the transshipment, the master of the receiving carrier vessel shall inform the port State authorities of the quantities of tuna and tuna-like species and sharks transhipped to his vessel, and complete and transmit the IOTC transshipment declaration, to the competent authorities within 24 hours.~~

~~**Landing State:**~~

~~4. The master of the receiving carrier vessel shall, 48 hours before landing, complete and transmit an IOTC transshipment declaration, to the competent authorities of the landing State where the landing takes place.~~

~~5. The port State and the landing State referred to in the above paragraphs shall take the appropriate measures to verify the accuracy of the information received and shall cooperate with the flag CPC of the LSTV to ensure that landings are consistent with the reported catches amount of each vessel. This verification shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the fish is avoided.~~

~~6. Each flag CPC of the LSTVs shall include in its annual report each year to IOTC the details on the transshipments by its vessels.~~



**ANNEX II**

**LIST OF MALDIVIAN FLAGGED COLLECTOR VESSELS EXEMPTED FROM THE REPORTING REQUIREMENTS**

#	Vessel name	Registration number	Gross Tonnage
1	Randhi 19	C1366A-03-10T	40
2	Randhi 22	C1368A-03-10T	40
3	Randhi 23	C1369A-03-10T	27
4	Randhi 24	C1373A-03-10T	27
5	Randhi 25	C1376A-03-10T	27
6	Randhi 26	C1378A-03-10T	27
7	Randhi 27	C1371A-03-10T	60
8	Randhi 29	C1362A-03-10T	45
9	Randhi 30	C1360A-03-10T	45
10	Mahaa-Kalminja	C6307A-04-10T	285
11	Kalaminja 402	C6308A-04-10T	570
12	Kalaminja 403	C6306A-04-10T	570
13	MIFCO 101	C8376A-01-10T	150
14	HF107	C67122A-01-10T	89
15	HF108	C6472A-01-10T	94
16	HF110	C6350A-01-10T	67
17	HF109	C6349A-01-10T	62
18	Oivaali 108	C8407A-01-10T	499

**ANNEX III  
IOTC TRANSHIPMENT DECLARATION**

<b>Carrier Vessel</b>	<b>Fishing Vessel</b>
Name of the Vessel and Radio Call Sign: _____	Name of the Vessel and Radio Call Sign: _____
Flag: <b>IOTC Record Number, if available:</b>	Flag: <b>IOTC Record Number, if available:</b>

	Day	Month	Hour	Year	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	<b>Agent's name:</b>	Master's name of LSTV:	Master's name of Carrier:
Departure <b>(FV)</b>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	from	<input style="width:50px; height:20px;" type="text"/>	<b>Signature:</b>	<b>Master Certificate number</b>	<b>Master Certificate number</b>
Return <b>(FV)</b>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	to	<input style="width:50px; height:20px;" type="text"/>			
Transshipment	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>	<input style="width:20px; height:20px;" type="text"/> <input style="width:20px; height:20px;" type="text"/>				Signature:	Signature:

Indicate the weight in kilograms or the unit used (e.g. box, basket) and the landed weight in kilograms of this unit: \_\_\_\_\_ kilograms

LOCATION OF TRANSHIPMENT **(geographical coordinates)** \_\_\_\_\_

Species	Type of product							
	Whole	Gutted	Headed	Filletted				

~~If transshipment effected at sea,~~ IOTC Observer Name and Signature: \_\_\_\_\_

## ANNEX IV

### IOTC REGIONAL OBSERVER PROGRAMME

1. Each CPC shall require carrier vessels included in the IOTC Record of Carrier Vessels authorised to receive transshipments in the IOTC area of competence and which tranship at sea, to carry an IOTC observer during each transhipment operation in the IOTC area of competence.
2. The IOTC Executive Secretary shall appoint the observers and shall place them on board the carrier vessels authorised to receive transshipments in the IOTC area of competence from **LSTLV**s flying the flag of Contracting Parties and of Cooperating Non-Contracting Parties that implement the IOTC observer program. Designation of the observers
3. The designated observers shall have the following qualifications to accomplish their tasks:
  - a) sufficient experience to identify species and fishing gear;
  - b) satisfactory knowledge of the IOTC Conservation and Management Measures;
  - c) the ability to observe and record information accurately;
  - d) a satisfactory knowledge of the language of the flag of the vessel observed.

#### **Obligations of the observer**

4. Observers shall:
  - a) Have completed the technical training required by the guidelines established by IOTC;
  - b) not be, to the extent possible, nationals of the flag State of the receiving carrier vessel;
  - c) be capable of performing the duties set forth in point 5 below;
  - d) be included in the list of observers maintained by the IOTC Secretariat;
  - e) not be a crew member of an **LSTLV** or an employee of an **LSTLV** company.
5. The observer tasks shall be in particular to:
  - a) On the Fishing Vessel intending to tranship to the carrier vessel and before the transhipment takes place, the observer shall:
    - i. check the validity of the fishing vessel's authorisation or licence to fish tuna and tuna-like species and sharks in the IOTC area of competence;
    - ii. check and note the total quantity of catch on board, and the quantity to be transferred to the carrier vessel;
    - iii. check that the VMS is functioning and examine the logbook;
    - iv. verify whether any of the catch on board resulted from transfers from other vessels, and check documentation on such transfers;
    - v. in the case of an indication that there are any violations involving the fishing vessel, immediately report the violations to the carrier vessel's master,
    - vi. report the results of these duties on the fishing vessel in the observers report.
  - b) On the Carrier Vessel:

Monitor the carrier vessel's compliance with the relevant Conservation and Management Measures adopted by the Commission. In particular the observers shall:

- i. record and report upon the transshipment activities carried out;
- ii. verify the position of the vessel when engaged in transshipping;
- iii. observe and estimate products transhipped;
- iv. verify and record the name of the **LSTLV** concerned and its IOTC number;
- v. verify the data contained in the transshipment declaration;
- vi. certify the data contained in the transshipment declaration;
- vii. countersign the transshipment declaration;
- viii. issue a daily report of the carrier vessels transshipping activities;
- ix. establish general reports compiling the information collected in accordance with this paragraph and provide the captain the opportunity to include therein any relevant information;
- x. submit to the IOTC Secretariat the aforementioned general report within 20 days from the end of the period of observation;
- xi. exercise any other functions as defined by the Commission.

6. Observers shall treat as confidential all information with respect to the fishing operations of the **LSTLVs** ~~and of the LSTLVs owners~~ and accept this requirement in writing as a condition of appointment as an observer.
7. Observers shall comply with requirements established in the laws and regulations of the flag State which exercises jurisdiction over the vessel to which the observer is assigned.
8. Observers shall respect the hierarchy and general rules of behaviour which apply to all vessel personnel, provided such rules do not interfere with the duties of the observer under this program, and with the obligations of vessel personnel set forth in paragraph 9 of this program.

#### **Obligations of the flag States of carrier vessels**

9. The responsibilities regarding observers of the flag States of the carrier vessels and their captains shall include the following, notably:
  - a) Observers shall be allowed access to the vessel personnel and to the gear and equipment;
  - b) Upon request, observers shall also be allowed access to the following equipment, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties set forth in paragraph 5:
    - i. Satellite navigation equipment;
    - ii. Radar display viewing screens when in use;
    - iii. Electronic means of communication.
  - c) Observers shall be provided accommodation, including lodging, food and adequate sanitary facilities, equal to those of officers;
  - d) Observers shall be provided with adequate space on the bridge or pilot house for clerical work, as well as space on deck adequate for carrying out observer duties; and
  - e) The flag States shall ensure that captains, crew and vessel owners do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an observer in the performance of his/her duties.

10. The IOTC Executive Secretary, in a manner consistent with any applicable confidentiality requirements, shall provide to the flag State of the carrier vessel under whose jurisdiction the vessel transhipped and to the flag CPC of the **LSTLV**, copies of all available raw data, summaries, and reports pertaining to the trip four months prior to the IOTC Compliance Committee meeting.

**Obligations of **LSTLVs** during transhipment**

11. Observers shall be allowed to visit the fishing vessel, if weather conditions permit it, and access shall be granted to personnel and areas of the vessel necessary to carry out their duties set forth in paragraph 5.
12. The IOTC Executive Secretary shall submit the observer reports to the IOTC Compliance Committee and to the IOTC Scientific Committee.

**Observer fees**

13. The costs of implementing this program shall be financed by the flag CPCs of **LSTV**s wishing to engage in transhipment operations. The fee shall be calculated on the basis of the total costs of the program. This fee shall be paid into a special account of the IOTC Secretariat and the IOTC Executive Secretary shall manage the account for implementing the program.
14. No **LSTLV** may participate in the at-sea transhipment program unless the fees, as required under paragraph 13, have been paid.

**ANNEX V**

**INDONESIAN CARRIER VESSELS AUTHORISED TO TRANSHIP AT SEA**

No	Name of Wooden Carrier	Vessel Gross Tonnage
1	Hiroyoshi 2	142
2	Hiroyoshi 17	171
3	Mutiara 36	189
4	Abadi jaya 101	174
5	Mutiara 12	120
6	Mutiara 18	92
7	Mutiara 20	102
8	Gemini	110

## Annex IV – Resolution 18/03 List of vessels presumed to have carried out IUU fishing (revised)

### RESOLUTION 18/03

#### ON ESTABLISHING A LIST OF VESSELS, COMPANIES AND PERSONS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED FISHING IN THE IOTC AREA OF COMPETENCE

**Keywords:** IUU, illegal, unreported and unregulated fishing

**The Indian Ocean Tuna Commission (IOTC),**

RECALLING that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, to deter and eliminate illegal, 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 the IOTC adopted Resolution 01/07 [superseded by [Resolution 14/01](#)] concerning its support of the IPOA-IUU;

RECALLING that IOTC has already adopted measures against IUU fishing activities;

RECALLING that the IOTC adopted [Resolution 07/01](#) to promote compliance by nationals of Contracting Parties and Cooperating Non-Contracting Parties with IOTC Conservation and Management Measures;

RECALLING ALSO that the IOTC adopted Resolution 07/02 [superseded by [Resolution 13/02](#), then by [Resolution 14/04](#), then by [Resolution 15/04](#)] to enhance the implementation of IOTC Conservation and Management Measures through establishing a Record of fishing vessels authorised to operate in the IOTC area of competence;

RECOGNISING that IUU fishing activities may be linked with serious and organised crime;

CONCERNED by the fact that IUU fishing activities in the IOTC area of competence continue, and these activities diminish the effectiveness of IOTC Conservation and Management Measures;

FURTHER CONCERNED that there is evidence of a large number of vessel owners engaged in such fishing activities who have re-flagged their vessels to avoid compliance with IOTC Conservation and Management Measures;

DETERMINED to address the challenge of an increase in IUU fishing activities by way of countermeasures to be applied in respect of the vessels engaged in IUU fishing, without prejudice to further measures adopted in respect of flag States under the relevant IOTC instruments;

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

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

TAKING INTO ACCOUNT the basic principles for adopting measures for cross-listing vessels listed as IUU by other RFMOs endorsed in the recommendations of the 3<sup>rd</sup> Joint Meeting of the Tuna RFMO, held in La Jolla, California in 2011;

ACKNOWLEDGING the need to preserve the decision-making authority of IOTC in any cross-listing decision by ensuring that members have the opportunity to consider each vessel on a case-by-case basis prior to its inclusion in the IOTC IUU vessel list;

ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, that:

### Use of terms

1. For the purpose of this Resolution:

- a) ‘Owner’ means the natural or legal person registered as the owner of a vessel;
- b) ‘Operator’ means the natural or legal person who is responsible for taking commercial decisions regarding the management and operation of a vessel and includes a charterer of the vessel;
- c) ‘Master’ means any person holding the most responsible position at any given time on-board a fishing vessel;
- d) ‘fishing’ means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, taking or harvesting of fish;
- e) ‘fishing related activities’ means any operation in support of, or in preparation for, fishing, including landing, packaging, processing, transshipment or transport of fish and/or fish products that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear, food and other supplies at-sea;
- f) ‘Information’ means suitably and sufficiently documented data which is capable of being presented as evidence to the Compliance Committee and/or Commission of any facts in issue,
- g) the singular also includes the plural.
- h) “Entity” is a term that encompasses the three elements that may be involved in fishing activities; these are: a) the fishing vessel, b) the company, and c) the physical person. All three entities may be individually or collectively listed as an “IUU entity” under this resolution.**
- i) “State of jurisdiction” means the State which exercises primary jurisdiction over an IUU entity from a fisheries point of view. For a vessel, the State of jurisdiction is the flag State. For a person (such as an owner, an operator or a master), the State of jurisdiction is the State of the person’s nationality and/or permanent residence. For a company, it is the State in which the company is incorporated/registered.**

### Application of this measure



2. This Resolution applies to vessels, together with their Owners, Operators and Masters that undertake fishing and fishing related activities, for species covered by the IOTC Agreement, or by IOTC Conservation and Management Measures, within the IOTC area of competence (IOTC Area).
- A. **Owners, operators and masters, as physical or legal persons (including in their commercial form as registered Companies), fall under the scope of this measure, regardless of their association – or non-association – with a specific fishing vessel.**

### Objective

3. This Resolution sets out rules and procedures for the maintenance and updating by the Commission of the system of lists of vessels, **companies and persons** considered to be involved in illegal, unreported and unregulated (IUU) fishing activities and which comprises:
  - a) the Draft IOTC IUU **Entity** List (**Draft IUU List**);
  - b) the Provisional IOTC IUU **Entity** List (**Provisional IUU List**); and
  - c) the IOTC IUU **Entity** List (**IUU List**).

### Definition of IUU Fishing **and Fishing-related** Activities

4. For the purposes of this Resolution a vessel, **a company or a person** is presumed to have engaged in IUU fishing activities when a Contracting Party or Cooperating Non-Contracting Party (hereinafter referred to as “CPCs”) has provided information that such **entity** has, within the IOTC Area and/or in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:
  - a) engaged in fishing or fishing related activities **using a vessel that** is **not** registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04, ~~nor recorded in the Active list of vessels~~; or
  - b) engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable ~~unless that vessel is flagged to a CPC~~; or
  - c) failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports;  
or
  - d) taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or
  - e) engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or
  - f) used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or
  - g) transhipped fish to, or otherwise participated in joint operations with, support

or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to Receive Transshipments At-Sea in the IOTC Area; or

- h) engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel)<sup>1</sup>; or
- i) engaged in fishing or fishing related activities **whilst the vessel is** without nationality, **or sails under the flag of two or more States**, or;
- j) engaged in fishing or fishing related activities having intentionally falsified or concealed **vessel** markings, identity or registration; or
- k) engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measure; **or**
- l) engaged in directing, managing or financing fishing or fishing related activities by putting laborers into harms' way, including but not limited to subjecting them to employment conditions aboard fishing vessels that are in violation of STCW-F 1995 standards, and/or which are violating their fundamental human rights, as enshrined in the UN charter on human rights, including but not limited to violations of slavery provisions.**
- m) engaged in managing or financing fishing or fishing related activities by hiring, contracting or otherwise knowingly transacting with entities listed on the IOTC IUU Entity List;**
- n) engaged in managing or financing fishing or fishing related activities that are directly in violation of, or seriously undermining IOTC Conservation and Management Measures;**

#### **Submission of information on IUU Fishing and Fishing-related Activities**

5. A CPC in possession of information that one or more **vessels, companies or persons have** engaged in IUU fishing activities within the IOTC Area within a 24 month period prior to the annual meeting of the Compliance Committee shall submit a list of such **entities** to the IOTC Executive Secretary. Such submission shall be made at least 70 days before the annual meeting of the Compliance Committee using the IOTC Reporting Form for Illegal Activity (**Annex I**).
6. A list submitted by a CPC (the nominating CPC) in accordance with paragraph 5, shall be accompanied by information concerning the IUU fishing activity of each of the listed **entities** including but not limited to:

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<sup>1</sup> For the purposes of this subparagraph, a vessel that is recorded on the IOTC Record of Authorised Vessels shall not be presumed to have engaged in IUU fishing activities when a Fish Aggregating Device (FAD) it has deployed has drifted into waters that are under the national jurisdiction of a coastal State without its permission or authorization. However, if the vessel retrieves or fishes on a FAD in a Coastal State's waters without its permission or authorization, the vessel is presumed to have engaged in IUU activities

- a) reports from CPCs regarding the alleged IUU fishing activity relating to IOTC Conservation and Management Measures in force;
  - b) trade information obtained on the basis of relevant trade statistics such as those from statistical documents and other national or international verifiable statistics;
  - c) any other information obtained from other sources and/or gathered from the fishing grounds such as:
    - i. information gathered from inspections undertaken in port or at sea; or
    - ii. information from coastal States including VMS transponder or AIS data, surveillance data from satellites or airborne or seaborne assets; or
    - iii. IOTC programmes, ~~except where such a programme stipulates that information gathered is to be kept confidential~~; or
    - iv. information and intelligence collected by third parties either provided directly to a CPC or via the IOTC Executive Secretary pursuant to paragraph 7.
7. When the IOTC Executive Secretary receives information and intelligence from third parties indicating alleged IUU fishing activities, the IOTC Executive Secretary shall transmit the information to the flag State of the vessel and each **CPC or NCP State with jurisdiction over other potentially incriminated entities (persons and/or companies)**. ~~CPC and NCP States with jurisdiction over an alleged IUU entity is a CPC, if requested by any other CPC through the IOTC Executive Secretary, it shall be requested by the IOTC Executive Secretary to investigate the allegation and~~ shall report the progress of the investigation to the IOTC Executive Secretary within 60 days. ~~Where the flag State is not a CPC, if requested by any CPC the IOTC Executive Secretary shall request it to investigate the allegation and report the progress of the investigation to the IOTC Executive Secretary within 60 days.~~ The IOTC Executive Secretary shall then, as soon as practicably possible, notify each CPC and the State of each vessel concerned **and/or CPC and NCP States with jurisdiction over other incriminated entities**, together with such compiled information as has been received. Where the alleged IUU activities occurred in the waters of a coastal State CPC of IOTC, the CPC concerned may seek to include the **entity** on the draft IUU list (paragraph 6(c).iv). Where the alleged IUU activities occurred in areas beyond national jurisdiction within the IOTC Area any concerned CPC may seek to include the **entity** on the draft IUU list.

#### **Draft IOTC IUU Entity List**

- 8. On the basis of the information received pursuant to paragraphs 5, 6 and 7, the IOTC Executive Secretary shall draw up a **Draft IUU List** incorporating the information in the format set out in **Annex II**. The IOTC Executive Secretary shall then transmit the **Draft IUU List** together with the compiled information to each CPC and to the **State wielding jurisdiction over each entity** included on the **Draft IUU List** at least 55 days before the Annual Meeting of the Compliance Committee.

9. The flag State of a vessel included on the **Draft IUU List** shall be requested to:
  - a) notify the Owner, Operator and the Master of the vessel of the fact of its inclusion in the **Draft IUU List** and of the consequences that may result from its inclusion being confirmed in the IUU List adopted by the Commission, and
  - b) closely monitor the vessel(s) included in the **Draft IUU List** in order to determine their activities and possible changes of use, name, flag and/or registered Owner.
  
- B. The State of jurisdiction of a company or a person included on the Draft IUU List shall be requested to:**
  - a) **notify the company or the person of the fact of its inclusion in the Draft IUU List and of the consequences that may result from its inclusion being confirmed in the IUU List adopted by the Commission, and**
  - b) **closely monitor the entity(-ies) included in the Draft IUU List in order to determine their activities and possible changes of company names, registered owners, etc. – as applicable.**
  
10. The flag State of a vessel included on the **Draft IUU List** may transmit to the IOTC Executive Secretary at least 15 days before the Annual Meeting of the Compliance Committee, any comments and information about listed vessels and their activities, including information pursuant to Paragraph 9.a) and 9.b) and information showing that the listed vessels either have or have not:
  - a) conducted fishing activities in a manner consistent with IOTC Conservation and Management Measures in force; or
  - b) conducted fishing activities in a manner consistent with the laws and regulations of a coastal State when fishing in the waters under the jurisdiction of that State, and with the law and regulations of the flag State and the Authorisation to Fish; or
  - c) conducted fishing activities exclusively for species that are not covered by the IOTC Agreement or IOTC Conservation and Management Measures.

**The same right to transmit comments and information invalidating the alleged offences accrues to States with jurisdiction over companies and persons included in the Draft IUU List, following the same procedure and time limits.**
  
11. The IOTC Executive Secretary shall compile any new information received from CPCs and States **with jurisdiction** regarding **entities** on the **Draft IUU List** and, pursuant to paragraphs 22 and 23, those on the **IUU List**, and circulate that information to all CPCs and to the **States with jurisdiction over entities** on the lists at least 10 days prior to the annual session of the Compliance Committee together with the completed checklist, **Annex III** and where applicable, **Annex IV**.

12. A CPC may at any time submit to the IOTC Executive Secretary any additional information regarding **entities** on the Draft IUU list, which might be relevant to the establishment of the **IUU List**. If the IOTC Secretariat receives this information after the **Draft IUU List** has been circulated to CPCs, it will circulate the information to all CPCs and to the **States with jurisdiction over** listed **entities** as soon as practicable.

#### **Provisional IOTC IUU Entity List**

13. The IOTC Compliance Committee shall each year at its Annual Meeting examine the **Draft IUU List**, as well as the information submitted, any comments received from **the State of jurisdiction of an entity** included on the **Draft IUU List** together with any additional information submitted by any CPC. If the IOTC Compliance Committee is satisfied that the documented information establishes that the **entity** carried out IUU fishing activities, it shall include the **entity(ies)** concerned in the **Provisional IUU List**.
14. The Compliance Committee shall not include **an entity** in the **Provisional IUU List** if:
- a) the nominating CPC did not follow the provisions of paragraphs 5 and 6; or
  - b) on the basis of the information available, the Compliance Committee is not satisfied that the presumption of IUU fishing activities referred to in paragraph 4 has been established; or
  - c) the **State of jurisdiction of an entity** included in the Draft IUU List provides information that demonstrates that the **entity** has at all relevant times complied with the rules of **that** State and with its authorisation to fish **or engage in fishing related activities**, and:
    - i. that the **entity** has conducted fishing activities in a manner consistent with the IOTC Agreement and Conservation and Management Measures; or
    - ii. that the **entity** has conducted fishing activities within the waters under the jurisdiction of a coastal State in a manner consistent with the laws and regulations of that coastal State; or
    - iii. that the **entity** has fished exclusively for species that are not covered by the IOTC Agreement or IOTC Conservation and Management Measures; or
  - d) The **State of jurisdiction of an entity** included in the **Draft IUU List** provides information that demonstrates that effective action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements. Every CPC shall report any actions and measures that it has taken in accordance with Resolution 07/01, in order to promote compliance with IOTC Conservation and Management Measures **by entities operating in Indian Ocean tuna fisheries**.
15. In cases where a **State of jurisdiction of an incriminated entity** has not

demonstrated the matters referred to in Paragraphs 14.c) or 14.d) or where a flag State has not provided any information under paragraph 10 or during the Compliance Committee meeting, the IOTC Compliance Committee shall include the **entity** on the Provisional IUU List and recommend to the Commission that the **entity** be included on the **IUU List**.

16. Following the examination referred to in paragraph 13 at each IOTC Annual meeting, the IOTC Compliance Committee shall submit the **Provisional IUU List** to the Commission for its consideration. If the Compliance Committee cannot agree as to whether a certain **entity** shall be included in the Provisional IUU List, the List shall include **that same entity** and the Commission shall decide whether it shall be included in the **IUU List**.

#### **IOTC IUU Entity List**

17. The IOTC Compliance Committee shall each year examine the **IUU List** and the information circulated under paragraph 11 and shall recommend to the Commission which, if any, **entities** should be added to or removed from the **IUU List**.
18. The Commission shall each year at its Annual Meeting review the **IUU List** as well as the **Provisional IUU List**, and the recommendations adopted by the IOTC Compliance Committee to amend the **IUU List**, together with the documented information provided under paragraphs 6, 10, 12, and 30. Based on its review, the Commission may decide to amend the **IUU List** by:
  - a) adding or removing **entities**; and/or
  - b) rectifying any incorrect details, or inserting new details, about an **entity** already included on the **IUU List** in accordance with paragraph 30.a).
19. The Commission, acting in accordance with paragraph 18, may amend the **IUU List** by consensus. In the absence of consensus, the Commission shall decide upon any proposed amendment by a vote. Voting may be conducted by a secret ballot if a member requests it and this request is seconded. If two thirds or more of the Contracting Parties present and voting support the proposed amendment it shall be considered approved and brought into effect. The outcome of any decision made by the Commission pursuant to this paragraph shall not affect any domestic prosecution or settlement of any sanctions by the nominating **State** or **State of jurisdiction of incriminated entities** pursuant to paragraphs 4 and 14.d).

#### **Action against IUU Entities**

20. Following the adoption of the **IUU List**, the IOTC Executive Secretary shall request the **State of jurisdiction of every incriminated entity** included in the list:
  - a) to notify the Owner and Operator **of a listed vessel, and/or persons and companies**, of **their** inclusion on the list and the consequences which may result from **their** inclusion in the list;
  - b) to take all the necessary measures to prevent the **listed vessel, the owner, the operator and/or the company** from undertaking IUU fishing activities, including withdrawing **the** fishing licence, or the de-registering

of the vessel, **or the de-registering of the company, or the revoking of business licenses, or the revoking of certificates of competence, etc.** - and to inform the Commission of the measures taken in this respect.

21. A CPC shall take all necessary measures, in accordance with its legislation:
- a) to ensure that no vessel flying its flag, including any fishing vessel, support vessel, refuelling (supply) vessel, mother-ship or cargo vessel, provides assistance to a vessel included in the IUU Vessel List **or operated by companies, owners, or masters on the same list**, in any way, or engages in fishing processing operations with such a vessel or participates in transshipment or joint fishing operations with such a vessel, except for the purpose of rendering assistance where such a vessel, or any person on that vessel, is in danger or distress;
  - b) to refuse entry into its ports by any vessel included on the IUU Vessel List, **or operated by companies, owners, or masters on the IUU list**, except in case of *force majeure* or where the vessel, or any person on that vessel, is in danger or distress, unless vessels are allowed entry into port for the exclusive purpose of inspection and effective enforcement action;
  - c) to consider giving priority to the inspection of **entities** on the IUU Vessel List, if such **vessels and/or persons** are otherwise found in their ports;
  - d) to prohibit the chartering of a vessel included on the IUU Vessel List;
  - e) to refuse to grant their flag to vessels included in the IUU Vessel List, except if the vessel has changed Owner and the new Owner has provided sufficient information 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 and documented all relevant facts, the flag State determines that granting the vessel its flag will not result in IUU fishing;
  - f) to prohibit the import, landing or transshipment, of tuna and tuna-like species from vessels included in the **IUU List, or operated by companies, owners, or masters on the same list**;
  - g) to **prohibit** importers, transporters and other sectors concerned, to **knowingly engage** in transactions, including transshipments, relating to tuna and tuna-like species caught by vessels included in the IUU List **or operated by companies, owners, or masters on the IUU list**;
  - h) to collect and exchange with other **CPCs** any appropriate information with the aim of detecting, controlling and preventing false import/export certificates for tunas and tuna-like species from **entities** included in the **IUU List**.

### **Entity Delisting Procedures**

22. The **State of jurisdiction of an entity** included in the **IUU List** may request the removal of the **entity** from the list at any time, including during the inter-sessional

period, by providing information to the IOTC Executive Secretary to demonstrate that:

- a)
    - i) it has adopted measures such that the vessel Owner and all other nationals employed on that vessel that engage in fishing and fishing related activities within the IOTC Area for species covered by the IOTC Agreement comply with all IOTC Conservation and Management Measures; and
    - ii) it is effectively assuming and will continue to effectively assume its flag State responsibilities with regard to the monitoring and control of the fishing activities of this vessel; and
    - iii) it has taken effective action against the Owner, Operator and Master (where appropriate) in response to the IUU fishing activities that resulted in the **entity's** inclusion in the IUU List, including prosecution and imposition of sanctions of adequate severity; or
  - b) The vessel has changed ownership and that the new Owner can establish that the previous Owner no longer has any operational, legal, financial or real interests whether direct or indirect in the vessel or exercises control over it and that the new Owner has not participated in any IUU fishing activities in the preceding 5 years; or
  - c) The vessel has been sunk or scrapped; or
  - d) Any prosecution and/or sanctions regarding the **entity** that conducted IUU fishing activities has been concluded by both the nominating CPC and the **State of jurisdiction of the entity**.
23. If a request for the removal of a **entity** from the **IUU List** is received within 55 to 15 days before the annual Compliance Committee meeting, the request shall be considered at that meeting. The Compliance Committee shall examine the request along with any information provided under paragraph 22 and shall recommend to the Commission whether or not the **entity** should be removed from the **IUU List**.
24. If a request is received more than 55 days before the annual Compliance Committee meeting, the request will be considered in accordance with the intersessional procedure outlined in paragraphs 25-28.
25. On the basis of the information received in accordance with paragraph 22, the IOTC Executive Secretary shall transmit the request for removal together with all the supporting information submitted and the checklist in **Annex IV** to all CPCs within 15 days following receipt of the request.
26. The Contracting Parties shall examine the request to remove the **entity** and shall notify the IOTC Secretariat of their conclusion to either remove the **entity** from, or keep the **entity** on, the **IUU List**, within 30 days following the notification by the IOTC Executive Secretary.
27. At the end of the 30 day period, the IOTC Executive Secretary shall ascertain the outcome of the CPCs' decision on the proposal in accordance with the following:
- a) **An Entity** Delisting Procedure shall be deemed valid only if at least



50% of the Contracting Parties with voting rights respond to the proposal;

- b) A proposal shall be considered to have been approved if two thirds or more of the Contracting Parties with voting rights that respond indicate that they support the delisting of the **entity** concerned from the **IUU List**, and it shall be delisted;
  - c) If fewer than two-thirds of the Contracting Parties with voting rights that respond are in favour of delisting the **entity** from the **IUU List** it shall not be delisted and the request for delisting shall be considered by the next annual meeting of the Compliance Committee in accordance with the procedure outlined in paragraph 23.
28. The IOTC Executive Secretary shall communicate the result of every decision, along with a copy of the amended **IUU List**, to all CPCs, the **State of jurisdiction of the entity** (if not a CPC), and any Non-Contracting Party that may have an interest. The amended **IUU List** will have effect immediately after the result of the decision has been communicated.

#### **Publication of the IUU Entity List**

29. The IOTC Executive Secretary will take any necessary measures to ensure publicity of the **IUU Entity List** adopted by IOTC pursuant to paragraph 18, or as amended pursuant to paragraphs 22 to 27, 30, 34, 35 or 36 ~~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 shall transmit the IOTC **IUU Entity List** as soon as possible to the FAO and to the organisations as set out in Paragraph 31 for the purposes of enhanced co-operation between IOTC and these organisations in order to prevent, deter and eliminate IUU fishing.

#### **Change of details of entities included on the IUU Entity List**

30. A CPC with new or changed information for **entities** on the IUU Vessel List in relation to the details in paragraphs 1 to 8 of Annex II shall, as soon as practicable, transmit such information to the IOTC Executive Secretary. The IOTC Executive Secretary shall communicate such information to all CPCs and:
- a) where the information indicates incorrect details were included at the time the **entity** was added to the **IUU List**, refer the matter to the Commission for consideration pursuant to paragraph 18.b);
  - b) where the information indicates a change in details since the **entity** was added to the **IUU List**, seek to verify the information by reference to other information and, after verification, update the relevant details in the **IUU List** and re-publicise it in accordance with paragraph 29. If the Secretariat, after reasonable efforts, is unable to verify the information submitted by the CPC, the **IUU List shall** not be updated.

#### **Cross-Listing of vessels included on other IUU Vessel Lists**

31. The IOTC Executive Secretary shall maintain appropriate contacts, *inter alia*, with the Secretariats of the following organisations in order to obtain their latest IUU vessel lists and any other relevant information regarding the list in a timely manner

upon adoption or amendment: the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the South East Atlantic Fisheries Organisation (SEAFO), the Southern Indian Ocean Fisheries Agreement (SIOFA), the South Pacific Regional Fisheries Management Organisation (SPRFMO) and the Western and Central Pacific Fisheries Commission (WCPFC).

32. Notwithstanding paragraph 2, IUU vessels – as well as companies and/or persons, if listed – listed by the organisations set out in paragraph 31 may be added to or deleted from the IOTC **IUU List**, provided that the procedures specified in paragraphs 33 to 38 are followed.
- ~~33. In addition to the organisations set out in paragraph 31, the Executive Secretary shall transmit the IOTC IUU Vessel List to a relevant organisation that has expressed an interest to receive such List,~~
34. Upon receipt of the information outlined in paragraphs 31, the IOTC Executive Secretary shall promptly circulate it to all CPCs for the purpose of amending the IOTC **IUU List**.
35. Vessels – as well as companies and/or persons – that have been included in the IUU vessel lists of the organisations set out in paragraph 31 shall be included in the IOTC **IUU List**, unless any CPC objects to the inclusion in writing within 30 days of the date of transmittal by the Executive Secretary. The objecting CPC shall explain the reason for the objection.
36. In the event of an objection to the inclusion pursuant to paragraph 35, the case shall be brought to the following session of the Compliance Committee for its examination. The Compliance Committee shall provide a recommendation to the Commission on the inclusion of the relevant vessel/s in the **IUU List**.
37. Vessels – or companies and/or persons – that have been listed under the procedures specified in paragraphs 34 and 35 and that have been removed from the IUU vessel lists of the relevant organisations set out in paragraph 31 shall be removed from the IOTC **IUU List**.
38. Upon the change of the IOTC **IUU List** pursuant to paragraphs 34 or 36, the IOTC Executive Secretary shall circulate the amended IOTC **IUU List** to all CPCs.

### **General Provisions**

39. Without prejudice to the rights of flag States and coastal States to take action consistent with international law, CPCs shall not take any unilateral trade measures or other sanctions against vessels, **companies or persons** included in the Draft and/or Provisional **IUU Lists**, pursuant to paragraphs 8 and 16 on the grounds that such **entities** are involved in IUU fishing activities, or against those **entities** removed from the IUU vessels list by the Commission.
40. A summary of the timeframe for actions to be taken in respect of this Resolution is provided in **Annex V**
41. Resolution 17/03 *On Establishing A List Of Vessels Presumed To Have Carried*

*Out Illegal, Unreported And Unregulated Fishing In The IOTC Area* is superseded by this Resolution.

<b>Conservation and Management Measures linked to Resolution 18/03 <a href="#">or return to the Table of Contents</a></b>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 07/01</a>	<a href="#">Resolution 14/01</a>	<a href="#">Resolution 18/10</a>	
<a href="#">Resolution 15/04</a>			

**ANNEX I**  
**IOTC REPORTING FORM FOR ILLEGAL ACTIVITY**

Recalling IOTC Resolution 18/03 On establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC Area, attached are details of illegal activity recorded by [name of CPC, third party] in [area in which the activity took place]

.....

**A. Details of Entity**

(Please detail the incidents(s) in the format below)

<b>Item</b>	<b>Definition</b>	<b>Indicate</b>
a	Current Name of Vessel (Previous name/s, if any)	
b	Current Flag (previous flag/s, if any)	
c	Date first included on IOTC IUU Vessel List (if applicable)	
d	Lloyds IMO Number, if available	
e	Photo	
f	Call Sign (previous call sign, if any)	
g	Owner (previous Owner/s, if any)	
h	Operator (previous Operator/s, if any)	
<b>x</b>	<b>Company/Legal entity (previous Company, if any)</b>	
<b>y</b>	<b>Master/Fishing Master</b>	
i	Date of alleged IUU fishing activities <b>or fishing-related IUU activities</b>	
j	Position of alleged IUU fishing activities	
k	Summary of alleged IUU activities (see section B for more detail)	
l	Summary of any actions known to have been taken in respect of the alleged IUU fishing activities	
m	Outcome of actions taken	

## B. Details of IOTC Resolution Elements Contravened

*(Indicate with a “X” the individual elements of IOTC Resolution 18/03 contravened, and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)*

That a vessel has, within the IOTC Area and in relation to species covered by the IOTC Agreement or by IOTC Conservation and Management Measures:

Item	Definition	Indicate
a.	engaged in fishing or fishing related activities <b>using a vessel that is not</b> registered on the IOTC Record of Authorised Vessels in accordance with Resolution 15/04	
b.	engaged in fishing or fishing related activities when its flag State is without quota, catch limit, or effort allocation under IOTC Conservation and Management Measures where applicable	
c.	failed to record or report its catches in accordance with IOTC Conservation and Management Measures or has made false reports; or	
d.	taken or landed undersized fish in contravention of IOTC Conservation and Management Measures; or	
e.	engaged in fishing or fishing related activities during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures; or	
f.	used prohibited fishing gear in contravention of IOTC Conservation and Management Measures; or	
g.	transhipped fish to, or otherwise participated in joint operations with, support or re-supply vessels that are not included on the IOTC Record of Authorised Vessels or not on the Record of Vessels Authorised to receive transshipments at-sea in the IOTC Area or	
h.	engaged in fishing or fishing related activities in waters that are under the national jurisdiction of a coastal State without the permission or authorisation of that State or in contravention of the laws and regulations of that State (without prejudice to the sovereign rights of the State concerned to undertake enforcement measures against such a vessel); or	
i.	engaged in fishing or fishing related activities whilst <b>whilst the vessel is</b> without nationality; or	
j.	engaged in fishing or fishing related activities having intentionally falsified or concealed <b>vessel</b> markings, identity or registration; or	
k.	engaged in fishing or fishing related activities in contravention of any other binding IOTC Conservation and Management Measures;	
<b>l.</b>	<b>engaged in managing or financing fishing or fishing related activities by hiring, contracting or otherwise knowingly transacting with entities listed on the IOTC IUU Entity List.</b>	

### C. Associated Documents

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

### D. Recommended Actions

Recommended Actions		Indicate
a	Notification to IOTC Secretariat only. No further action is recommended.	
b	Notification of illegal activity to IOTC Secretariat. Recommend notification of activity to <b>State of jurisdiction.</b>	
c	Recommended for inclusion on IOTC IUU list	

**ANNEX II**  
**INFORMATION TO BE INCLUDED IN ALL IOTC IUU ENTITY LISTS**

The Draft IUU Vessel List, Provisional IUU Vessel List and the IUU Vessel List shall contain the following details:

1. Name of the vessel and previous name/s, if any;
2. Flag of the vessel and previous flag/s, if any;
- 3. Name, address and national identity reference of the vessel owner, if any;**
  - a. Name, address and identity details of previous owner, if any;**
  - b. Name, address and national identity reference of vessel operator, if any;**
  - c. Name, address and national identity reference of previous vessel operator, if any;**
4. For legal entity, the country of registration, registration number **and address**;
  - d. For legal entity, the name, registration number and address of previous entity, if any;**
  - e. For legal entity, the name, address and national identity reference of beneficial owner(s), if any;**
5. Callsign of the vessel and previous callsign, if any;
6. IMO number, if any, or unique vessel identifier (UVI), or if not applicable, any other vessel identifier;
7. Recent photographs of the vessel, where available;
8. Vessel length overall;
9. Date the vessel was first included on the IOTC IUU Vessel List, if applicable;
  - a. Date the
10. Summary of the alleged IUU fishing activities which justify inclusion of the vessel on the List, together with references to all relevant supporting documents information;
11. Summary of any actions known to have been taken in respect of the alleged IUU fishing activities and their outcomes,
12. Name of the organization, if the vessel has been listed or is proposed to be listed based on the information from another organization.

**ANNEX III**

**CHECKLIST TO BE COMPLETED BY THE SECRETARIAT FOR ENTITY TO BE INCLUDED ON THE DRAFT AND PROVISIONAL IUU LISTS**

**Vessel Name:** \_\_\_\_\_

<b>Action</b>	<b>Responsibility</b>	<b>Paragraph</b>	<b>Provided on time (Y/N)</b>	<b>Aide Memoire</b>	<b>Mark which applies</b>	<b>Comments</b>
<b>For the Draft IUU Vessel List</b>						
IOTC Reporting form (Annex I) submitted at least 70 days before the Compliance Committee meeting with documented information	Nominating CPC	5,6,7,8		If No, do not include on the Provisional IUU list (Para 17)		
At least 15 days before the Compliance Committee Meeting, <b>State of jurisdiction</b> has provided information that it has notified the Owners and Masters of a vessel of its inclusion on the Draft <b>IUU List</b> and the consequences thereof	<b>State of jurisdiction</b>	9, <b>B</b> , 10				
At least 15 days before the Compliance Committee Meeting, <b>State of jurisdiction</b> has provided information consistent with Paragraph 10	<b>State of jurisdiction</b>	10				
Additional information has been submitted, relevant to IUU listing	Nominating CPC or <b>State of jurisdiction</b>	12				



**For Inclusion on the Provisional IUU Vessel List** (note that Secretariat will indicate if information has been provided, but will make no judgement as to its adequacy, which will be the responsibility of the Compliance Committee)

Has the <b>State of jurisdiction of an entity</b> included in the <b>Draft IUU List</b> provided information that demonstrates that the <b>entity</b> has at all relevant times complied with the rules of the <b>State of jurisdiction</b> and with its authorisation to fish and:	<b>State of jurisdiction</b>	14c		<p><b>Aide Memoire to CoC:</b> Only where para14c or 14 d are satisfied, do not include on Provisional IUU list.</p>		
(a) that the <b>entity</b> has conducted fishing activities in a manner consistent with the IOTC Agreement and Conservation and Management Measures	<b>State of jurisdiction</b>	14c				
(b) that the <b>entity</b> has conducted fishing activities within the waters under the jurisdiction of a coastal State in a manner consistent with the laws and regulations of that coastal State; or	<b>State of jurisdiction</b>	14c				
(c) that the <b>entity</b> has fished exclusively for species that are not covered by the IOTC Agreement or IOTC Conservation and Management Measures	<b>State of jurisdiction</b>	14c				
Has the <b>State of jurisdiction</b> provided information that demonstrates that effective action has been taken in response to IUU fishing activities (the CoC will decide if they are of adequate severity)	<b>State of jurisdiction</b>	14d				
Has the <b>State of jurisdiction</b> provided information to show that it has taken any actions in accordance with <b>Resolution 07/01</b>	<b>State of jurisdiction</b>	14d				

**ANNEX IV**

**CHECKLIST TO BE COMPLETED BY THE SECRETARIAT FOR POTENTIAL REMOVAL OF VESSELS FROM THE IOTC IUU VESSEL LIST**

(Aide Memoire for the Commission for delisting a vessel: note that the Secretariat will indicate if information has been provided, but will make no judgement as to its adequacy, which will be the responsibility of the Compliance Committee / Commission, Paragraphs 17 and 27)

**Vessel Name:** \_\_\_\_\_

<b>Para 22, sub para</b>	<b>Action</b>	<b>Responsibility</b>	<b>Information Provided (Y/N)</b>	<b>Comments</b>	<b>Aide Memoire</b>
a)	i) It has adopted measures such that the vessel, Owner and all other nationals comply with all IOTC Conservation and Management Measures; and	<b>State of jurisdiction</b>			If paragraph a) or b) or c) is satisfied, the vessel may be removed from the IUU Vessels List pursuant to paragraph 27, else the vessel will remain on the list for re-examination by the Compliance Committee and Commission at its next Annual Session..
	ii) it is effectively assuming and will continue to effectively assume its flag State responsibilities with regard to the monitoring and control of the fishing activities of this vessel; and	<b>State of jurisdiction</b>			
	iii) it has taken effective action against the Owner and crew in response to the IUU fishing activities that resulted in the vessel's inclusion in the IUU Vessel List including prosecution and imposition of sanctions of adequate severity; or	<b>State of jurisdiction</b>			
b)	The vessel has changed ownership and that the new Owner can establish the previous Owner no longer has any operational, legal, financial or real interests whether direct or indirect in the vessel or exercises control over it and that the new Owner has not participated in any IUU fishing activities in the preceding 5 years; or	<b>State of jurisdiction</b>			
c)	The vessel has been sunk or scrapped.	<b>State of jurisdiction</b>			
d)	Any prosecution and sanctions regarding the <b>entity</b> that conducted IUU fishing activities has been concluded by both the nominating CPC and the <b>State of jurisdiction of the entity</b> .	<b>State of jurisdiction</b>			

ANNEX V

A SUMMARY OF THE TIMEFRAME FOR ACTIONS TO BE TAKEN IN RESPECT OF THIS RESOLUTION

Step	Timeframe	Actions to be taken	Responsibility	Paragraph
1	70 days before CoC meeting (minimum)	Information transmitted to the IOTC Executive Secretary	CPCs	5,6
2	55 days before CoC Meeting	Compilation of all information received on the alleged IUU fishing activities into the <b>Draft IUU List</b> together with the IUU Vessel List.  Transmit the <b>Draft IUU List</b> to all CPCs and to <b>States with jurisdiction over entities</b> on the list (if not CPCs).	IOTC Executive Secretary	8
3	15 days before CoC meeting	Provide any information to the IOTC Executive Secretary regarding the alleged IUU fishing activities.	Flag States	10
4	10 days before CoC meeting	Transmit the <b>Draft IUU List</b> , and any additional information on <b>entities</b> on the <b>IUU List</b> pursuant to paragraph 22 to all CPCs and to flag States with <b>entities</b> on the list (if not CPCs).	IOTC Executive Secretary	11
5	Any time	Submit to the IOTC Executive Secretary any additional information relevant to the establishment of the <b>IUU List</b>	CPCs and <b>State of jurisdiction</b>	12
6	As soon as practicable prior to CoC	Circulate additional information pursuant to paragraph 12.	IOTC Executive Secretary	12
7	CoC Meeting	Review the <b>Draft IUU List</b> including the information provided by the nominating CPC and the <b>State of jurisdiction</b> , including information/clarification provided by either party during the meeting.  Submit a Provisional <b>IUU List</b> and provide recommendations to the Commission.	All CPCs, except the <b>State of jurisdiction</b> and nominating CPC	13-15
8	CoC Meeting	Examine the <b>IUU List</b> and provide recommendations to the Commission regarding the removal of any <b>entities</b> .	All CPCs, except the <b>State of jurisdiction</b> and nominating CPC	17

Step	Timeframe	Actions to be taken	Responsibility	Paragraph
9	Commission meeting	Review the Provisional <b>IUU List</b> , including any new information/clarification provided by the nominating CPC and <b>State of jurisdiction</b> during the session; Review the <b>IUU List</b> . Adopt the Final <b>IUU List</b> .	All CPCs, except the <b>State of jurisdiction</b> and nominating CPC	17,19
10	Immediately following the annual session	Publish the <b>IUU Entity List</b> on the IOTC website and transmit the <b>IUU Entity List</b> to the FAO, the organisations set out in paragraph 31 and 32, CPCs and the <b>State of jurisdiction</b> (if not a CPC).	IOTC Executive Secretary	29

## **Annex V – Resolution 16/11 Port state measures to combat IUU fishing (revised)**

### **RESOLUTION 16/11 ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING**

**Keywords:** Port State Measures; IUU; Ports; Inspections; Port State; Flag State; Port Inspection Reports; landing.

#### **The Indian Ocean Tuna Commission (IOTC),**

DEEPLY CONCERNED about the continuation of illegal, unreported and unregulated fishing in the IOTC Area and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers in particular in Small Island Developing States, and the increasing need for food security in the region;

CONSCIOUS of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources;

RECOGNISING that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing;

RECOGNISING that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing;

AWARE of the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures;

RECOGNISING the need for assistance to developing countries, in particular Small Island Developing States to adopt and implement port State measures;

TAKING NOTE OF the binding Agreement on port State measures to combat IUU fishing which was adopted and opened for signature within the framework of FAO in November 2009, and desiring to implement this Agreement in an efficient manner in the IOTC Area;

BEARING IN MIND that, in the exercise of their sovereignty over ports located in their territory, IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs) may adopt more stringent measures, in accordance with international law;

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the Convention;

RECALLING the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Resolutions by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries;

RECOGNISING recent achievements in developing a computerised communication system as provided for in Annex IV of Resolution 10/11 **[superseded by Resolution 16/11]** *On port State measures to prevent, deter and eliminate illegal, unreported and unregulated fishing* referred to as the e-PSM (electronic port State measures) application and the delivery of national training programme on the usage of this application;

ENSURING the uptake and gradual transition to full utilisation of the e-PSM application designed to facilitate compliance with this resolution;

ADOPTS, in accordance with the provisions of Article IX, paragraph 1 of the IOTC Agreement, the following:

## PART 1 GENERAL PROVISIONS

### 1. *Use of terms*

For the purposes of this Resolution:

- a) “fish” means all species of highly migratory fish stocks covered by the IOTC Agreement;
- b) “fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;
- c) “fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
- d) “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 1 of the Resolution 09/03 [superseded by Resolution 11/03, [17/03](#) then [18/03](#)];
- e) “port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying; and
- f) “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.
- g) “e-PSM” means the electronic Port State Measures platform developed by the IOTC Secretariat, and which caters for recording and reporting of information between relevant parties, including vessels and their operators, CPC authorities, the IOTC Secretariat and the various IOTC bodies.

### 2. *Objective*

The objective of this Resolution is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures to control the harvest of fish caught in the IOTC Area, and thereby to ensure the long-term conservation and sustainable use of these resources and marine ecosystems.

### 3. *Application*

- 3.1. Each CPC shall, in its capacity as a port State, apply this Resolution in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports, except for:
  - a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing; and
  - b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.
- 3.2. This Resolution shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.

3.3. Each CPC shall utilise the e-PSM system, available via the IOTC website, to implement this Resolution. ~~A trial period of three years from 2016 will be provided to allow for the delivery of a complete training programme and further improvement and development. CPCs shall encourage all stakeholders (vessel representatives, port States and flag States) to utilise, to the greatest extent possible, the e-PSM application to comply with this Resolution and provide feedback and inputs contributing to its development until 1<sup>st</sup> January 2020.~~ At the sixteenth session of the Compliance Committee the success of this application shall be evaluated and consideration shall be given to making the use of this application mandatory and defining a period for implementation. After this date the possibility to submit an advance request for port entry manually in accordance with Article 6 will remain, ~~should access to the Internet not be possible for any reason.~~

4. *Integration and coordination at the national level*

Each CPC shall, to the greatest extent possible:

- a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
- b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and
- c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Conservation and Management Resolution.

## PART 2 ENTRY INTO PORT

5. *Designation of ports*

- 5.1. Each CPC shall designate and publicise the ports to which vessels may request entry pursuant to this Resolution. Each CPC shall provide a list of its designated ports to IOTC Secretariat before 31 December 2010, which shall give it due publicity on the IOTC website.
- 5.2. Each CPC shall, to the greatest extent possible, ensure that every port designated and publicised in accordance with **paragraph 5.1** has sufficient capacity to conduct inspections pursuant to this Resolution.

6. *Advance request for port entry (AREPs)*

- 6.1. Each CPC shall require the information requested in **Annex I** to be provided before granting entry to a vessel to its port.
- 6.2. Each **port State** CPC shall require the information referred to in **paragraph 6.1** to be provided at least 24 hours before entering into port or immediately after the end of the fishing operations, if the time distance to the port is less than 24 hours. For the latter, the port State must have enough time to examine the above mentioned information.
- 6.3. **With regards to vessels flying the flag of a CPC, each CPC shall require the information referred to in point 6.1 to be submitted electronically by the vessel or its agent, making use of the e-PSM platform, and the relevant AREP routine. In exceptional cases, where the port State CPC accepts the submission of a non-**

**electronic AREP, it shall be responsible for inputting such request on behalf of the vessel and its agent. In the latter case, a vessel shall not be granted port access before the AREP is complete on the e-PSM platform; including the electronic approval for vessel entry into port.**

**6.4. The port State authority inputting AREP information on behalf of an inbound vessel under paragraph 6.3 shall be entitled to leverage an appropriate fee for services rendered.**

7. *Port entry, authorisation or denial*

7.1. After receiving the relevant information required pursuant to section 6, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each CPC shall decide whether to authorise or deny the entry of the vessel into its port and shall communicate this decision **electronically** to the vessel or to its representative, **using the e-PSM platform**.

7.2. In the case of **a non-electronic** authorisation of entry, the master of the vessel or the vessel's representative shall be required to present the authorisation for entry to the competent authorities of the CPC upon the vessel's arrival at port.

7.3. In the case of denial of entry, each CPC shall communicate its decision taken pursuant to point 7.1, to the flag State of the vessel, **the IOTC Secretariat and, as appropriate, the relevant coastal State(s)**. The IOTC Secretariat may, if deemed appropriate to combat IUU fishing at global level, communicate this decision to secretariats of other RFMO's.

7.4. Without prejudice to point 7.1, when a CPC has sufficient proof that a vessel **or any of the legal or physical persons related to its operation**, seeking entry into its port **have** engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a regional fisheries management organisation in accordance with the rules and procedures of such organisation and in conformity with international law, the CPC shall deny that vessel entry into its ports.

7.5. Notwithstanding points 7.3 and 7.4, a CPC may allow entry into its ports of a vessel referred to in those points exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

7.6. Where a vessel referred to in points 7.4 or 7.5 is in port for any reason, a CPC shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking. Points 9.2 and 9.3 of section 9 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

8. *Force majeure or distress*

Nothing in this Resolution affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

**PART 3**



## USE OF PORTS

### 9. *Use of ports*

9.1. Where a vessel has entered one of its ports, a CPC shall deny, pursuant to its laws and regulations and consistent with international law, including this Conservation and Management Resolution, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if:

- a) the CPC finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by its flag State;
- b) the CPC finds that the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that State;
- c) the CPC receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;
- d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organisation; or
- e) the CPC has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in point 7.4, unless the vessel can establish:
  - i. that it was acting in a manner consistent with relevant IOTC Resolutions; or
  - ii. in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in point 4 of paragraph 7.
- f) the CPC has reasonable grounds to believe that the vessel is operated by a company or a person (including owner, operator and/or master) listed on IOTC's IUU Entity list, or a list of equivalent scope of any other regional fisheries management organisation;**

9.2. Notwithstanding point 9.1, a CPC shall not deny a vessel referred to in that point the use of port services:

- a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven; or
- b) where appropriate, for the scrapping of the vessel.

9.3. Where a CPC has denied the use of its port in accordance with this paragraph, it shall promptly notify the flag State and, as appropriate, relevant coastal States, IOTC or other regional fisheries management organisations and other relevant international organisations of its decision.

- 9.4. A CPC shall withdraw its denial of the use of its port pursuant to point 9.1 in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.
- 9.5. Where a CPC has withdrawn its denial pursuant to point 9.4, it shall promptly notify those to whom a notification was issued pursuant to point 9.3.

**A. *Rules for transshipment in port***

**General**

- A.1. a) Transshipment operations in port may only be undertaken in accordance with the procedures detailed below. The submission and recording of all mandatory requests, authorisations and other information, pertaining to transshipments shall be made electronically, using the appropriate portions of the e-PSM platform.**
- b) Only vessels on the IOTC record of authorised vessels are authorised to tranship in port, as provided for in paragraph B. of resolution 15/04 (revised)**

**Flag State Authorization**

- A.2. LSTVs and carrier vessels are not authorised to tranship in port, unless they have obtained prior (event-based) authorisation from their respective flag States.**

**Notification obligations**

**A.3. Fishing vessel:**

- A.3.1. To receive the prior authorisation mentioned in paragraph A.2. above, the master and/or owner of the LSTV shall notify the following information to its flag State authorities at least 24 hours in advance of an intended transhipment;**

- a) the products and quantities intended for transhipment;**
- b) the date and port (name/State) of the transhipment;**
- c) the name and IOTC record number of the receiving carrier vessel;**
- d) the geographic location of the tuna and tuna-like species and sharks catches.**

**If transhipping to more than one carrier vessel, one authorisation per transhipment shall be requested to the flag State.**

- A.3.2. Prior to transhipping, the Master of the LSTV must notify the following information to the port State authorities, at least 48 hours in advance:**

- a) the name of the LSTV and its number on the IOTC record;**
- b) the name of the carrier vessel and its number on the IOTC record;**
- c) the product and tonnage to be transhipped;**
- d) the date of transhipment;**
- e) the major fishing grounds of the tuna and tuna-like species and sharks catches.**

- A.3.3. The captain of the LSTV concerned shall record and submit the IOTC transhipment declaration on the ePSM, in accordance with the format set out in Annex VI no later than 24 hours after the end of the transhipment.**

- A.3.4. The CPC flag and port States and the IOTC Secretariat shall be automatically informed of the transaction, and shall have access to all information.**

**A. 4. Receiving carrier vessel:**

**A.4.1. To receive the prior authorisation provided in paragraph A.2., the master and/or owner of the carrier vessel shall notify the following information to its flag State authorities at least 24 hours in advance of an intended transshipment;**

- a) the products and quantities intended for transshipment;**
- b) the date and port of the transshipment;**
- c) the name and IOTC record number of the fishing vessel from which catches are to be received;**

**A.4.2. Prior to transshipping, the Master of the carrier vessel must notify the following information to the port State authorities, at least 48 hours in advance:**

- a) the name of the carrier vessel and its number on the IOTC record;**
- b) the name of the donating fishing vessel and its number on the IOTC record;**
- c) the product and tonnage to be received;**
- d) the date of transshipment;**

**A.4.3 Not later than 24 hours following the end of the transshipment, shall the master of the receiving carrier vessel inform the port State authorities of the verified quantities of tuna and tuna-like species and sharks transhipped to his vessel, by completing and transmit the IOTC transshipment declaration, using the e-PSM platform.**

**Record keeping by vessel masters involved in transshipment**

**A.5 The masters of both LSTV and carrier vessel fill and sign two (2) originals of the in-port transshipment declaration (with the format set out in Annex VI) at the end of the transshipment. These originals shall remain onboard both vessels for the entire length of the trip, and must be presented to inspectors upon request – either during inspection at sea, or inspection following entry into the next port.**

**A.6 Vessel operators shall keep a record of all transshipment declaration originals on file for 3 years.**

**Port State of transshipment:**

**A.7. When deciding to authorize or to deny entry into port to vessels requesting port entry for transshipment under paragraph 7, the port State authority shall compare the notifications of donor and receiving vessels obtained under paragraphs A.3.2. and A.4.2., in order to establish their concurrence, or possible discrepancies. The outcome shall inform risk analysis.**

**A.8. In pursuance of the provisions of paragraph 9, the port State authority shall not authorize any transshipment to proceed unless the flag State authorizations under paragraph A.2. have been issued to both vessels, and are either recorded on the e-PSM, or may be produced as a physical document by both masters and/or their agent(s).**

**Port State of landing (by the carrier vessel):**

**A.9. The master of the carrier vessel shall, 48 hours prior to port entry, transmit references of all IOTC transshipment declarations from which catch is to be landed, to the competent authorities of the port State where the landing is to take**

place. Only in the event that transshipment declarations are not available on the e-PSM platform, may physical copies of the declarations be submitted.

- A.10. The port State of landing shall take the appropriate measures to verify the accuracy of the information received, and shall ensure that no more catch can be landed from any given donor vessel, than was originally received. ~~The port State shall cooperate, where indicated, with the flag CPC of the donor LSTV(s) to ensure that landings are consistent with the reported catches of each vessel.~~ Any verifications shall be carried out so that the vessel suffers minimum interference and inconvenience and that degradation of the fish is avoided.
- A.11. Flag state CPCs of LSTVs and carrier vessels shall include in their annual report to IOTC a detailed account of all transshipments by their donor and/or receiver vessels.

**PART 4**  
**INSPECTIONS AND FOLLOW-UP ACTIONS**

10. *Levels and priorities for inspection*

- 10.1. Each CPC shall carry out inspections of at least 5% of landings or transshipments in its ports during each reporting year **with regards to foreign vessels flying the flag of a CPC.**
- 10.x. Each CPC shall carry out inspections of 100% of NCP vessels voluntarily in its ports, regardless of their port activity, which are rigged to target tuna and tuna-like species that fall under the mandate of IOTC.**
- 10.2. Inspections shall involve the monitoring of the entire discharge or transshipment and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped. When the landing or transshipment is completed, the inspector shall verify and note the quantities by species of fish remaining on board.
- 10.3. National inspectors shall make all possible efforts to avoid unduly delaying a vessel and ensure that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.
- 10.4. The port CPC may invite inspectors of other CPC to accompany their own inspectors and observe the inspection of landings or transshipment operations of fishery resources caught by fishing vessels flying the flag of another CPC.

***B. Recurrent third-party vessel inspections***

- B.1. In order to ensure third-party verified vessel conformity with IOTC record entries, every fishing vessel on the IOTC record shall enter any designated non-flag State CPC port at least once in every two years. Such port entry may be voluntary, or shall be made in conjunction with regular port activities (landing, transshipping, refuelling, etc.).**
- B.2. Any fishing vessel that have not been subjected to a foreign port state inspection within a 24 month period, shall formally request to enter a foreign CPC port, and request the competent authority of the port State of its choosing to conduct a regular inspection as per the minimum standard laid out in Annex III. The results of such inspections shall be recorded on the e-PSM. Vessels entering foreign CPC ports regularly, and being subjected to official port inspections at least once every two years in the course of their normal business, are unaffected by this measure.**
- B.3. Fishing vessels added to the IOTC record for the first time shall visit a foreign CPC port for a third-party inspection within the first twelve months of their authorization.**

11. *Conduct of inspections*

- 11.1. Each CPC shall ensure that its inspectors carry out the functions set forth in **Annex II** as a minimum standard.
- 11.2. Each CPC shall, in carrying out inspections in its ports:
  - a) ensure that inspections are carried out by properly qualified inspectors authorised for that purpose, having regard in particular to section 14;

- b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
- c) ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant Conservation and Management Resolutions;
- d) require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;
- e) in case of appropriate arrangements with the flag State of the vessel, invite the flag State to participate in the inspection;
- f) make all possible efforts to avoid unduly delaying the vessel to minimise interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
- g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
- h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and
- i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

12. *Results of inspections*

Each CPC shall, as a minimum standard, include the information set out in **Annex III** in the written report of the results of each inspection. **Inspection results shall be recorded electronically in the form of a Port Inspection Report (PIR) on the e-PSM. The report shall be accessible in electronic format by the flag State CPC of the inspected vessel and the IOTC Secretariat.**

13. *Transmittal of inspection results*

13.1. The port State CPC shall, within three full working days of the completion of the inspection, transmit by electronic means a copy of the inspection report and, upon request, an original or a certified copy thereof, to the master of the inspected vessel, to the flag State, to the IOTC Secretariat and, as appropriate, to:

- a) the flag State of any vessel that transhipped catch to the inspected vessel;
- b) the relevant CPCs and States, including those States for which there is evidence through inspection that the vessel has engaged in IUU fishing, or fishing related activities in support of such fishing, within waters under their national jurisdiction; and
- c) the State of which the vessel's master is a national.

- 13.2. The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organisations, and post the inspection report on the IOTC website.
14. *Training of inspectors*
- Each CPC shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in **Annex V**. CPC shall seek to cooperate in this regard.
15. *Port State actions following inspection*
- 15.1. Where, following an inspection, there are clear grounds for believing that a vessel has engaged IUU fishing or fishing related activities in support of such fishing, the inspecting CPC shall:
- a) promptly notify the flag State, the IOTC Secretariat and, as appropriate, relevant coastal States, and other regional fisheries management organisations, and the State of which the vessel's master is a national of its findings; and
  - b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Conservation and Management Resolution.
- 15.2. Notwithstanding point 15.1, a CPC shall not deny a vessel referred to in that point the use of port services essential for the safety or health of the crew or the safety of the vessel.
- 15.3. Nothing in this Resolution prevents a CPC from taking measures that are in conformity with international law in addition to those specified in points 15.1 and 15.2, including such measures as the flag State of the vessel has expressly requested or to which it has consented.
16. *Information on recourse in the port State*
- 16.1. A CPC shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that CPC pursuant to sections 7, 9, 11 or 15, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the CPC.
- 16.2. The CPC shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organisations have been informed of the prior decision pursuant to sections 7, 9, 11 or 15, the CPC shall inform them of any change in its decision.

**PART X  
LANDINGS DATA**

**C. *Transmittal of landings data***

- C.1. CPC port State Parties shall provide the information provided in paragraph C.2. to the IOTC Secretariat no later than 1 July.**
- C.2. Landings data for the previous year shall be provided electronically for all landings of vessels flagged by a state other than the port state. Data shall comprise of the items listed in the reporting template posted on the IOTC website.**
- C.3. These data shall be used primarily for MCS purposes, in accordance with Resolution 12/02 Data confidentiality policy and procedures. Discrepancies arising between these data, and data derived from other MCS tools and data shall be forwarded by the Executive Secretary to the Compliance Committee, who shall assess whether an infraction to IOTC Conservation and Management Measures has occurred, what course of action should be followed, and which decisions ought to be taken by the Commission, notably under Resolutions 18/03 and 10/10.**
- C.4. This measure shall be repealed upon the effective implementation of electronic landing declarations.**

**PART 5  
ROLE OF FLAG STATES**

**17. *Role of CPCs flag States***

- 17.1. Each CPCs shall require the vessels entitled to fly its flag to cooperate with the port State **CPC** in inspections carried out pursuant to this Resolution.**
- 17.2. When a CPC has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another **CPC**, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Resolution.**
- 17.3. Each CPC shall **limit active** vessels entitled to fly its flag to land, tranship, package and process fish, and use other port services, **exclusively** in ports of **CPCs** that are acting in accordance with, or in a manner consistent with this Resolution. CPCs are encouraged to develop fair, transparent and non-discriminatory procedures for identifying any **CPC** that may not be acting in accordance with, or in a manner consistent with, this Resolution. **The use of non-CPC ports by active fishing vessels shall be prohibited.****
- 17.4. Where, following port State inspection, a flag State CPC receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.**
- 17.5. Each CPC shall, in its capacity as a flag **and/or port** State, report to other CPCs, and, as appropriate, other relevant States, regional fisheries management organisations and FAO on actions it has taken in respect of **entities (as defined in paragraph 1.h. of Resolution 18/03)**, as a result of port State measures taken pursuant to this Resolution,**



have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.

- 17.6. Each CPC shall ensure that measures applied to vessels entitled to fly its flag, **or other entities over which it has jurisdiction**, are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in point 3.1.

## **PART 6 REQUIREMENTS OF DEVELOPING STATES**

### 18. *Requirements of developing States*

- 18.1. CPCs shall give full recognition to the special requirements of CPCs developing States in relation to the implementation of this Resolution. To this end, IOTC should provide assistance to CPCs developing States in order to, *inter alia*:
- a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
  - b) facilitate their participation in any international organisations that promote the effective development and implementation of port State measures; and
  - c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.
- 18.2. IOTC shall give due regard to the special requirements of developing CPCs port States, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this Resolution is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, CPCs shall cooperate to facilitate the implementation by the relevant CPCs developing States of specific obligations under this Resolution.
- 18.3. IOTC shall assess the special requirements of CPCs developing States concerning the implementation of this Resolution.
- 18.4. IOTC CPCs shall cooperate to establish appropriate funding mechanisms to assist CPCs developing States in the implementation of this Resolution. These mechanisms shall, *inter alia*, be directed specifically towards:
- a) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
  - b) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and
  - c) listing CPCs developing States with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Resolution.

**PART 7**  
**DUTIES OF THE IOTC SECRETARIAT**

19. *Duties of the IOTC Secretariat*

19.1. The IOTC Secretariat shall without delay post on the IOTC website:

- a) the list of designated ports;
- b) the prior notification periods established by each CPC;
- c) the information about the designated competent authority in each port State CPC;
- d) the blank copy of the IOTC Port inspection report form.

19.2. The IOTC Secretariat shall without delay post on the secure part of the IOTC website copies of all Port inspection reports transmitted by port State CPCs.

19.3. All forms related to a specific landing or transshipment shall be posted together.

19.4. The IOTC Secretariat shall without delay transmit the inspection reports to the relevant regional fisheries management organisations.

20. This Resolution shall be applied to CPCs' ports within the IOTC area of competence. The CPCs situated outside the IOTC area of competence shall endeavour to apply this Resolution.

21. This Resolution supersedes Resolution 10/11 *on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing*.

<b>Conservation and Management Measures linked to Resolution 16/11 or return to the <a href="#">Table of Contents</a></b>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 18/03</a>		<a href="#">Resolution 16/03</a>	

## ANNEX I

### Information to be provided in advance by vessels requesting port entry

<b>1. Intended port of call</b>										
<b>2. Port State</b>										
<b>3. Estimated date and time of arrival</b>										
<b>4. Purpose(s)</b>										
<b>5. Port and date of last port call</b>										
<b>6. Name of the vessel</b>										
<b>7. Flag State</b>										
<b>8. Type of vessel</b>										
<b>9. International Radio Call Sign</b>										
<b>10. Vessel contact information</b>										
<b>11. Vessel owner(s)</b>										
<b>12. Certificate of registry ID</b>										
<b>13. IMO ship ID, if available</b>										
<b>14. External ID, if available</b>										
<b>15. IOTC ID</b>										
<b>16. VMS</b>		No		Yes: National		Yes: RFMO(s)		Type:		
<b>17. Vessel dimensions</b>			Length		Beam		Draft			
<b>18. Vessel master name and nationality</b>										
<b>19. Relevant fishing authorization(s)</b>										
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>					
<b>20. Relevant transshipment authorization(s)</b>										
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>						
<b>21. Transshipment information concerning donor vessels</b>										
<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID number</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>		
<b>22. Total catch onboard</b>							<b>23. Catch to be offloaded</b>			
<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>				<i>Quantity</i>			

**ANNEX II**  
**Port State inspection procedures**

Inspectors shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex 1;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or IOTC Secretariat or other relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
- f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorizations;
- g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
- j) arrange, where necessary and possible, for translation of relevant documentation.

**ANNEX III**  
**IOTC Port inspection report form**

1. Inspection report no		2. Port State	
3. Inspecting authority			
4. Name of principal inspector			ID
5. Port of inspection			
6. Commencement of inspection		YYYY	MM DD HH
7. Completion of inspection		YYYY	MM DD HH
8. Advanced notification received			Yes No
9. Purpose(s)		LAN TRX PRO	OTH (specify)
10. Port and State and date of last port call		YYYY	MM DD
11. Vessel name			
12. Flag State			
13. Type of vessel			
14. International Radio Call Sign			
15. Certificate of registry ID			
16. IMO ship ID, if available			
17. External ID, if available			
18. Port of registry			
19. Vessel owner(s)			
20. Vessel beneficial owner(s), if known and different from vessel owner			
21. Vessel operator(s), if different from vessel owner			
22. Vessel master name and nationality			
23. Fishing master name and nationality			
24. Vessel agent			
25. VMS		No	Yes: National Yes: RFMOs Type:
26. Status in IOTC, including any IUU vessel listing			
Vessel identifier	RFMO	Flag State status	Vessel on authorised vessel list Vessel on IUU vessel list
27. Relevant fishing authorisation(s)			
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i> <i>Species</i> <i>Gear</i>
28. Relevant transshipment authorisation(s)			
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	
29. Transshipment information concerning donor vessels			
<i>Name</i>	<i>Flag State</i>	<i>ID no</i>	<i>Species</i> <i>Product form</i> <i>Catch area(s)</i> <i>Quantity</i>
30. Evaluation of offloaded catch (quantity)			
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i> <i>Quantity offloaded</i> <i>Difference between quantity declared and quantity determined, if any</i>
31. Catch retained onboard (quantity)			
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i> <i>Quantity retained</i> <i>Difference between quantity declared and quantity determined, if any</i>
32. Examination of logbook(s) and other documentation		Yes	No
33. Compliance with applicable catch documentation scheme(s)		Yes	No
		<i>Comments</i>	
		<i>Comments</i>	

34. Compliance with applicable trade information scheme(s)	<i>Yes</i>	<i>No</i>	<i>Comments</i>
35. Type of gear used			
36. Gear examined in accordance with paragraph e) of Annex II	<i>Yes</i>	<i>No</i>	<i>Comments</i>
37. Findings by inspector(s)			
38. Apparent infringement(s) noted including reference to relevant legal instrument(s)			
39. Comments by the master			
40. Action taken			
41. Master's signature			
42. Inspector's signature			

**ANNEX IV**  
**Information systems on port State measures**

In implementing this Conservation and Management Resolution, each CPC shall:

- a) seek to establish computerised communication;
- b) establish, to the extent possible, websites to publicise the list of ports designated in accordance with point 5.1 and the actions taken in accordance with the relevant provisions of this Conservation and Management Resolution;
- c) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- d) utilise, to the extent possible, the international coding system below in **Annexes I** and **III** and translate any other coding system into the international system.

countries/territories:           ISO-3166 3-alpha Country Code

species:                           ASFIS 3-alpha code (known as FAO 3-alpha code)

vessel types:                   ISSCFV code (known as FAO alpha code)

gear types:                      ISSCFG code (known as FAO alpha code)

**ANNEX V**  
**Guidelines for the training of inspectors**

Elements of a training programme for port State inspectors should include at least the following areas:

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and Conservation and Management Resolutions of the IOTC, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilising conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.



**ANNEX VI  
IOTC TRANSHIPMENT DECLARATION**

<b>Carrier Vessel</b>	<b>Fishing Vessel</b>
Name of the Vessel and Radio Call Sign: _____	Name of the Vessel and Radio Call Sign: _____
Flag: <b>IOTC Record Number, if available:</b>	Flag: <b>IOTC Record Number, if available:</b>

	Day	Month	Hour	Year	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 20px; height: 20px;"></td></tr> <tr><td style="width: 20px; height: 20px;"></td></tr> <tr><td style="width: 20px; height: 20px;"></td></tr> </table>				Agent's name:	Master's name of LSTV:	Master's name of Carrier:			
Departure <b>(FV)</b>	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 20px; height: 20px;"></td></tr> <tr><td style="width: 20px; height: 20px;"></td></tr> </table>			<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 20px; height: 20px;"></td></tr> <tr><td style="width: 20px; height: 20px;"></td></tr> </table>			<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 20px; height: 20px;"></td></tr> <tr><td style="width: 20px; height: 20px;"></td></tr> </table>			from	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 40px; height: 20px;"></td></tr> </table>		<b>Master Certificate number</b>	<b>Master Certificate number</b>
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Indicate the weight in kilograms or the unit used (e.g. box, basket) and the landed weight in kilograms of this unit: \_\_\_\_\_ kilograms

LOCATION OF TRANSHIPMENT **(Name of port / Port State)** \_\_\_\_\_

Species	Type of product						
	Whole	Gutted	Headed	Filletted			

**If transshipment effected at sea,** IOTC Observer Name and Signature: \_\_\_\_\_

## Annex VI – Resolution 15/04 IOTC record of authorised vessels (revised)

### RESOLUTION 15/04 CONCERNING THE IOTC RECORD OF VESSELS AUTHORISED TO OPERATE IN THE IOTC AREA OF COMPETENCE

**Keywords:** Authorised vessels; active vessels; auxiliary, supply and support vessels; IMO number; IUU fishing vessels.

#### **The Indian Ocean Tuna Commission (IOTC),**

RECALLING that IOTC has been taking various measures to prevent, deter and eliminate the IUU fisheries conducted by large-scale tuna fishing vessels;

FURTHER RECALLING that IOTC adopted the [Resolution 01/06](#) *Concerning the IOTC Bigeye Tuna Statistical Document Programme* at its 2001 meeting;

FURTHER RECALLING that IOTC adopted the Resolution 01/02 [superseded by Resolution 13/02, then Resolution 14/04, then [Resolution 15/04](#)] *Relating to control of fishing activities* at its 2001 meeting;

NOTING that large-scale fishing vessels are highly mobile and easily change fishing grounds from one ocean to another, and have high potential to operate in the IOTC area of competence without timely registration with the Commission;

NOTING that supply or support vessels can increase the fishing capacity of purse seine vessels in an uncontrolled manner by setting fish aggregating devices [in areas closed to fishing];

RECALLING that the FAO Council adopted on 23 June 2001 an International Plan of Action aiming to prevent, to deter and to eliminate illegal, unregulated and unreported fishing (IPOA), that this plan stipulates that the regional fisheries management organisations should take action to strengthen and develop innovative ways, in conformity with international law, to prevent, deter and eliminate IUU fishing and in particular to establish records of vessels authorised and records of vessels engaged in IUU fishing;

RECALLING that the IOTC Record of Active Vessels was established by the Commission on 1 July 2003, via Resolution 02/05 *Concerning the establishment of an IOTC record of vessels authorised to operate in the IOTC area of competence* [superseded by Resolution 05/02, then Resolution 07/02, then Resolution 13/02, then [Resolution 14/04](#), then [Resolution 15/04](#)];

RECOGNISING the need to take further measures to effectively eliminate the IUU large scale tuna fishing vessels;

ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, that:

1. The Commission shall maintain an IOTC Record of fishing vessels that are:
  - a) 24 metres in length overall or above; or
  - b) in case of vessels less than 24 meters, those operating in waters outside the Economic Exclusive Zone of the Flag State; and that are authorised to fish for tuna and tuna-like species in the IOTC area of competence (hereinafter referred to as ‘authorised fishing vessels’, or AFVs).

For the purpose of this Resolution, fishing vessels including auxiliary, supply and support vessels that are not entered in the IOTC Record are deemed not to be authorised to fish for,

retain on board, tranship or land tuna and tuna-like species or supporting any fishing activity or set drifting fish aggregation devices (DFADs) in the IOTC area of competence. This provision shall not apply to vessels less than 24 m in length overall operating inside the EEZ of the flag state.

2. Each Contracting Party and Cooperating Non-Contracting Party (hereinafter referred to as "CPC") shall submit electronically, ~~where possible~~, to the IOTC Executive Secretary for those vessels referred to 1.a) and for those vessels referred to 1.b), the list of its AFVs that are authorised to operate in the IOTC area of competence. This list shall include the following information:

- a) Name of vessel(s), **national** register number(s);
- b) IMO number (if eligible **under IMO requirements**); To allow the necessary time for CPCs to obtain an IMO number for eligible vessels that do not already have one, **the requirement in this paragraph ~~2.b on IMO number~~ is effective as of 1 January 2016 for those vessels that were not previously eligible. For vessels of less than 100 GT that are at least 12 m in length overall, the requirement in this paragraph is effective as of [1st January 2020]**. As of this date, CPCs shall ensure that all their fishing vessels that are registered on the IOTC Record of fishing vessels have IMO numbers issued to them. ~~Paragraph 2.b on IMO number~~ **This requirement** does not apply to vessels which are not eligible to receive IMO numbers.
- r) VMS unique unit identifier**
- c) Previous name(s) ~~if any~~ **or indicate non-availability**;
- d) Previous flag(s) ~~if any~~ **or indicate non-availability**;
- e) Previous details of deletion from other registries ~~if any~~ **or indicate non-availability**;
- f) International radio call sign(s) ~~(if any)~~ **or indicate non-availability**;
- g) Port of Registration;
- h) **Type(s) of vessel**, length **overall (m)** and gross tonnage (GT);
- s) Total volume of fish hold(s) (in m<sup>3</sup>);**
- t) Target species;**
- i) Name and address of owner(s), passport ID number;**
- u) Name and address of beneficial owner(s), passport ID number; (indicate if same as owner and/or operator) (Applicable as of 1<sup>st</sup> January 2020)**
- v) Name and address of operator(s), passport ID number; (indicate if same as owner)**
- w) Name and address of company operating vessel, if any, and national registration number;**
- x) Name and address of Master(s), Certificate of competence ID; passport ID number;**
- j) Gear(s) used;
- k) Time period(s) authorised for fishing **(from date; to date)**; ~~and/or transhipping~~.

- y) **Time period authorised for transshipping at sea (from date; to date);**
- z) **Good quality colour photographs of the vessel showing (Applicable as of [1<sup>st</sup> January 2020]):**
  - a. **the starboard side and portside of the vessel each showing the whole structure;**
  - b. **the stern and bow of the vessel**
  - c. **at least one photograph clearly showing the national register number.**

In assessing compliance with the paragraph above, the Commission shall take into account exceptional circumstances in which a vessel owner is not able to obtain an IMO number despite following the appropriate procedures. Flag CPCs shall report any such exceptional situations to the IOTC Secretariat.

**For new vessels to be included in the IOTC Record of Authorised Vessels, a copy of the national certificate of registration of the vessel shall be provided with the request for inclusion in the IOTC Record of Authorised Vessels.**

- A. **For the vessel's attributes referred to 2 a), b), r), g), h), i), u), v), j), k), y), z):**
  - a) **When all attributes are provided by the CPC, the IOTC Secretariat shall include the vessel into the IOTC Record of Authorised Vessels within 2 working days,**
  - b) **When any attribute is not provided by the CPC, the IOTC Secretariat shall remind the CPC of the requirement; if the missing attribute(s) is/are not provided within 5 working days following the initial date of the request for inclusion, the IOTC Secretariat shall not register the new vessel in the IOTC Record of Authorised Vessels and shall communicate the decision to the CPC. It is only when the Secretariat has received all attributes that the new vessel shall be included in the IOTC Record of Authorised Vessels.**
- B. **For the vessel's attributes referred to 2 c), d), e), f):**
  - a. **When any attribute is not provided by the CPC or the CPC has not provided indication of non-availability, the IOTC Secretariat shall remind the CPC of the requirement,**
  - b. **When any attribute is not provided by the CPC or the CPC has not provided indication of non-availability within 5 working days following the initial date of the request, the IOTC Secretariat shall not register the new vessel in the IOTC Record of Authorised Vessels and shall communicate the decision to the CPC. It is only when the Secretariat has received all attributes that the new vessel shall be included in the IOTC Record of Authorised Vessels.**
- C. **The time period under paragraphs 2.k) and 2.z) shall be either; a) the same as the ATF, b) for a period longer than the ATF, or c) be open ended. This shall be clearly indicated by the CPC.**
- D. **The listing of carrier vessels and large scale tuna vessels (LSTVs) on the IOTC Record of Authorized Vessels implies their authorization for effecting transshipments in port. The overall authorization for effecting at-sea transshipments follows a separate procedure, provided for in resolution 18/06. Such additional information regarding at-sea transshipment authorization shall be listed on the publically accessible IOTC Record, specified under paragraph 6, for both carrier vessels and LSTLVs.**

**E. Foreign vessel authorizations in a CPC's EEZ shall be listed in the record for every fishing vessel, in addition to any flag State ATFs, on the basis of the provisions in Resolution 14/05 (revised).**

3. All CPCs which issue authorisations to fish **and/or to tranship at-sea** to their flag vessels ~~to fish~~ for species managed by the IOTC shall submit to the IOTC Executive Secretary, an updated template of the official authorisation to fish (**ATF**) outside National Jurisdictions, and update this information whenever this information changes. **The ATF shall clearly distinguish between the authorization to fish, and any potential authorization to tranship at sea.** This information includes:
- a) name of the Competent Authority;
  - b) name and contact of personnel of the Competent Authority;
  - c) signature of the personnel of the Competent Authority;
  - d) official stamp of the Competent Authority.

The IOTC Executive Secretary shall publish the above information ~~in a secure part~~ on the IOTC website ~~for MCS purpose~~.

4. The template in paragraph 3 shall be used exclusively for monitoring, control and surveillance purposes and a difference between the template and the authorisation carried onboard the vessel does not constitute an infraction, but will prompt the controlling State to clarify the issue with the identified Competent Authority of the flag State of the vessel in question.
5. Each CPC shall promptly notify, after the establishment of their initial IOTC Record, the IOTC Executive Secretary of any addition to, any deletion from and/or any modification of the IOTC Record at any time such changes occur.
6. The IOTC Executive Secretary shall maintain the IOTC Record, and take any measure to ensure publicity of the Record through electronic means, including placing it on the IOTC website, in a manner consistent with confidentiality requirements noted by CPCs.
7. The flag CPCs of the vessels on the record shall:
  - a) authorise their vessels to operate in the IOTC area of competence only if they are able to fulfil in respect of these vessels the requirements and responsibilities under the IOTC Agreement and its Conservation and Management Measures;
  - b) take necessary measures to ensure that their AFVs comply with all the relevant IOTC Conservation and Management Measures;
  - c) take necessary measures to ensure that their AFVs on the IOTC Record keep on board valid certificates of vessel registration and valid authorisation to fish and/or tranship;
  - d) ensure that their AFVs on the IOTC Record have no history of IUU fishing activities or that, if those vessels have such a history, the new owners have provided sufficient evidence demonstrating that the previous owners and operators have no legal, beneficial or financial interest in, or control over those vessels; the parties of the IUU incident have officially resolved the matter and sanctions have been completed; or that having taken into account all relevant facts, their AFVs are not engaged in or associated with IUU fishing;
  - e) ensure, to the extent possible under domestic law, that **the owners, operators and master(s)** of their AFVs on the IOTC Record are not engaged in or associated with

tuna fishing activities conducted by vessels not entered into the IOTC Record in the IOTC area of competence, **or otherwise illegal fishing or fishing-related activities**;

- f) take necessary measures to ensure, to the extent possible under domestic law, that the owners **and operators** of the AFVs on the IOTC Record are citizens or legal entities within the flag CPCs so that any control or punitive actions can be effectively taken against them.
8. CPCs shall review their own internal actions and measures taken pursuant to paragraph 7, including punitive actions and sanctions and, in a manner consistent with domestic law as regards disclosure, report the results of the review to the Commission annually. In consideration of the results of such review, the Commission shall, if appropriate, request the flag CPCs of AFVs on the IOTC Record to take further action to enhance compliance by those vessels with IOTC Conservation and Management Measures.
  9.
    - a) CPCs shall take measures, under their applicable legislation, to prohibit the fishing for, the retaining on board, the transshipment and landing of tuna and tuna-like species by the vessels which are not entered into the IOTC Record.
    - b) To ensure the effectiveness of the IOTC Conservation and Management Measures pertaining to species covered by Statistical Document Programs:
      - i. Flag CPCs shall validate statistical documents only for the vessels on the IOTC Record;
      - ii. CPCs shall require that the species covered by Statistical Document Programs caught by AFVs in the IOTC area of competence, when imported into the territory of a Contracting Party, be accompanied by statistical documents validated for the vessels on the IOTC Record; and
      - iii. CPCs importing species covered by Statistical Document Programs and the flag States of vessels shall cooperate to ensure that statistical documents are not forged or do not contain misinformation.
  10. Each CPC shall notify the IOTC Executive Secretary of any factual information showing that there are reasonable grounds for suspecting vessels not on the IOTC Record to be engaged in fishing for and/or transshipment of tuna and tuna-like species in the IOTC area of competence.
  11.
    - a) If a vessel mentioned in paragraph 10 is flying the flag of a CPC, the IOTC Executive Secretary shall request that Party to take measures necessary to prevent the vessel from fishing for tuna and tuna-like species in the IOTC area of competence;
    - b) If the flag of a vessel mentioned in paragraph 10 cannot be determined or is of a non-Contracting Party without cooperating status, the IOTC Executive Secretary shall compile and circulate such information to all CPCs, without delay.
  12. The Commission and the CPCs concerned shall communicate with each other, and make the best effort with FAO and other relevant regional fishery management bodies to develop and implement appropriate measures, where feasible, including the establishment of records of a similar nature in a timely manner so as to avoid adverse effects upon tuna resources in other oceans. Such adverse effects might consist of excessive fishing pressure resulting from a shift of the IUU fishing vessels from the Indian Ocean to other oceans.
  13. Each Contracting Party and Cooperating Non-Contracting Party with the IOTC shall:

- a) Ensure that each of its fishing vessels carry on board documents issued and certified by the competent authority of that Contracting Party or of that Cooperating Non-Contracting Party ~~with IOTC~~, including, at a minimum, the following:
- i. License, permit or authorisation to fish and terms and conditions attached to the licence, permit of authorisation. **As a minimum, such license, permit or authorization shall explicitly cover the following terms;**
    - **authorization to operate in waters beyond national jurisdiction;**
    - **authorization regarding fishing or fishing-related activities;**
    - **area of application and duration of the authorization.**
  - ii. Vessel name;
  - iii. Port in which **it is** registered and the number(s) under which **it is** registered;
  - iv. International **radio** call sign;
  - v. Names and addresses of owner(s) and where relevant, the charterer;
  - vi. Overall **vessel** length;
  - vii. Engine power, in KW/horsepower, where appropriate.
- b) Verify above documents on a regular basis and at least every year;
- c) Ensure that any modification to the documents and to the information referred to in 13.a) is certified by the competent authority of that Contracting Party or of that Cooperating Non-Contracting Party ~~with the IOTC~~.
14. Each Contracting Party and Cooperating Non-Contracting Party ~~with the IOTC~~ shall ensure that its fishing vessels authorised to fish in the IOTC area of competence are marked in such a way that they can be **really** identified. ~~with generally accepted standards such as the FAO Standard Specification for the Marking and Identification of Fishing vessels. Annex I provides minimum standards that shall be implemented by CPCs for all vessel types.~~
15. a) Each Contracting Party and Cooperating Non-Contracting Party ~~with the IOTC~~ shall ensure that **fishing gear** used by its ~~authorised~~ fishing vessels ~~to fish in the IOTC area of competence~~ is marked appropriately, e.g., the ends of nets, lines and gear in the sea, shall be fitted with flag or radar reflector buoys by day and light buoys by night sufficient to indicate their position and extent. **Flag, radar reflector and light buoys shall bear the IOTC record number of the vessel to which they belong;**
- b) Marker buoys and similar objects floating and on the surface, ~~and~~ intended to indicate the location of fixed fishing gear, shall be clearly marked at all times with the ~~letter(s) and/or number(s)~~ **IOTC record number** of the vessel to which they belong;
- c) Fish aggregating devices shall be clearly marked at all times with the ~~letter(s) and/or number(s)~~ **IOTC record number** of the vessel to which they belong.
- ~~16. Each Contracting Party and Cooperating Non-Contracting Party with the IOTC shall ensure that all their respective fishing vessels of 24 meters or above and vessels less than 24 meters if~~

~~fishing outside their EEZ, and are registered on the IOTC Record of fishing vessels and authorised to fish in the IOTC area of competence, keep a bound fishing national logbook with consecutively numbered pages. The original recordings contained in the fishing logbooks shall be kept on board the fishing vessel for a period of at least 12 months.~~

17. This Resolution supersedes Resolution 14/04 *Concerning the establishment of an IOTC record of vessels authorised to operate in the IOTC area.*

Conservation and Management Measures linked to Resolution 15/04 <a href="#">or return to the Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 01/06</a>		<a href="#">Resolution 18/03</a>	<a href="#">Resolution 03/01</a>
		<a href="#">Resolution 03/03</a>	



## Annex I

### Minimum guidelines for fishing vessel markings

The 1989 FAO Standard Specifications for the Marking and Identification of Fishing Vessels is the most widely applied global standard. This FAO Standard can be applied to all vessels engaged in capture fisheries operations, including fishing vessels, supply vessels and fish carriers. The standard is based on the IRCS system. The minimum standards for vessel markings authorized to operate in the IOTC area of competence are a simplified minimum version of the 1989 standard, mindful of the fact that national systems for the marking of fishing vessels are in place in all countries, have often espoused the 1989 standard, and that the proposed scheme shall cause no, or minimal interference with such systems as are already in place. The minimum terms that shall be applied enter into force on the 1<sup>st</sup> January, 2020, and are as follows;

#### Application

1. Vessels shall be marked with their International Telecommunication Union Radio Call Signs (IRCS)
2. The markings shall be prominently displayed at all times:
  - a. on the vessel's side or superstructure, port and starboard; fixtures inclined at an angle to the vessel's side or superstructure would be considered as suitable, provided that the angle of inclination would not prevent sighting of the sign from another vessel or from the air;
  - b. on a deck. Should an awning or other temporary cover be placed so as to obscure the mark on a deck, the awning or cover should be marked. These marks should be placed athwartships with the top of the numbers or letters towards the bow.
3. Marks should be placed as high as possible above the waterline on both sides. Such parts of the hull as the flare of the bow and the stern shall be avoided.
4. The marks shall:
  - a. be so placed that they are not obscured by the fishing gear whether it is stowed or in use;
  - b. be clear of flow from scuppers or overboard discharges including areas which might be prone to damage or discolouration from the catch of certain types of species; and
  - c. not extend below the waterline.
5. Boats skiffs and craft carried by the vessel for fishing operations shall bear the same marks as the vessel concerned.

#### Specifications of letters and numbers

6. Block lettering and numbering shall be used throughout
7. The width of the letters and numbers shall be in fixed proportion to the height (h).
8. The height (h) of the letters and numbers shall be in proportion to the size of the vessel in accordance with the following:
  - a. for marks to be placed on the hull, superstructure and/or inclined surfaces:

<u>LOA in meters (m)</u>	<u>Minimum height (h) of markings (in meters)</u>
--------------------------	---

<b>25 m and over</b>	<b>1.0 m</b>
<b>20 m and less than 25 m</b>	<b>0.8 m</b>
<b>15 m and less than 20 m</b>	<b>0.6 m</b>
<b>12 m and less than 15 m</b>	<b>0.4 m</b>
<b>less than 12 m</b>	<b>0.3 m</b>

**b. for marks to be placed on deck: the height shall not be less than 0.3m for all classes of vessels.**

**9. The length of the hyphen shall be half the height of the letters and the numbers.**

**10. The width of the stroke for all letters, numbers and the hyphen shall be  $h/6$ .**

**11. Spacing:**

- a. the space between letters and/or numbers shall not exceed  $h/4$  nor be less than  $h/6$ ;**
- b. the space between adjacent letters having sloping sides shall not exceed  $h/8$  nor be less than  $h/10$ , for example “AV”**

**12. Painting:**

- a. The marks shall be:**
  - i. white on a black background; or**
  - ii. black on a white background.**
- b. The background shall extend to provide a border around the mark of not less than  $h/6$ .**
- c. The marks and the background shall be maintained in good condition at all times.**

## **Annex VII – Resolution 15/01 Recording of catch and effort data by fishing vessels (revised)**

### **RESOLUTION 15/01**

#### **ON THE RECORDING **AND REPORTING** OF CATCH AND EFFORT DATA BY FISHING VESSELS IN THE IOTC AREA OF COMPETENCE**

**Keywords:** Data recording; logbook; purse seine; longline; gillnet; pole and line; handline; trolling; fishing vessels.

#### **The Indian Ocean Tuna Commission (IOTC),**

RECALLING the commitment made by Contracting Parties under Article V of the IOTC Agreement to keep under review the conditions and trends of the stocks and to gather, analyse and disseminate scientific information, catch and effort statistics and other data relevant to the conservation and management of the stocks and to fisheries based on the stocks covered by the Agreement;

CONSIDERING the provisions set forth in [Resolution 15/02](#) *On mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)* (or any subsequent superseding Resolution), and in particular paragraph 4, which sets out the catch and effort reporting requirements for surface fisheries, longline and coastal fisheries;

ACKNOWLEDGING that the IOTC Scientific Committee has repeatedly stressed the importance of the timeliness and accuracy of data submissions for Members;

ALSO RECALLING the outcomes of the 9<sup>th</sup> Session of the IOTC Scientific Committee held in Victoria, Seychelles from 6 to 10 November 2006 where it was agreed that a standardised logbook would be advantageous and agreed on the minimum requirements for all purse seine and bait boat fleets operating in the IOTC area of competence in order to harmonise data gathering and provide a common basis for scientific analysis for all IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs);

FURTHER RECALLING the recommendations adopted by the KOBE II Workshop on Bycatch, held in Brisbane, Australia, 23–25 June 2010; in particular that RFMOs should consider adopting standards for bycatch data collection which, at a minimum, allows the data to contribute to the assessment of bycatch species population status and evaluation of the effectiveness of bycatch measures, and that the data should allow the RFMOs to assess the level of interaction of the fisheries with bycatch species;

FURTHER CONSIDERING the work of the small task force created by the IOTC Scientific Committee during its 10<sup>th</sup> Session held in Seychelles in November 2007, to harmonise the various forms currently used by the fleets and the IOTC Scientific Committee agreement on the minimum standard requirements for all purse seine, longline and gillnet fleets as well as the produced logbook template;

FURTHER CONSIDERING the deliberations of the 13<sup>th</sup> Session of the IOTC Scientific Committee held in Victoria, Seychelles from 6 to 10 December 2010, that recommended three options, one of which is mandatory reporting of a revised list of shark species in logbooks to improve the data collection and statistics on sharks in the IOTC area of competence;

FURTHER CONSIDERING the deliberations of the 14<sup>th</sup> Session of the IOTC Scientific Committee held in Mahé, Seychelles from 12 to 17 December 2011, that proposed a list of shark species for all gears and recommended minimum recording requirements for handline and trolling gears in the IOTC area of competence;

FURTHER CONSIDERING the recommendations of the 17<sup>th</sup> Session of the IOTC Scientific Committee referring to bycatch;

FURTHER CONSIDERING the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements included in the United Nations General Assembly Resolution 67/79 on sustainable fisheries to collect the necessary data in order to evaluate and closely monitor the use of large-scale fish aggregating devices and others, as appropriate, and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and turtles;

ADOPTS, in accordance with the provisions of Article IX, paragraph 1 of the IOTC Agreement, the following:

1. Each flag CPC shall ensure that all purse seine, longline, gillnet, pole and line, handline and trolling fishing vessels flying its flag and authorised to fish species managed by IOTC be subject to a data recording system.
2. The measure shall apply to all purse seine, longline, gillnet, pole and line, handline and trolling fishing vessels over 24 metres length overall and those under 24 metres if they fish outside the EEZs of their flag States within the IOTC area of competence. The data recording systems for developing CPCs vessels less than 24 metres operating within the EEZ of coastal States are subject to Paragraphs 11 and 12. The vessels of less than 24 metres operating within the EEZ of developed CPCs shall apply this measure.

### *Logbook*

- A. Each flag CPC shall ensure that its authorized fishing vessels falling under the remit of paragraph 2 above, keep an official bound fishing logbook with consecutively numbered pages. The original data contained in the fishing logbook(s) shall be kept on board the fishing vessel for a period of at least 12 months.**
3. **CPCs may also implement additional electronic logbook keeping. Regardless of logbook form (physical or electronic), recorded data shall include,** as a minimum requirement, the information and data ~~in the logbook~~ set forth in **Annex I, II and III.**
4. Each flag CPC shall submit to the IOTC Executive Secretary by 15 February 2016 a template of its official logbooks to record data in accordance with **Annex I, II and III**, for publishing on the IOTC website to facilitate MCS activities. For CPCs that use electronic logbook systems, a copy of the applicable regulations implementing the electronic logbook system in that CPC, a set of screen captures and the name of the certified software may be provided. If changes are made to the template after 15 February 2016, an updated template shall be submitted.
5. Where the logbook is not in one of the two languages of the IOTC, CPCs shall provide a complete field description of the logbook in one of the two languages of the IOTC together with the submission of the sample of the logbook. The IOTC Executive Secretary shall publish the sample of the logbook and the field description on the IOTC website.
6. **Annex I** includes information on vessel, trip and gear configuration for purse seine, longline, gillnet and pole and line, and shall only be completed once for each trip, unless the gear configuration changes during the trip.
7. **Annex II** contains information for purse seine, longline, gillnet and pole and line operations and catch, which shall be completed for each set/shot/operation of the fishing gear.
8. **Annex III** contains specifications for handline and trolling gears.

9. The logbook shall be completed by the Master of the fishing vessel and submitted to the flag State administration, as well as to the coastal State administration where the vessel has fished in that coastal State's EEZ. Only the part of the logbook corresponding to the activity deployed in the coastal State EEZ shall be provided to the coastal State administration where the vessel has fished in that coastal State's EEZ.

**B. The logbook shall be updated daily, no later than noon, for the preceding day (up to midnight).**

*Production logbook*

**C. Each fishing vessel shall maintain a production logbook that:**

a) accurately records, by no later than noon, the daily cumulative production for each species and product type in kg for the preceding day (up to midnight);

b) lists conversion factors used to convert live weight – as recorded in the fishing logbook – into production weight of each product type;

c) is retained on board for at least 12 months; and

d) shall be produced on request during an inspection.

*Stowage plan*

**D. Each vessel shall, with due regard for safety and navigational responsibilities of the master, stow all catch taken in the IOTC Regulatory Area separately from any catch taken outside the IOTC Regulatory Area, and ensure that such separation is clearly demarcated using plastic, plywood or netting.**

**E. Each fishing vessel shall maintain a stowage plan that:**

a) clearly shows the location and quantity, expressed as product weight in kg, of each species within each fish hold;

b) is updated daily, no later than noon, for the preceding day (up to midnight); and

c) is retained on board until the vessel has been unloaded completely; and

d) shall be produced on request during an inspection.

*Landing declaration*

**E. The master of a CPC fishing vessel (harvesters and carriers) landing fish in port shall complete a landing declaration, which shall contain the following information:**

1. Name and IOTC record number of the vessel;

2. Name and State of the port of landing;

3. Date of the landing (commencement of landing operations);

4. Transshipment declaration(s) from which product is landed (for carriers only);

5. Weight (in kg) per species and product type landed; and

6. Identity of buyer(s) (Company name; National company registration number).

**F. The landing declaration shall follow the template provided in Annex IV. Once the landing is complete, the master shall sign the declaration, and seek the counter-signature of the competent port State authority.**

**G. The master shall submit, no later than 24 hours after the port State competent authority**

signature has been obtained copies of the declaration to:

1. The flag State competent authority of the landing fishing vessel;
2. The port State authority in whose port the landing has taken place;
3. The IOTC Secretariat.

- H. The IOTC Secretariat is tasked to develop the relevant e-PSM routine for catch declarations to be generated and submitted in electronic format, following the provisions of this resolution. Until such routine is complete, tested and ready for implementation, landing declarations shall be made physically, and transmitted to the IOTC Secretariat by email as scanned copies. Originals shall be retained on file by the operator/owner of the vessel for a minimum of three years.
10. The Flag State shall provide the **catch and effort** data for any given year to the IOTC Secretariat by June 30<sup>th</sup> of the following year on an aggregated basis, **following the provisions of resolution 15/02 (revised)**. The confidentiality rules set out in [Resolution 12/02 Data Confidentiality Policy and Procedures](#) (or any subsequent superseding Resolution) for fine-scale data shall apply.
  11. Noting the difficulty in implementing a data recording system on fishing vessels from developing CPCs, the data recording systems for vessels less than 24 metres of developing CPCs operating inside the EEZ shall be implemented progressively from 1 July 2016.
  12. The Commission shall consider development of a special program to facilitate the implementation of this Resolution by developing CPCs. Furthermore, developed and developing CPCs are encouraged to work together to identify opportunities for capacity building to assist the long-term implementation of this Resolution.
  13. This Resolution supersedes Resolution 13/03 *On the recording of catch and effort by fishing vessels in the IOTC area of competence*.

Conservation and Management Measures linked to Resolution 15/01 <a href="#">or return to the Table of Contents</a>			
Links from within this CMM		Links from other CMMs	
<a href="#">Resolution 15/02</a>	<a href="#">Resolution 12/02</a>	<a href="#">Resolution 16/02</a>	<a href="#">Resolution 16/04</a>
<a href="#">Resolution 18/08</a>		<a href="#">Resolution 18/07</a>	

**Annex I**  
**Record once per trip (unless gear configuration changes)**

**1.1 REPORT INFORMATION**

1. Date of the submission of logbook
2. Name of reporting person

**1.2 VESSEL INFORMATION**

1. Vessel name and/or registration number
2. IMO number, where available
3. IOTC number
4. Call sign: if call sign is not available, other unique identifying code such as fishing licence number should be used
5. Vessel size: gross tonnage and overall length (meters)

**1.3 CRUISE INFORMATION**

For multiday fishing operations record the:

1. Departure date (at your location) and port
2. Arrival date (at your location) and port

**1.4 OTHER REQUIRED INFORMATION**

**Longline (Gear Configuration):**

1. Average branch line length (meters): straight length in meters between snap and hook (**Figure 1**)
2. Average float line length (meters): straight length in meters from the float to the snap
3. Average length between branch (meters): straight length of main line in meters between successive branch lines
4. Main line material classified into four categories:
  - a. Thick rope (Cremona rope)
  - b. Thin rope (Polyethylene or other materials)
  - c. Nylon braided
  - d. Nylon monofilament
5. Material of the terminal tackle of the branch line (leader/trace) classified into two categories:
  - a. Nylon monofilament
  - b. Other (such as wire)

**Purse Seine:****(Gear configuration):**

1. Length of the purse seine net
2. Height of the purse seine net
3. Total number of FADs deployed per trip: refer to the Resolution 15/08 [\[superseded by Resolution 17/08 then by Resolution 18/08\]](#) *Procedures on a fish aggregating devices (FADs) management plan, including a limitation on the number of FADs, more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species* (or any subsequent superseding Resolution)

**(Search information):**

1. Days searched
2. Spotter plane used (Yes/No)
3. Supply vessel used (Yes/No), if yes what is the name and registration number of the supply vessel

**Gillnet (Gear Configuration):**

1. Overall length of net (metres): record the total overall length of the net onboard
2. Mesh size of net (millimetres): record the mesh size (measured between opposite knots when fully stretched) used during the trip
3. Depth of assembled net (meters): height of assembled net in meters
4. Netting material: e.g. nylon braid, nylon monofilament, etc.

**Pole and line (Gear Configuration):**

1. Number of fishermen



ANNEX II  
**Record once per set/shot/operation**

**Note: for all gears in this annex use the follow format for date and time**

**For date: when recording date of the set/shot/operation: record the YYYY/MM/DD**

**For time: record 24hr time as either the local time, GMT or national time and clearly specify which time has been used.**

**2.1 OPERATION**

**For longline:**

1. Date of set
2. Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc.) may be optionally used
3. Time of starting setting and, when possible, retrieving the gear
4. Number of hooks between floats: if there are different hooks counts between floats in a single set then record the most representative (average) number
5. Total number of hooks used in the set
6. Number of light-sticks used in the set
7. Type of bait used in the set: e.g. fish, squid, etc.
8. Optionally, sea surface temperature at noon with one decimal point (XX.X°C)

**For purse seine:**

1. Date of set
2. Type of event: fishing set or deployment of a new FAD
3. Position in latitude and longitude and time of event, or if no event during the day, at noon
4. If fishing set: specify if the set was successful, nil, well; type of school (free swimming school or FAD associated. If FAD associated, specify the type (e.g. log or other natural object, drifting FAD, anchored FAD, etc.). Refer to the [Resolution 15/08](#) [superseded by [Resolution 17/08](#) then by [Resolution 18/08](#)] *Procedures on a fish aggregating devices (FADs) management plan, including a limitation on the number of FADs, more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species* (or any subsequent superseding Resolution)
5. Optionally, sea surface temperature at noon with one decimal point (XX.X°C)

**For gillnet:**

1. Date of set: record the date for each set or day at sea (for days without sets)
2. Total length of net (meters): floatline length used for each set in meters

3. Start fishing time: record the time when starting each set and, when possible, gear retrieving
4. Start and end position in latitude and longitude: record start and end latitude and longitude that represent the area that your gear is set between or, if no set, record the latitude and longitude at noon for days without sets
5. Depth at which net is set (meters): approximate depth at which the gillnet is set

**For Pole and Line:**

Fishing effort information in logbooks shall be recorded by day. Catch information in logbooks shall be recorded by trip or, when possible, by fishing day.

1. Date of operation: record the day or date
2. Position in latitude and longitude at noon
3. Number of fishing poles used during that day
4. Start fishing time (record the time immediately after bait fishing is complete and the vessel heads to the ocean for fishing. For multiple days, the time at which search starts should be recorded) and end fishing time (record the time immediately after fishing is complete from the last school; on multiple days this is the time fishing stopped from the last school). For multiple days number of fishing days should be recorded.
5. Type of school: FAD associated and/or free school

**2.2 CATCH**

1. Catch weight (kg) or number by species per set/shot/fishing event for each of the species and form of processing in section 2.3:
  - a. For longline by number and weight
  - b. For purse seine by weight
  - c. For gillnet by weight
  - d. For pole and line by weight or number

**2.3 SPECIES**

**For Longline:**

Primary Species	FAO code	Other Species	FAO code
Southern bluefin tuna ( <i>Thunnus maccoyii</i> )	SBF	Shortbill spearfish ( <i>Tetrapturus angustirostris</i> )	SSP
Albacore ( <i>Thunnus alalunga</i> )	ALB	Blue shark ( <i>Prionace glauca</i> )	BSH
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Mako sharks ( <i>Isurus</i> spp.)	MAK
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Porbeagle shark ( <i>Lamna nasus</i> )	POR
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Hammerhead sharks ( <i>Sphyrna</i> spp.)	SPN
Swordfish ( <i>Xiphius gladius</i> )	SWO	Silky shark ( <i>Carcharhinus falciformis</i> )	FAL
Striped marlin ( <i>Tetrapturus audax</i> )	MLS	Other bony fishes	MZZ
Blue marlin ( <i>Makaira nigricans</i> )	BUM	Other sharks	SKH

Black marlin ( <i>Makaira indica</i> )	BLM	Seabirds (in number) <sup>1</sup>	
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA	Marine Mammals (in number)	MAM
		Marine turtles (in number)	TTX
		Thresher sharks ( <i>Alopias</i> spp.)	THR
		Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	OCS
		<b>Optional species to be recorded</b>	
		Tiger shark ( <i>Galeocerdo cuvier</i> )	TIG
		Crocodile shark ( <i>Pseudocarcharias kamoharai</i> )	PSK
		Great white shark ( <i>Carcharodon carcharias</i> )	WSH
		Mantas and devil rays ( <i>Mobulidae</i> )	MAN
		Pelagic stingray ( <i>Pteroplatytrygon violacea</i> )	PLS
		Other rays	

**For Purse Seine:**

Primary Species	FAO code	Other species	FAO code
Albacore ( <i>Thunnus alalunga</i> )	ALB	Marine turtles (in number)	TTX
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Marine mammals (in number)	MAM
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Whale sharks ( <i>Rhincodon typus</i> ) (in number)	RHN
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Thresher sharks ( <i>Alopias</i> spp.)	THR
Other IOTC species		Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	OCS
		Silky sharks ( <i>Carcharhinus falciformis</i> )	FAL
		<b>Optional species to be recorded</b>	<b>FAO code</b>
		Mantas and devil rays ( <i>Mobulidae</i> )	MAN
		Other sharks	SKH
		Other rays	
		Other bony fish	MZZ

**For Gillnet:**

Primary Species	FAO code	Other Species	FAO code
Albacore ( <i>Thunnus alalunga</i> )	ALB	Shortbill spearfish ( <i>Tetrapturus angustirostris</i> )	SSP
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Blue shark ( <i>Prionace glauca</i> )	BSH
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Mako sharks ( <i>Isurus</i> spp.)	MAK
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Porbeagle shark ( <i>Lamna nasus</i> )	POR
Longtail tuna ( <i>Thunnus tonggol</i> )	LOT	Hammerhead sharks ( <i>Sphyrna</i> spp.)	SPN
Frigate tuna ( <i>Auxis thazard</i> )	FRI	Other sharks	SKH
Bullet tuna ( <i>Auxis rochei</i> )	BLT	Other bony fish	MZZ
Kawakawa ( <i>Euthynnus affinis</i> )	KAW	Marine turtles (in number)	TTX
Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM	Marine mammals (in number)	MAM

<sup>1</sup> When a CPC is fully implementing the observer program the provision of seabird data is optional

Indo-Pacific king mackerel ( <i>Scomberomorus guttatus</i> )	GUT	Whale sharks ( <i>Rhincodon typus</i> ) (in number)	RHN
Swordfish ( <i>Xiphias gladius</i> )	SWO	Seabirds (in number) <sup>2</sup>	
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA	Thresher sharks ( <i>Alopias</i> spp.)	THR
Marlins ( <i>Tetrapturus</i> spp, <i>Makaira</i> spp.)	BIL	Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	OCS
Southern bluefin tuna ( <i>Thunnus maccoyii</i> )	SBF	<b>Optional species to be recorded</b>	
		Tiger shark ( <i>Galeocerdo cuvier</i> )	TIG
		Crocodile shark ( <i>Pseudocarcharias kamoharai</i> )	PSK
		Mantas and devil rays (Mobulidae)	MAN
		Pelagic stingray ( <i>Pteroplatytrygon violacea</i> )	PLS
		Other rays	

#### For Pole and Line:

Primary Species	FAO code	Other Species	FAO code
Albacore ( <i>Thunnus alalunga</i> )	ALB	Other bony fish	MZZ
Bigeye tuna ( <i>Thunnus obesus</i> )	BET	Sharks	SKH
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT	Rays	
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ	Marine turtles (in number)	TTX
Frigate and bullet tuna ( <i>Auxis</i> spp.)	FRZ		
Kawakawa ( <i>Euthynnus affinis</i> )	KAW		
Longtail tuna ( <i>Thunnus tonggol</i> )	LOT		
Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM		
Other IOTC species			

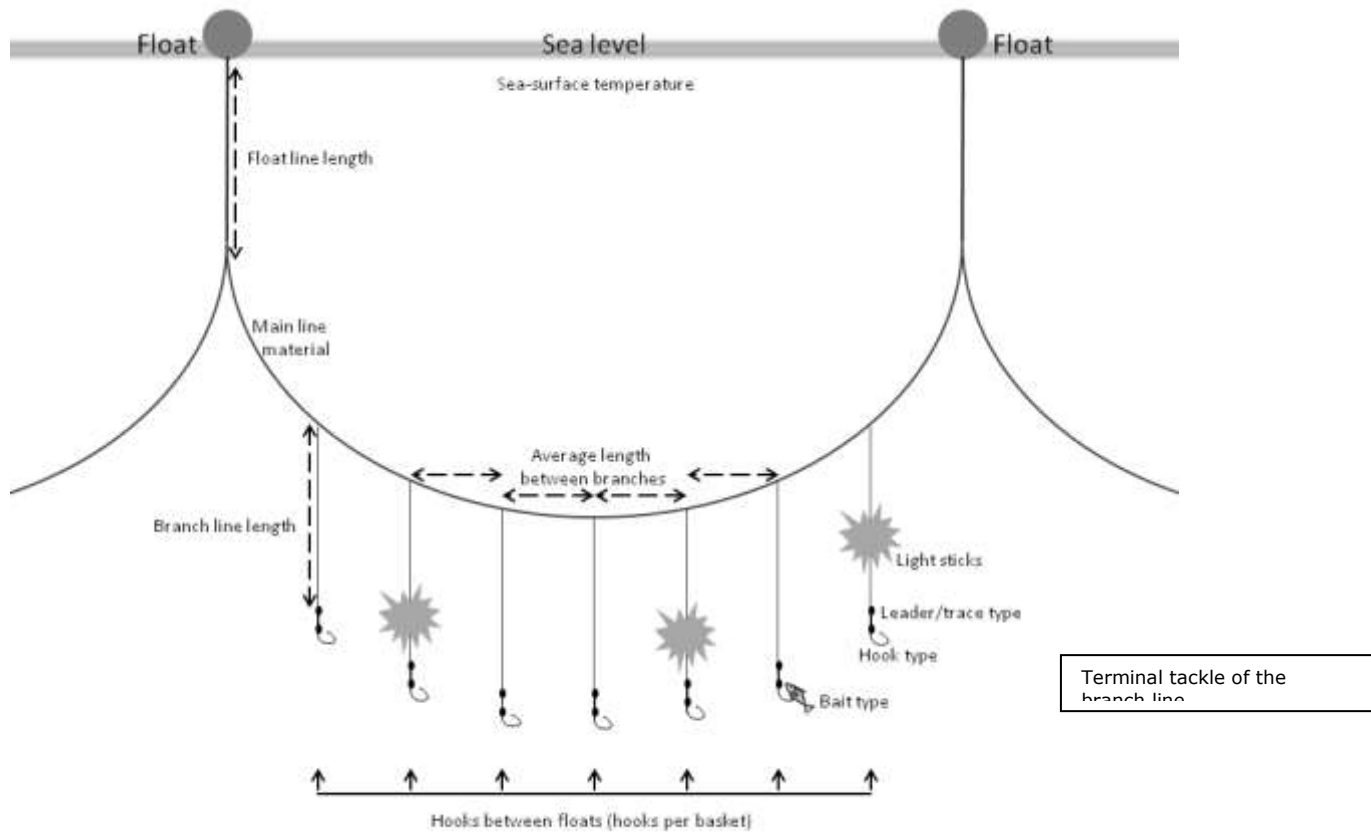
#### 2.4 REMARKS

1. Discard of tuna, tuna-like fish and sharks to be recorded by species in weight (kg) or number for all gears should be recorded in the remarks<sup>3</sup>
2. Any interactions with whale sharks (*Rhincodon typus*), marine mammals, and seabirds should be recorded in the remarks
3. Other information is also written in the remarks

**Note:** The species included in the logbooks are regarded as minimum requirement. Optionally other frequently caught shark and/or fish species should be added as required across different areas and fisheries.

<sup>2</sup> When a CPC is fully implementing the observer program the provision of seabird data is optional

<sup>3</sup> Recall the Recommendation 10/13 *On the implementation of a ban on discards of skipjack tuna, Yellowfin tuna, bigeye tuna and non-target species caught by purse seiners* [superseded by [Resolution 13/11](#); then by [Resolution 15/06](#)]



**Figure 1.** Longline (Gear Configuration): Average branch line length (meters): straight length in meters between snap and hook.

## ANNEX III

### Specifications for handline and trolling

**Note: for all gears in this annex use the follow format for date and time**

**For date: when recording date of the set/shot/operation: record the YYYY/MM/DD**

**For time: record 24hr time as either the local time, GMT or national time and clearly specify which time has been used.**

#### **I - HANDLINE**

All logbook information shall be recorded by day; where more than one fishing event is recorded for the same day, it is advisable to record each fishing event separately

**Record once in one cruise, or month where daily operation**

##### **1.1 REPORT INFORMATION**

1. Fishing day (or Date of submission of the logbook, where multiple fishing days)
2. Name of reporting person

##### **1.2 VESSEL INFORMATION**

1. Vessel name and registration number and IMO number, where available
2. IOTC number, where available
3. Fishing License number
4. Vessel size: Gross tonnage and/or length overall (in metres)

##### **1.3 CRUISE INFORMATION**

1. Departure date and port
2. Arrival date and port

##### **2.1 OPERATION**

1. Date of fishing

Record the date of fishing. Each fishing day should be recorded separately

2. Number of fishermen

Record the number of fishermen on the boat by fishing day

3. Number of Fishing Gear

Record the number of fishing lines used during the fishing day. If the exact number is not available a range may be used i) 5 or less lines, ii) 6–10 lines; iii) 11 or more lines

4. Number and type of school (Anchored or drifting FAD, marine mammal, free, other) fished

Record the number and type of school fished (i.e. anchored FAD, drifting FAD, marine mammal associated or free) fished during the day

5. Position of the catch

Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc.) may be optionally used. Record the latitude and longitude at noon for non-fishing days, where not in port

Where information is recorded by day, record the 1° x 1° area(s) where fishing took place

6. Bait

Record the type of bait used (e.g. fish, squid), where applicable

## 2.2 CATCH

Catch in number and/or weight (kg) by species

1. Catch number and/or Weight

For each species shown in section 2.3 caught and retained, record the number and estimated live weight (kg), per fishing day

2. Discard number and/or Weight

For each species shown in section 2.3 caught and not retained record the number and estimated live weight (kg) discarded, per fishing day

## 2.3 SPECIES

Primary Species	FAO code
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT
Bigeye tuna ( <i>Thunnus obesus</i> )	BET
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA
Black marlin ( <i>Makaira indica</i> )	BLM
Other billfish	
Longtail tuna ( <i>Thunnus tonggol</i> )	LOT
Kawakawa ( <i>Euthynnus affinis</i> )	KAW
Frigate tuna/Bullet tuna ( <i>Auxis</i> spp.)	FRZ
Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM
Indo-Pacific king mackerel ( <i>Scomberomorus guttatus</i> )	GUT
Sharks	
Other fishes	
Rays	
Marine turtles (by number)	

## 2.4 REMARKS

1. Other relevant information is also written in the remarks

**Note:** These species included in the logbook are regarded as minimum requirement. Optionally other species should be added as species may differ depending on the area fished and type of fishery

## II - TROLLING VESSELS

All logbook information shall be recorded by day; where more than one fishing event is recorded for the same day, it is advisable to record each fishing event separately

### Record once in one cruise

#### 1.1 REPORT INFORMATION

1. Fishing day (or Date of submission of the logbook, where multiple fishing days)
2. Name of reporting person

#### 1.2 VESSEL INFORMATION

1. Vessel name and registration number and IMO number, where available
2. IOTC number, where available
3. Fishing License number
4. Vessel size: Gross tonnage and/or length overall (in metres)

#### 1.3 CRUISE INFORMATION

1. Departure date and port
2. Arrival date and port

#### 2.1 OPERATION

1. Date of fishing  
Record the date of fishing. Each fishing day should be recorded separately
2. Number of fishermen  
Record the number of fishermen on the vessel by fishing day
3. Number of Fishing Gear  
Record the number of lines used during the fishing day. If the exact number is not available a range may be used i) 3 or less lines, ii) more than 3 lines
4. Number and type of school (Anchored or drifting FAD, marine mammal, free, other) fished  
Record the number and type of school fished (i.e. anchored FAD, drifting FAD, marine mammal associated or free) fished during the day
5. Position of the catch



Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc.) may be optionally used. Record the latitude and longitude at noon for non-fishing days, where not in port

Where information is recorded by day, record the 1° x 1° area(s) where fishing took place

6. Bait

Record the type of bait or indicate if lures are used

**2.2 CATCH**

Catch in number and/or weight (kg) by species

1. Number and/or Weight of fish retained

For each species shown in section 2–3 caught and retained, record the number or estimated live weight (kg), per fishing day

2. Discard number and/or Weight

For each species shown in section 2–3 caught and not retained record the number and estimated live weight (kg) discarded, per fishing day

**2.3 SPECIES**

Primary Species	FAO code
Yellowfin tuna ( <i>Thunnus albacares</i> )	YFT
Bigeye tuna ( <i>Thunnus obesus</i> )	BET
Skipjack tuna ( <i>Katsuwonus pelamis</i> )	SKJ
Albacore ( <i>Thunnus alalunga</i> )	ALB
Swordfish ( <i>Xiphias gladius</i> )	SWO
Blue marlin ( <i>Makaira nigricans</i> )	BUM
Black marlin ( <i>Makaira indica</i> )	BLM
Striped marlin ( <i>Tetrapturus audax</i> )	MLS
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	SFA
Other billfish	
Longtail tuna ( <i>Thunnus tonggol</i> )	LOT
Kawakawa ( <i>Euthynnus affinis</i> )	KAW
Frigate tuna/Bullet tuna ( <i>Auxis</i> spp.)	FRZ
Narrow barred Spanish mackerel ( <i>Scomberomorus commerson</i> )	COM
Indo-Pacific king mackerel ( <i>Scomberomorus guttatus</i> )	GUT
Sharks	
Other fishes	
Rays	
Marine turtles	

**2.4 REMARKS**

1. Other relevant information is also written in the remarks

**Note:** These species included in the logbook are regarded as minimum requirement. Optionally other species should be added as species may differ depending on the area fished and type of fishery.

ANNEX IV

Landing declaration template

Vessel name

IOTC record no.

Name of port

Landing date  
(strt)

\_\_\_/\_\_\_/\_\_\_

State of port

Transshipment declaration ID(s) – [carriers only]

Product landed

Species	Product form	Quantity (kg)
1		
2		
3		
4		
5		

Buyer 1

Company name

Registration no.

Total quantity

Buyer 2

Company name

Registration no.

Total quantity

Buyer 3

Company name

Registration no.

Total quantity

Signature

Signature & Stamp

Name of Master

Name of Port State Control  
Officer/Inspector

## Annex VIII – Resolution 14/05 Record of licensed foreign vessels & access agreement info (revised)

### RESOLUTION 14/05 CONCERNING A RECORD OF LICENSED FOREIGN VESSELS FISHING FOR IOTC SPECIES IN THE IOTC AREA OF COMPETENCE AND ACCESS AGREEMENT INFORMATION

**The Indian Ocean Tuna Commission (IOTC),**

RECOGNISING that coastal States have sovereign rights in a 200-nautical mile Exclusive Economic Zone (EEZ) with respect to their natural resources;

CONSCIOUS of the provisions of Article 62 of the United Nations Convention on the Law of the Sea;

NOTING that the information on vessels licensed to fish in the EEZ of IOTC Contracting Parties and Cooperating Non-Contracting Parties (collectively, CPCs), constitutes a means to identify potential unreported fishing activities;

MINDFUL of the recommendation 17 of the Performance Review Panel, as listed in Resolution 09/01 [\[superseded by Resolution 16/03\]](#) *on the performance review follow-up*, that the obligation incumbent to a flag State to report data for its vessels be included in a separate Resolution from the obligation incumbent on Members to report data on the vessels of third countries they licence to fish in their EEZs;

AWARE of the data reporting requirements for all CPCs and the importance of complete statistical reporting to the work of the IOTC Scientific Committee, its Working Parties and the Commission;

MINDFUL of the need to ensure transparency among CPCs, in particular to facilitate joint efforts to combat illegal, unreported, and unregulated fishing;

RECALLING the duties of CPCs concerning IUU fisheries as stated in the Resolution 11/03 [\[superseded by Resolution 17/03 then by Resolution 18/03\]](#) *establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence* which requires CPCs to ensure that their vessels do not conduct fishing activities within areas under the national jurisdiction of other States without authorisation and/or infringe the coastal State's laws and Resolutions;

ADOPTS, in accordance with the provisions of Article IX, paragraph 1 of the IOTC Agreement, the following:

- A. Coastal State CPCs with EEZs in the IOTC area of competence, shall not issue any fishing license to a foreign fishing vessel intending to harvest species managed by the IOTC in their EEZs, if the flag State of such vessel is not a contracting party, or a cooperating non-contracting party (CPC) of the IOTC, and/or if such vessel is not listed on the IOTC record of authorised vessels.**

#### **PRIVATE ACCESS AGREEMENTS:**

1. All CPCs which issue licenses to foreign flag vessels to fish in their EEZ for species managed by the IOTC in the IOTC area of competence (hereinafter referred to as “the Area”), **and flag state CPCs that authorize their vessels to operate in foreign EEZs**, shall submit **jointly** to

the IOTC Executive Secretary, **no later than 24 hours after issuing such licenses, for inclusion on the record of authorized vessels, the information contained in paragraph 2.**

- B. When issuing licenses to foreign vessels to operate in their EEZ, CPCs shall verify that license application data concur with individual vessel details on the IOTC record. CPCs shall not license vessels where discrepancies exist, until such discrepancies have been rectified by the flag State. In such cases, the IOTC Executive Secretary shall be informed, and the details shall be examined by the Compliance Committee.**

2. The list under **paragraph 1** shall contain the following information for each vessel:

- a) IOTC **record** number;
- b) **Vessel name and registration number;**
- ~~e) IMO number (if eligible);  
To allow the necessary time to obtain an IMO number for eligible vessels that do not already have one, paragraph 2.c on IMO number is effective as of 1 January 2016. As of this date, CPCs shall ensure that all the fishing vessels that are registered on the IOTC Record of licenced fishing vessels have IMO numbers issued to them. Paragraph 2.c on IMO number does not apply to vessels which are not eligible to receive IMO numbers.~~
- ~~d) The flag at the time of issuing the licence;~~
- ~~e) International radio call sign (if any);~~
- ~~f) Vessel type, length, and gross tonnage (GT);~~
- ~~g) Name and address of owner, and/or charterer and/or operator;~~
- x) Name of the master, passport ID, and Certificate of competence ID**
- h) Main target species; and
- i) Period of licence.

In assessing compliance with the paragraph above, the Commission shall take into account exceptional circumstances in which a vessel owner is not able to obtain an IMO number despite following the appropriate procedures. The CPC which has issued the licence to this vessel shall report any such exceptional situation to the IOTC Secretariat.

#### **GOVERNMENT TO GOVERNMENT ACCESS AGREEMENTS:**

3. In cases where coastal CPCs allow foreign-flagged vessels to fish in waters in their EEZ in the IOTC Area for species managed by IOTC through a Government to Government access agreement, CPCs involved in the referred agreement shall submit jointly to the IOTC Executive Secretary the information concerning these agreements, including:

- a) The CPCs involved in the agreement;
- b) The time period or periods covered by the agreement;
- c) **The number of vessels and gear types authorised list of individual vessels authorised (vessel name, IOTC record number and period of license);**
- d) The stock or species authorised for harvest, including any applicable catch limits;
- e) The CPC's quota or catch limit to which the catch will be applied, where applicable;

- f) Monitoring, control, and surveillance measures required by the flag CPC and coastal CPC involved;
- g) Data reporting obligations stipulated in the agreement, including those between the parties involved, as well as those regarding information that must be provided to the Commission;
- h) A copy of the written agreement.

~~4. For agreements in existence prior to the entry into force of this Resolution, the information specified in paragraph 3 shall be provided, at the least, 60 days in advance of the 2013 Commission meeting.~~

**The information above shall be jointly submitted to the IOTC Executive Secretary within one calendar month, following the signing of the Agreement, except item c), which shall follow the same periodicity and publication rules provided in paragraph 1.**

- 4. When an access agreement is modified in a manner that changes any of the information specified in paragraph 3, these changes shall be promptly notified to the IOTC Executive Secretary.

#### **COMMON PROVISIONS FOR ACCESS AGREEMENTS:**

- 5. The CPCs shall notify the ship owner, the flag State **and the IOTC Executive Secretary**, concerning foreign flagged fishing vessels that requested a license under a private access agreement or under a government to government access agreement and for which the request of license was denied. If the reason for denial is related to an infringement of IOTC CMMs, the IOTC Compliance Committee shall address the issue at the next session accordingly.
- 6. All CPCs which issue licenses to foreign flag vessels to fish in their EEZs for species managed by the IOTC in the IOTC Area, under a private access agreement or under a government to government access agreement, shall submit to the IOTC Executive Secretary within two (2) months of the entry into force of this Resolution a template of the official coastal State fishing License and translated version in one of the official Languages of the IOTC, with:
  - a) The terms and conditions of the coastal State fishing license;
  - b) The name of the Competent Authority;
  - c) The name and contact of the personnel of the Competent Authority;
  - d) The signature of the personnel of the Competent Authority;
  - e) The official stamp(s) of the Competent Authority.

The IOTC Executive Secretary shall publish the template of the coastal State fishing license and the above information ~~in a secure part of~~ **on** the IOTC website for MCS purposes. The information mentioned in sub-paragraph b) to e) must be provided in the form of the **Annex I**.

- 7. When a coastal State fishing license is modified in a manner that changes the template, any of the information provided in it or the information provided in a) to e) of paragraph 7, these changes shall be promptly notified to the IOTC Executive Secretary.
- 8. The IOTC Secretariat shall report the information specified in this Resolution annually to the Commission at its annual meeting.
- 9. This Resolution shall be consistent with domestic confidentiality requirements of the coastal CPC and the flag CPC concerned.

10. This Resolution supersedes Resolution 13/07 *Concerning A Record Of Licensed Foreign Vessels Fishing For IOTC Species In The IOTC Area Of Competence And Access Agreement Information*.

Conservation and Management Measures linked to Resolution 14/05 <u>or return to the <a href="#">Table of Contents</a></u>			
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**ANNEX I**

**COMPLEMENTARY INFORMATION**

**Coastal State Fishing licence**

Country:	
Name of the Competent Authority as stated in the Authorisation To Fish (ATF):	
Address of the Competent Authority:	
Name and contact of personnel of the Competent Authority (email, telephone, fax):	
Signature of the personnel of the Competent Authority:	
Government seal used on the fishing licence:	

## Annex IX – Resolution 10/10 Market related measures (revised)

### RESOLUTION 10/10 CONCERNING OBLIGATIONS UNDER THE IOTC AGREEMENT, AND TRADE RESTRICTIVE MEASURES

**The Indian Ocean Tuna Commission (IOTC),**

RECALLING that the IOTC adopted Resolution 01/07 [superseded by [Resolution 14/01](#)] concerning its support of the IPOA-IUU Plan;

RECALLING the IOTC Recommendation 03/05 [superseded by [Resolution 13/01](#), then by [Resolution 14/01](#)] *Concerning trade Measures* and its non-binding nature;

CONSIDERING the calls of the United Nation General Assembly, included in particular in the UNGA Resolutions on Sustainable Fisheries N° 61/105 of 6 December 2006 and N° 62/177 of 18 December 2007, urging States, individually and through Regional Fisheries Management Organisation to adopt and implement trade measures in accordance with international law, including principles, rights and obligations established in World Trade Agreements;

CONSIDERING the need for action to ensure the effectiveness of the IOTC objectives;

CONSIDERING the obligation of all IOTC Contracting Parties and Cooperating Non-Contracting Parties (hereinafter CPCs) to respect the IOTC Conservation and Management Measures;

AWARE of the necessity for sustained efforts by CPCs to ensure the enforcement of IOTC's Conservation and Management Measures, and the need to encourage Non-Contracting Parties (NCPs) to abide by these measures;

NOTING that market related measures should be implemented only as last resort, where other measures have proven unsuccessful to prevent, deter and eliminate any act or omission that diminishes the effectiveness of IOTC Conservation and Management Measures;

ALSO NOTING that market related measures should be adopted and implemented in accordance with international law, including principles, rights and obligations established in WTO Agreements, and be implemented in a fair, transparent and non-discriminatory manner;

ADOPTS, in accordance with the provisions of Article IX, paragraph 1 of the IOTC Agreement, the following:

#### **Identification**

~~1. CPCs that import tuna and tuna-like fish products, from the IOTC area of competence, or in whose ports those products are landed or transhipped, should, as much as possible, collect and examine all relevant data on import, landing or transhipment and associated information and submit the following information to the Commission each year at least 60 days prior to the annual meeting of the Commission:~~

- ~~i. Names of the vessels that caught, landed and/or transhipped such tuna or tuna-like species products;~~
- ~~ii. Flag States of those vessels;~~
- ~~iii. Species of tuna and tuna-like species of the products;~~



- ~~iv. Areas of catch (Indian Ocean, or other area);~~
- ~~v. Product weight by product type;~~
- ~~vi. Points of export;~~
- ~~vii. Names and addresses of owners of the vessels;~~
- ~~viii. Registration number.~~

- A. **CPCs shall include information in their Annual Reports (Report of Implementation) on actions taken to implement their reporting obligations for all IOTC fisheries; including shark species caught in association with IOTC fisheries, in particular steps taken to improve their data collection for direct and incidental catches.**
  - B. **The IOTC Compliance Committee shall review Actions taken by CPCs, as described in paragraph 1, annually.**
2. a) The Commission, through the IOTC Compliance Committee **shall pre-identify** each year:
- i) The CPCs who have repeatedly failed, as stated by the Commission in its annual Plenary, to discharge their obligations under the IOTC Agreement in respect of IOTC Conservation and Management Measures, in particular, by **failing to comply with its reporting obligations, and/or** not taking measures or exercising effective control to ensure compliance with IOTC Conservation and Management Measures **in their capacity as coastal, flag, port and/or market State**; and/or
  - ii) The NCPs who have failed **repeatedly** to discharge their obligations under international law to co-operate with IOTC in the conservation and management of tuna and tuna-like species, in particular, by not taking measures or exercising effective control to ensure **that their ports and markets are not being used for**, and their vessels do not engage in any activity that undermines the effectiveness of IOTC Conservation and Management Measures.
- b) **Pre-identifications shall** be based on a review of all **available evidence**, as appropriate, **and** other relevant information, such as: the catch data compiled by the Commission; trade information on these species obtained from National Statistics; the IOTC statistical document programme; the list of the IUU vessels adopted by the IOTC, **information obtained through other current and future monitoring tools (including electronic means such as VMS and CDS)**, as well as any other information obtained in the ports and on the fishing grounds.
- c) In deciding whether to make **pre-identification**, the IOTC Compliance Committee **shall** consider all relevant matters including the history, and the nature, circumstances, extent, and gravity of the act or omission that may have diminished the effectiveness of IOTC Conservation and Management Measures.
- d) **The pre-identification shall establish in clear terms which products (species and form), from which flag State vessel(s), and/or from which flag/port/market State export locations (as applicable), are the object of the pre-identification, and shall become the object of CPC trade sanctions – should the identification occur. In doing so, the Compliance Committee shall exercise due care in identifying only products, vessels, fleets and/or State actors that are directly involved in the perpetration of past offences, so as to diminish to an absolute minimum impacts of trade sanctions on legally operating private and public parties.**

## Notification

3. The Commission should request CPCs and NCPs concerned to rectify the act or omission identified under paragraph 2 so as not to diminish the effectiveness of the IOTC conservation and management measures.

The Commission should notify **pre-identified** CPCs and NCPs of the following:

- a) the reason(s) for the **pre-identification** with all available supporting evidence;
  - b) the opportunity to respond to the Commission in writing at least **3090** days prior to the **following** annual meeting of the Commission with regard to the **pre-identification** decision and other relevant information, for example, evidence refuting the **pre-identification** or, **where as** appropriate, **issuing of sanctions, introduction of new legislation, or** a plan of action for improvement and the steps they have taken to rectify the situation; and
  - c) in the case of a NCP, an invitation to participate as an observer at the annual meeting where the issue will be considered.
4. The IOTC Secretariat should transmit without delay the Commission's request referred to in paragraph 3 to the **pre-identified** CPC or NCP. The IOTC Executive Secretary should seek to obtain confirmation from the CPC or the NCP that it received the notification. Absence of response from the CPC or NCP concerned within the time limit shall not prevent action from the Commission.

## Evaluation and possible actions

5. **In the following year, the** IOTC Compliance Committee should evaluate the response of the CPCs or NCPs referred to in paragraph 3 b), together with any new information, and propose to the Commission to decide upon one of the following actions:
  - a) the revocation of the **pre-identification**;
  - b) the continuation of the **pre-identification** status of the CPC or NCP; or
  - c) the **formal identification and** adoption of non-discriminatory WTO-consistent **market related trade restrictive** measures in accordance with Article IX paragraph 1 of the IOTC Agreement.

~~In the case of CPCs, actions such as the reduction of existing quotas or catch limits should be implemented to the extent possible before consideration is given to the application of market related measures referred to in subparagraph c). Market related measures should be considered only where such actions either have proven unsuccessful or would not be effective.~~

6. The Commission, through the IOTC Secretariat, should notify the CPCs and NCPs concerned of its decision and the underlying reasons in accordance with the procedures specified in paragraph 4.
7. CPCs **shall** notify the Commission of **any** measures that they have taken for the enforcement of the non-discriminatory **market-related trade restrictive** measures adopted in accordance with paragraph 5.c).
8. The Commission ~~should~~**shall** establish annually a list of CPCs and NCPs that have been subject to a non-discriminatory **market-related trade restrictive** measure pursuant to paragraph 5 and, with respect to NCPs, are considered as Non Cooperating Non-Contracting Parties to IOTC.

**Review of ~~market-related trade restrictive~~ measures**

9. In order for the Commission to adopt the possible lifting of ~~market-related trade restrictive~~ measures, the IOTC Compliance Committee should review each year all non-discriminatory ~~market-related trade restrictive~~ measures adopted in accordance with paragraph 5. Should this review show that the situation has been rectified the IOTC Compliance Committee should recommend to the Commission the lifting of the non-discriminatory ~~market-related trade restrictive~~ measures. Such decisions should in particular take into consideration whether the CPCs and/or NCPs concerned have demonstrated by submitting the necessary evidence that the conditions that led to the adoption of non-discriminatory ~~market-related-trade restrictive~~ measures are no longer met.
  
10. Where exceptional circumstances so warrant or where available information clearly shows that, despite the lifting of non-discriminatory ~~market-related trade restrictive~~ measures adopted in accordance with paragraph 9, the CPC or NCP concerned continues to diminish the effectiveness of IOTC Conservation and Management Measures, the Commission may immediately decide on action including, as appropriate, the imposition of non-discriminatory ~~market-related trade restrictive~~ measures in accordance with paragraph 5. Before making such a decision, the Commission should request the CPC or NCP concerned to discontinue its wrongful conduct and, after verification through the IOTC Secretariat that the CPC or NCP concerned has received such communication, should provide the CPC or NCP with an opportunity to respond within 10 working days. Absence of response from the CPC or NCP concerned within the time limit shall not prevent action from the Commission.

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## **Annex X – Resolution 15/02 Mandatory statistical reporting requirements (revised)**

### **RESOLUTION 15/02 MANDATORY DATA REPORTING REQUIREMENTS FOR IOTC CONTRACTING PARTIES AND COOPERATING NON-CONTRACTING PARTIES (CPCs)**

**Keywords:** Data reporting; total catch; catch and effort; size data; fish aggregating devices (FAD); surface fisheries; longline fisheries; coastal fisheries.

#### **The Indian Ocean Tuna Commission (IOTC),**

GIVEN that the Agreement for the implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA) encourages coastal States and fishing States on the high seas to collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort;

NOTING that the United Nations Food and Agricultural Organisation (FAO) Code of Conduct for Responsible Fishing provides that States should compile fishery-related and other supporting scientific data relating to fish stocks covered by subregional or regional fisheries management organisations and provide them in a timely manner to the organisation;

RECALLING the commitment made by Contracting Parties under Article V of the IOTC Agreement to keep under review the conditions and trends of the stocks and to gather, analyse and disseminate scientific information, catch and effort statistics and other data relevant to the conservation and management of the stocks and to fisheries based on the stocks covered by the Agreement;

COGNISANT that the above commitment can only be achieved when Contracting Parties meet the requirements of Article XI of the IOTC Agreement i.e. to provide statistical and other data and information to minimum specifications and in a timely manner;

ACKNOWLEDGING that the IOTC Scientific Committee has repeatedly stressed the importance of the timeliness of data submissions;

GIVEN that the activities of support vessels and the use of Fish Aggregating Devices (FAD) are an integral part of the fishing effort exerted by the purse seine fleet;

CONSIDERING the provisions set forth in Resolution 15/02 on *mandatory statistical reporting requirements for IOTC Contracting Parties and Cooperating Non-Contracting Parties (CPCs)*, adopted by the Commission in 2015;

NOTING the Scientific Committee's concern that the lack of data from CPC fisheries under the mandate of the IOTC on the mortality of marine turtles and marine mammals undermines the ability to estimate levels of marine turtle and marine mammals bycatch and consequently the IOTC's capacity to respond and prevent adverse effects of fishing on these marine species;

FURTHER NOTING the Scientific Committee's concern about the impossibility to undertake assessments on the status of seabirds in the Indian Ocean, while acknowledging that some species are currently critically endangered, and that the lack of reporting of seabird interactions by CPCs seriously undermines the ability of IOTC to respond and prevent adverse effects of fishing on seabirds;

CONSIDERING the recommendations of the 17<sup>th</sup> Session of the IOTC Scientific Committee;

FURTHER CONSIDERING the call upon States, either individually, collectively or through regional fisheries management organisations and arrangements included in the United Nations General Assembly Resolution 67/79 on sustainable fisheries to collect the necessary data in order to evaluate and closely monitor the use of fish aggregating devices and their effects on tuna resources and tuna behaviour and associated and dependent species, to improve management procedures to monitor the number, type and use of such devices and to mitigate possible negative effects on the ecosystem, including on juveniles and the incidental bycatch of non-target species, particularly sharks and turtles;

ADOPTS, in accordance with the provisions of Article IX, paragraph 1 of the IOTC Agreement, the following:

1. Contracting Parties and Cooperating Non-Contracting **flag State** Parties (**FS** CPCs) shall provide the following information to the IOTC Secretariat according to the timelines specified in paragraphs **7.a), 7.b) and 7.c)**:

2. **Total catch data:**

Estimates of the total catch by species and gear, **including zero catches, and** if possible quarterly, that shall be submitted annually as referred in paragraph 7 (separated, whenever possible, by retained catches in live weight and by discards in live weight or numbers) for all species under the IOTC mandate as well as the most commonly caught elasmobranch species according to records of catches and incidents as established in [Resolution 15/01](#) *on the recording of catch and effort data by fishing vessels in the IOTC area of competence* (or any subsequent superseding Resolution).

3. Concerning cetaceans, seabirds and marine turtles data should be provided as stated in [Resolutions 13/04](#) *on Conservation of Cetaceans*, [Resolution 12/06](#) *on reduction the incidental bycatch of seabirds in longline fisheries* and [Resolution 12/04](#) *on the conservation of marine turtles* (or any subsequent superseding resolutions).

**A. To facilitate the reporting of zero catches as required under paragraph 2 above, the following procedure shall apply:**

**a) as part of the IOTC 1RC electronic form used to report nominal catches, the Secretariat shall include a matrix by IOTC species as well as the most commonly caught elasmobranch species according to records of catches and incidents as established in Resolution 15/01 on the recording of catch and effort data by fishing vessels in the IOTC area of competence (or any subsequent superseding Resolution) and main IOTC gear groups on the basis of the format set out in Annex I of this Resolution;**

**b) CPCs, as part of their total catch data reporting, shall complete the cells in the matrix with either a value of ‘one’ (1) to indicate where that CPC had catches (positive catch) for a particular species/gear combination or a value of ‘zero’ (0) to indicate where that CPC had no catches (zero landings + zero discards) for a particular species/gear combination;**

**c) The “Catch columns” section of the electronic Form 1RC shall only include reports of positive catches.**

**B. The Commission may consider expanding the matrix to include additional species under the competence of IOTC as well as stock/gear combinations as appropriate.**

#### 4. **Catch and effort data<sup>59</sup>:**

- a) **For surface fisheries:** catch weight by species and fishing effort shall be provided by 1° grid area and month strata. Purse seine and pole and line fisheries data shall be stratified by fishing mode (e.g. free swimming schools or schools in association with floating objects). The data shall be extrapolated to the total national monthly catches for each gear. Documents describing the extrapolation procedures (including raising factors corresponding to the logbook coverage) shall also be submitted routinely. Effort units reported should be consistent with those effort requirements of [Resolution 15/01](#) (or any subsequent superseding revision).
- b) **Longline fisheries:** catch by species, in numbers or weight, and effort as the number of hooks deployed shall be provided by 5° grid area and month strata. Documents describing the extrapolation procedures (including raising factors corresponding to the logbook coverage) shall also be submitted routinely. For the work of relevant working parties under the IOTC Scientific Committee, longline data should be of a resolution of 1° grid area and month or finer. These data would be for the exclusive use of IOTC Scientific Committee and its Working Parties, subject to the approval of the data owners and IOTC [Resolution 12/02 Data confidentiality policy and procedures](#), and should be provided for scientific use only in a timely fashion. Effort units reported should be consistent with those effort requirements of [Resolution 15/01](#) or any subsequent revision of such resolution.
- c) **For coastal fisheries:** catches by species that shall be submitted annually as referred in paragraph 7, fishing gear and fishing effort shall be submitted frequently and may be provided using an alternative geographical area if it better represents the fishery concerned. Effort units reported should be consistent with those effort requirements of [Resolution 15/01](#) (or any subsequent superseding revision).

Provisions on catch and effort data, applicable to tuna and tuna-like species, shall also be applicable to the most commonly caught elasmobranch species according to records of catches and incidents as established in [Resolution 15/01 on the recording of catch and effort by fishing vessels in the IOTC area of competence](#) (or any subsequent superseding Resolution).

#### 5. **Size data:**

Size data shall be provided for all gears and for all species according to paragraph 4 and following the guidelines set out by the procedures described in the *Guidelines for the reporting of fisheries statistics to the IOTC*. Size sampling shall be run under strict and well described random sampling schemes which are necessary to provide unbiased figures of the sizes taken. Sampling coverage shall be set to at least one fish measured by ton caught, by species and type of fishery, with samples being representative of all the periods and areas fished. Alternatively, size data for longline fleets may be provided as part of the Regional Observer Scheme where such fleets have at least 5% observer coverage of all fishing operations. Length data by species, including the total number of fish measured, shall be submitted by a 5° grid area by month, by gear and fishing mode (e.g. free swimming schools or schools in association with floating objects for the purse seiners). Documents covering sampling and raising procedures shall also be provided, by species and type of fishery.

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<sup>59</sup> Longline fisheries: Fisheries undertaken by vessels in the IOTC Record of Authorized Vessels that use longline gear.

Surface fisheries: All fisheries undertaken by vessels in the IOTC Record of Authorized Vessels other than longline fisheries; in particular purse seine, pole-and-line, gillnet fisheries, handline and trolling vessels.

Coastal fisheries: Fisheries other than longline or surface, as defined above, also called artisanal fisheries.

6. Given that the activities of purse seine supply vessels and the use of **Fish Aggregating Devices (FAD)** are an integral part of the fishing effort exerted by the purse seine fleet, the following data shall be provided by CPCs:
- a) The number and characteristics of purse seine supply vessels: (i) operating under their flag, (ii) assisting purse seine vessels operating under their flag, or (iii) licensed to operate in their exclusive economic zones, and that have been present in the IOTC area of competence;
  - b) Number of days at sea by purse seine and purse seine supply vessels by 1° grid area and month to be reported by the flag state of the supply vessel;
  - c) The total number set by the purse seine and purse seine supply vessels per quarter, as well as:
    - i. The positions, dates at the time of setting, FAD identifier and FAD type (i.e. drifting log or debris, drifting raft or FAD with a net, drifting raft or FAD without a net, anchored FADs and other FADs e.g. Payao, dead animal etc.);
    - ii. The FAD design characteristics of each FAD (consistent with Annex 1 to [Resolution 15/08](#) [superseded by [Resolution 17/08](#) then by [Resolution 18/08](#)] *Procedures on a fishing aggregating devices (FADs) management Plan, including a limitation on the number of FADS, more detailed specifications of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species*).

These data would be for the exclusive use of IOTC Scientific Committee and its Working Parties, subject to the approval of the data owners and in accordance with [Resolution 12/02](#) *Data confidentiality policy and procedures*, and should be provided in a timely fashion.

7. **Timeliness of data submission to the IOTC Secretariat:**
- a) Longline fleets operating in the high seas shall provide provisional data for the previous year no later than 30 June. Final data shall be submitted no later than 30 December;
  - b) All other fleets (including supply vessels) shall submit their final data for the previous year no later than 30 June;
  - c) In case where the final statistics cannot be submitted by that date, at least preliminary statistics should be provided. Beyond a delay of two years, all revisions of historical data should be formally reported and duly justified. These reports should be made on forms provided by the IOTC Secretariat and reviewed by the IOTC Scientific Committee. The IOTC Scientific Committee will advise the IOTC Secretariat if revisions are then accepted for scientific use.
8. This Resolution supersedes Resolution 10/02 on *mandatory statistical requirements for IOTC Members and Cooperating Non-Contracting Parties (CPCs)*.

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<a href="#">Resolution 18/08</a>	<a href="#">Resolution 12/04</a>	<a href="#">Resolution 13/04</a>	<a href="#">Resolution 12/04</a>
<a href="#">Resolution 13/04</a>	<a href="#">Resolution 12/06</a>	<a href="#">Resolution 13/05</a>	<a href="#">Resolution 18/01</a>

		<a href="#">Resolution 16/02</a>	<a href="#">Resolution 16/04</a>
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**Annex I**

**Example of zero catch matrix – to be further adjusted by IOTC secretariat**

T1 "Zero Catch Matrix"				Gear Group						
Species Group	Species Code	Species Name	Stock	HL	BB	LL	PS	TR	GN	Other
Temperate Tunas	ALB	<i>Thunnus alalunga</i>	IO							
	SBT	<i>Thunnus maccoyii</i>	IO							
Tropical Tunas	BET	<i>Thunnus obesus</i>	IO							
	SKJ	<i>Katsuwonus pelamis</i>	IO							
	YFT	<i>Thunnus albacares</i>	IO							
Neritics Tunas	LOT	<i>Thunnus tonggol</i>	IO							
	KAW	<i>Euthynnus affinis</i>	IO							
	FRI	<i>Auxis thazard</i>	IO							
	BLT	<i>Auxis rochei</i>	IO							
	COM	<i>Scomberomorus commerson</i>	IO							
	GUT	<i>Scomberomorus guttatus</i>	IO							
Billfishes	BUM	<i>Makaira nigricans</i>	IO							
	BLM	<i>Makaira indica</i>	IO							
	MLS	<i>Tetrapturus audax</i>	IO							
	SFA	<i>Istiophorus platypterus</i>	IO							
	SWO	<i>Xiphias gladius</i>	IO							
Other "Species" as requested by Resolution 15/01 for specific gears (in grey not required)	SSP	Shortbill spearfish ( <i>Tetrapturus angustirostris</i> )	IO							
	BSH	Blue shark ( <i>Prionace glauca</i> )	IO							
	MAK	Mako sharks ( <i>Isurus spp.</i> )	IO							
	POR	Porbeagle shark ( <i>Lamna nasus</i> )	IO							
	SPN	Hammerhead sharks ( <i>Sphyrna spp.</i> )	IO							
	FAL	Silky shark ( <i>Carcharhinus falciformis</i> )	IO							
	MZZ	Other bony fishes	IO							
	SKH	Other sharks	IO							
	THR	Thresher sharks ( <i>Alopias spp.</i> )	IO							
	OCS	Oceanic whitetip shark ( <i>Carcharhinus longimanus</i> )	IO							
	TIG	Tiger shark ( <i>Galeocerdo cuvier</i> )								
	PSK	Crocodile shark ( <i>Pseudocarcharias kamoharai</i> )								
	WSH	Great white shark ( <i>Carcharodon carcharias</i> )								
MAN	Mantas and devil rays ( <i>Mobulidae</i> )									
PLS	Pelagic stingray ( <i>Pteroplatytrygon violacea</i> )									
	Other rays									

**GREY AREAS SHOULD NOT BE FILLED IN ACCORDANCE WITH LOGBOOKS SPECIFIED IN RESOLUTION 15/01**

## **Annex XI – Resolution yy/xx IOTC High-sea Boarding and Inspection Scheme (2016 version)**

### **IOTC High-sea Boarding and Inspection Scheme**

#### **Part 1**

#### **General Provisions**

1. Each Contracting Party shall take such measures as may be necessary to ensure that vessels entitled to fly its flag, their Masters, the inspection vessels and inspectors it has assigned to this Scheme fulfil their respective duties and requirements under this Scheme.
2. Boarding and inspections shall be carried out by inspectors and inspection vessels assigned to this Scheme by a Contracting Party.
3. CPCs shall ensure that the Masters of their vessels are informed of these procedures and of their obligations under this Scheme.

#### *Use of terms*

4. For the purposes of this Scheme, the following definitions apply:
  - a) “CMMs” means Conservation and Management Measures adopted by the Indian Ocean Tuna Commission;
  - b) “Fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;
  - c) “Fishing related activities” means any operation in support of, or in preparation for, fishing, including deploying FAD’s, landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
  - d) “High Sea” means the IOTC Area of Competence lying outside of the EEZ’s of the surrounding coastal states;
  - e) “Inspection vessel” means any vessel authorised by a Contracting Party and assigned to the IOTC record of inspection vessels under the Scheme;
  - f) “Inspector” means an official authorised by a Contracting Party assigned to the IOTC Regional High Seas Boarding and Inspection Scheme;
  - g) “Agreement” means the Agreement for the establishment of the Indian Ocean Tuna Commission;
  - h) “Scheme” means IOTC High Seas Boarding and Inspection Scheme for the Indian Ocean, as adopted by the Commission; and
  - i) “Vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

#### *Purpose and area of application*

5. Boarding, inspection and related activities conducted pursuant to this Scheme shall be for the purpose of ensuring compliance with the provisions of the Agreement and CCMs which have been adopted and remain in force.
6. This Scheme applies in the High Sea of the IOTC Area of Competence in accordance with Article II of the Agreement.

## **Part 2**

### **Authorisations and Duties**

#### *Contracting Party Duties*

##### *Notification requirements*

7. Each Contracting Party shall notify the Executive Secretary of a contact point within its national fisheries authority (including name, telephone, fax numbers and e-mail address) for the purposes of receiving, inspection reports and immediate notification of infringements pursuant to this Scheme;

8. A Contracting Party that intends to conduct boarding and inspection under this Scheme, including by deploying inspectors on board the inspection vessel of another Contracting Party pursuant to an agreement under paragraph 10, shall notify the Executive Secretary:

- a) its national authority responsible for at-sea inspection, as well as contact details (including name, telephone and fax numbers and e-mail address) for a point of contact within that authority;
- b) for each inspection vessel designated under this Scheme, its name, description, starboard and stern photographs, registration number, port of registry, and, if different from the port of registry, the name of the port as marked on the hull, international radio call sign and particulars of any other communication capabilities; and
- c) the templates of the credential issued to its inspectors designated to participate in this Scheme
- d) any changes to the information which has been provided pursuant to sub-paragraph a to c before any new inspection vessel or national authority participates in this Scheme.

##### *Identification of inspection vessels and inspectors*

9. Contracting Parties shall ensure that:

- a) each inspection vessel it authorizes to participate in this Scheme is clearly marked as being on government service by displaying the IOTC inspection pennant depicted in Annex II;
- b) Inspectors are issued with credentials accorded to the templates referred to in paragraph 8c and have them available for presentation to the Master on boarding and, when requested, at all times under this Scheme.

##### *Exchange of inspectors*

10. Contracting Parties are encouraged to identify opportunities to place inspectors on an inspection vessel of another Contracting Party. To this end, where appropriate, Contracting Parties should seek to conclude bilateral or multilateral arrangements, or otherwise facilitate communication and coordination between them for the purpose of implementing this Scheme.

11. Contracting Parties shall notify the Executive Secretary of any arrangement reached under paragraph 9.

12. Contracting Parties deploying inspection vessels should, subject to having an agreement as outlined in paragraph 10, embark inspectors from another Contracting Party if available. Foreign inspectors may participate in all inspections conducted by the inspection vessel under this Scheme as agreed upon by Contracting Parties prior to deployment.

##### *Secretariat Duties*

13. The Executive Secretary shall:

- a) establish, maintain and post to the secure part of the IOTC website the information notified by the Contracting Parties under subparagraph 8, including a register of inspection vessels under this Scheme, and the arrangements referred to in paragraph 10;

- b) issue the IOTC inspection pennants depicted in Annex II to Contracting Parties deploying inspection vessels pursuant to this Scheme; and
- c) maintain and post to the secure part of the IOTC website a standardised, multi-language questionnaire developed in collaboration with Contracting Parties for use in contacting vessels and conducting boarding and inspection activities pursuant to this Scheme.

#### *Coordination of inspection vessels*

- 14. Contracting Parties are encouraged to participate in this Scheme.
- 15. Inspection vessels in the same operational area should seek to establish regular contact for the purpose of sharing information relevant to their activities under this Scheme.

#### *Priorities for inspections*

- 16. While not limiting efforts so to ensure compliance by all vessels, the inspecting Contracting Party should give priority to inspecting a vessel:
  - a) entitled to fly the flag of a Contracting Party that is eligible for inclusion in the IOTC Record of Authorised Vessels, but is not included;
  - b) where there are reasonable grounds to suspect the vessel is, or has been, engaged in IUU fishing activities or in any activity in contravention of the Agreement and CMMs;
  - c) included in the list of vessels that have engaged in IUU fishing activities adopted by a regional or subregional fisheries management organization; or
  - d) pursuant to a request by a Contracting Party or a regional or sub-regional fisheries management organization, supported by evidence of possible IUU fishing activities by the vessel in question.

#### *Optimal use of inspection resources*

- 17. In applying this Scheme, Contracting Parties may seek to promote optimum use of the inspection vessels and inspectors by:
  - a) ensuring that boarding and inspection operations are fully integrated with the other monitoring, compliance tools available pursuant to the Agreement and CMMs;
  - b) ensuring non-discriminatory distribution of boarding and inspections of Contracting Parties vessels, without compromising the opportunity to investigate possible serious infringements; and
  - c) ensuring compliance by their own vessels.

## **Part 3**

### **Conduct of Boarding and Inspections under this Scheme**

- 18. Vessels of Contracting Parties may only be inspected by inspection vessels included on the register referred to in paragraph 13.a.
- 19. Inspections shall be conducted in a transparent, non-discriminatory manner taking into account inter alia, the vessels' fishing patterns and compliance record, the frequency and the results of prior inspections.
- 20. When undertaking inspections of vessels, inspectors shall use the checklist provided at Annex VII. The Executive Secretary shall ensure the checklist is amended as necessary to incorporate the adoption of new CMMs, and made available in the IOTC website.
- 21. Any inspection vessel that intends to undertake boarding and inspection of a vessel of a Contracting Party shall:
  - a) make best efforts to establish contact with the vessel by radio, using the appropriate International Code of Signals or other internationally accepted means of alerting the vessel;

- b) identify itself as an inspection vessel, including by displaying in a clearly visible position, the IOTC inspection pennant depicted in Annex II;
  - c) communicate to the vessel its intention to board and inspect the vessel; and
  - d) initiate notice through its authorities to the contact point of the flag Contracting Party of the vessel.
22. The inspection vessel and the inspectors shall make best efforts to communicate with the Master of the vessel in English, using the standardized multi-language questionnaires referred to in paragraph 13.c.
23. The number of inspectors assigned to a boarding party shall be determined by the commanding officer of the inspection vessel taking into account present circumstances. The boarding party should be as small as possible to conduct an effective inspection safely and securely.
24. Boarding and inspection shall be conducted:
- a) in accordance with generally accepted international standards, regulations, procedures and practices relating to the safety of the vessel and its crew; and
  - b) in a manner that avoids:
    - i. undue interference with the lawful activity of the vessel;
    - ii. actions that would adversely affect the quality of the catch; and
    - iii. any kind of harassment of the vessel's officers or crew.
25. In conducting an inspection, the inspectors shall:
- a) upon boarding, present their credentials to the Master;
  - b) make best efforts to communicate with the Master of the vessel in English, where appropriate by using the standardized multi-language questionnaires referred to in paragraph 13.c;
  - c) avoid interfering with the Master's ability to communicate with the operator and the authorities of the flag Contracting Party of the vessel;
  - d) inspect and record such images of the vessel's license, gear, equipment, facilities, fish and fish products on board, and logbooks, records and documents as may be necessary to verify compliance with, or establish any suspected infringements of the Agreement and CMMs;
  - e) collect, and clearly document in the inspection report, any evidence of an infringement of the Agreement and CMMs;
  - f) record the inspection and any suspected infringement in the appropriate vessel's logbook or, where the vessel's logbook is electronic provide a written record of the inspection and any suspected infringement;
  - g) provide the Master with a copy of the inspection report;
  - h) complete the inspection within four hours unless evidence of a serious infringement is found, or where a longer time period is required to monitor ongoing fishing operations and obtain related documentation issued by the Master; and
  - i) except where they have reasonable grounds to believe a serious infringement has been committed, promptly leave the vessel following completion of the inspection.

#### *Duties of Contracting Parties*

26. Contracting Parties shall ensure that all inspectors:
- a. are properly trained in applicable boarding and inspection operations at sea taking into account the guidelines in Annex IV;
  - b. remain under its operational control, are fully familiar with the fishing activities being inspected and have been issued their credentials ;

- c. apply the provisions of this Scheme; and
- d. limit inspections to the verifying of compliance with the Agreement and CMMs.

#### *Use of force*

27. The use of force shall be avoided except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.
28. The inspectors shall promptly report any incident involving the use of force to their national authorities responsible for at-sea inspection, who shall advise the contact point of the flag Contracting Party of the vessel, and the Executive Secretary.

#### *Duties of Vessel Masters*

29. Each Contracting Party shall require that the Master of any vessel entitled to fly its flag:
- a) follows internationally accepted principles and normal practices of good seamanship to avoid risks to the safety of inspection vessels and inspectors undertaking boarding of the vessel;
  - b) facilitates prompt and safe embarkation and disembarkation of the inspectors by manoeuvring the vessel according to the prevailing conditions, and by providing a boarding ladder to the specification prescribed at Annex IX;
  - c) cooperates with the inspectors and assist in the inspection of the vessel pursuant to these procedures;
  - d) not assault, resist, intimidate, interfere with, or unduly obstruct or delay the inspectors in the performance of their duties;
  - e) makes available the use of the vessel's communication equipment and operator, to the extent required by the inspectors in the performance of their duties, so to contact its authorities;
  - f) allows the inspectors to communicate with the crew of the vessel;
  - g) provides the inspectors with reasonable facilities, including, where appropriate, food and accommodation;
  - h) takes such action as may be necessary to preserve the integrity of any seal or identification mark affixed by an inspector and of any evidence remaining on board;
  - i) ensures that holds that have been sealed are not entered, except for reasons of the crews' safety;
  - j) where the inspectors have made an entry in the logbooks, provides the inspectors with a copy of each page where such entry appears and, at the request of the inspector, signs each page to confirm that it is a true copy; and
  - k) refrains from resuming fishing activity until the inspectors have completed the inspection, and in the case of serious infringements, until the evidence have been secured.

#### *Refusal of boarding and inspection*

30. If the Master of a vessel refuses to allow an inspector to carry out a boarding and inspection in accordance with this Scheme, such Master shall offer an explanation of the reason for such refusal. The authorities of the inspection vessel shall immediately notify the contact point of the flag Contracting Party of the vessel and the Executive Secretary of the Master's refusal and any explanation.
31. The authorities of the flag Contracting Party of the vessel, unless generally accepted international regulations, procedures and practices relating to safety at sea make it necessary to delay the boarding and inspection, shall direct the Master to accept the boarding and inspection. If the Master does not comply with such direction, the Contracting Party shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The Contracting Party shall immediately notify the authorities of the inspection vessel and the Executive Secretary of the action it has taken in these circumstances.

## **Part 4**

### **Inspections Report**

#### *Inspectors Duties*

32. Each Contracting Party shall require that its inspectors:

- a) upon completion of an inspection, complete an inspection report in the form set out in Annex V;
- b) identify in the inspection report any observed activity or condition that the inspectors believe to be an infringement of the Agreement and CMMs in force and indicate the nature of the specific factual evidence of such infringement;
- c) sign the inspection report in the presence of the Master, who shall be given the opportunity to add or have added to the report any observations in their national language;
- d) submit a copy of the inspection report to their national authority as soon as possible, by electronic transmission, after the completion of the inspection, or at the latest within 3 working days of the first port call;
- e) request the Master to sign the report only as an acknowledgement of receipt; and
- f) before disembarking, provide a copy of the report to the Master, duly noting any refusal by the Master to acknowledge receipt.

#### *Duties of the Contracting Party*

33. The inspecting Contracting Party shall transmit an electronic copy of the inspection report to the contact point of the flag Contracting party of the vessel being inspected, as well as to the Executive Secretary, within 3 full working days following the reception of the inspection report, pursuant to paragraph 31.d.

34. Where inspectors have noted a serious infringement in the inspection report, the inspecting Contracting Party shall transmit without delay a copy of the inspection report and all supporting documents, images or audio recordings, to the contact point of the flag Contracting Party of the vessel and to the Executive Secretary.

#### *Duties of the Executive Secretary*

35. The Executive Secretary shall:

- a) ensure the form of the inspection report is amended as necessary to incorporate the adoption of new CMMs, and made available in the IOTC website; and
- b) place a copy of the inspection report received from Contracting Parties on the secure part of the IOTC website.

## **Part 5**

### **Infringements and Serious Infringements**

#### *Infringements*

36. In the event of inspectors finding evidence pursuant to this Scheme with respect to an infringement by a vessel of the Agreement and CMMs, they shall note the infringement in the inspection report referring to the CMM infringed.

#### *Serious Infringements*

#### *Definitions*

37. In addition to the definitions provided in paragraph 1 of Resolution 11/03 *establishing a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the IOTC area of competence*, each of the following shall constitute a serious infringement:

- a) falsifying or intentionally concealing the markings, identity or registration of a vessel or its gear, or failing to mark fishing gear, falsify or intentionally conceal its markings, identity or registration;
- b) concealing, tampering with or disposing of evidence related to an inspection or investigation of an infringement, including the breaking or tampering of marks or seals;
- c) accessing sealed areas, except for reasons of safety of the crew;
- d) committing multiple infringements which, taken together, constitute a serious disregard of the Agreements and CMMs;
- e) assaulting, resisting, intimidating, interfering with, obstructing or unduly delaying inspectors in the performance of their duties, and any form of harassment;
- f) in the absence of any justifiable reason based on generally accepted international regulations, procedures and practices relating to safety at sea, refusal to accept a boarding and inspection by inspectors;
- g) interference with the vessel monitoring system and/or operate without a VMS system in contravention of the Agreement and CMMs; and
- h) presenting falsified documents or providing false information to an inspector so as to prevent a serious infringement from being detected.

#### *Duties of the Inspectors*

38. Where the inspectors have reasonable grounds to believe that a vessel has committed a serious infringement of the Agreement and CMMs, they shall:

- a) immediately notify the serious infringement to their national authority;
- b) seek to advise, without delay, any inspection vessel of the flag Contracting Party of the vessel that are present in the vicinity;
- c) take all necessary measures to ensure security and continuity of the evidence for subsequent port inspection, and
- d) affix securely an official IOTC seal, as depicted in Annex X, to any part of the fishing gear which appears to the inspector to have been in contravention of applicable measures.

#### *Duties of the inspecting Contracting Party*

39. Where notified by its inspectors of a serious infringement, the inspecting Contracting Party shall immediately transmit written notification of the serious infringement and a description of the supporting evidence to the contact point of the flag Contracting Party of the vessel and to the Executive Secretary.

#### *Duties of the flag Contracting Party of the vessel*

40. A flag Contracting Party that has been notified of a serious infringement pursuant to paragraph 39, shall:

- a) acknowledge receipt of the notification without delay;
- b) require that the Master of the vessel concerned:
  - i. to cease all fishing activity until it is satisfied that the infringement will not continue or be repeated and has so notified the Master; and
  - ii. where appropriate to the conduct of a full and thorough investigation, to proceed immediately to a port it designates for investigation under its authority;



- c) investigate immediately and fully, including as appropriate by physically inspecting the vessel, at the earliest opportunity, or authorize the inspecting Contracting Party to take enforcement action as appropriate under the circumstances;
- d) take prompt action to receive and consider the evidence of the infringement and conduct any further investigation necessary for the follow up to the infringement;
- e) report to the Executive Secretary the progress of the investigation, including details of any actions it has taken or has initiated in relation to the infringement;
- f) cooperate with the inspecting Contracting Party to preserve the evidence in a form that will facilitate proceedings in accordance with its laws;
- g) where the evidence so warrants, take immediate judicial or administrative action in conformity with its national legislation against the persons responsible for the vessel flying its flag; and
- h) ensure that in proceedings it has instituted, it treats a notice of an infringement issued pursuant to this Scheme as if the infringement was reported by its own inspector.

41. The flag Contracting Party shall ensure:

- a) that any of its vessels which have been found to have contravened an the Agreement and CMMs do not carry out fishing operations within the IOTC Area of Competence, as defined in Article II of the Agreement, until they have complied with the sanctions imposed; and
- b) the proceedings initiated shall, in accordance with the relevant provisions of its national law, be capable of effectively depriving those responsible of the economic benefit of the infringements or of providing sanctions proportionate to the seriousness of such infringements, thus effectively discouraging future infringements.

*Duties of the Executive Secretary*

42. The Executive Secretary shall maintain a record of actions reported by the flag Contracting Party pursuant to paragraph 40.e, post such record to the secure part of the IOTC website and refer the information to the Commission for its consideration.

## **Part 6**

### **Follow-up enforcement action**

*Follow-up enforcement action*

43. For the purpose of this Scheme, the authorities of the vessel shall regard any interference by their vessels, Masters or crews with an inspector or an inspection vessel of another Contracting Party in the same manner as any such interference occurring within its exclusive economic zone.

44. Contracting Parties shall cooperate to facilitate judicial or other proceedings initiated as follow-up to a report submitted by an inspector pursuant to this Scheme.

45. Each Contracting Party shall:

- a) without prejudice to their national legislation, treat notices of alleged infringement by its vessels, their Masters or crews with an inspector or an inspection vessel of another Contracting Party in the same manner as interference with its own inspectors ; and
- b) treat reports of inspections conducted by inspectors of another Contracting Party, and in particular an equivalent evidentiary status for establishing facts, as inspection reports of its own inspectors.

## **Part 7**

## **Annual report**

### *Annual report*

46. Each Contracting Party shall, for the preceding year, include in its annual report, a summary of:

- a) the boarding and inspection activities it has conducted pursuant to this Scheme;
- b) the actions it has taken in response to reported serious infringements by its vessels, including any enforcement procedures and the sanctions it may have applied. The Contracting Party shall continue to list such actions on each subsequent report until it reports the final disposition of the infringements; and
- c) an explanation regarding every reported infringement which it has taken no action.

## **Part 8**

### **Non-Contracting Party Vessels and Vessels of Undetermined Flag**

47. An inspecting Contracting Party that sights a vessel that may be fishing contrary to IOTC Agreement and CMMs shall report the sighting immediately to the Executive Secretary.

48. A vessel reported pursuant to paragraph 47 is presumed to be undermining the effectiveness of the IOTC Agreement and CMMs. The inspection vessel shall, where practicable, so advise the Master of the sighted vessel indicating that this information will be reported to the Commission.

49. Where practicable, the inspection vessel may request permission from the Master to board and inspect the vessel. A report of the encounter and of any ensuing inspection shall be transmitted to the Executive Secretary.

50. The Executive Secretary shall distribute this information to all Contracting Parties as well as to the flag State of the vessel.

## **Part 9**

### **Report to the Compliance Committee**

51. The Executive Secretary shall submit to the Compliance Committee a report setting out:

- a) the ratio of serious infringements from the total number of inspections reported by the Contracting Parties under this Scheme;
- b) with due consideration to confidentiality, the details of serious infringements;
- c) the follow-up actions taken, as reported by each Contracting Party;
- d) any instances where boarding and inspection were refused by a vessel, and any follow-up action taken by that flag State in respect of such vessel;
- e) any case of encounter with a non-Contracting Party vessels and vessels of undetermined flag as reported under paragraph 47; and
- f) any cases where force was used including the reported circumstances thereof.

## **Part 10**

### **Dispute Resolution**

52. In the event of a disagreement concerning the interpretation, application or implementation of this Scheme, the Contracting Parties concerned shall consult in an attempt to resolve the disagreement.

53. If the disagreement remains unresolved following the consultations, the Executive Secretary shall, at the request of the Contracting Parties concerned and with the consent of the Commission, refer the disagreement to the Compliance Committee (CoC). The CoC shall establish a panel of [five] representatives, acceptable to the Contracting Parties to the disagreement, to consider the matter.

54. A report on the disagreement shall be drawn up by the panel and forwarded through the CoC Chair to the Commission within two months of the CoC meeting at which the case is reviewed.

55. Upon receipt of such report, the Commission may provide appropriate advice with respect to any such disagreement for the consideration of the Contracting Parties concerned.

56. Application of these provisions for the settlement of disagreements shall be nonbinding. These provisions shall not prejudice the rights of any Contracting Party to use the dispute settlement procedure in the Agreement.

**Annexes (see original)**

## **Annex XII – Resolution yy/xx electronic Tuna Catch Documentation Scheme (2019 - version 1)**

### **Preamble**

The Commission,

*concerned* that illegal, unreported and unregulated (IUU) fishing for tuna and highly migratory species (HMS) in the Area of Competence threatens serious depletion of stocks; *aware* that IUU fishing involves significant by-catch of endangered species such as sharks and seabirds;

*noting* that IUU fishing is inconsistent with the objective of sustainable fisheries management and seriously undermines the effectiveness of conservation and management measures;

*noting* the responsibility of Flag States to ensure that their vessels conduct their fishing activities in a legal manner;

*mindful* of the right and obligations of coastal and port States to promote the effectiveness of regional fishery conservation and management measures;

*emphasizing* the right and duties of processing States and end-market States to promote effective regional fishery conservation and management measures through the monitoring and regulation of trade;

*recognizing* that the implementation of a Catch Documentation Scheme (CDS) for tuna and other HMS will provide the Commission with the information necessary to promote the management objectives of the Convention;

*committed* to taking steps consistent with international law to identify the origins of tuna and other HMS entering the markets of Cooperating Parties and Cooperating Non-Parties (collectively designated as CPCs) to the Commission and to determine whether species harvested in the Convention Area that are imported into, processed in and/or traded through their territories is caught in a manner consistent with IOTC conservation and management measures;

*wishing* to reinforce the conservation measures already adopted by the Commission with respect to tuna and other HMS;

*aware* of the importance of enhancing cooperation with non-contracting parties (NCPs) to help to deter and eliminate IUU fishing in the Area of Competence; and

*inviting* NCPs whose vessels fish for tuna and HMS in the Convention Area or participate in the processing and/or trade of these species to participate in the CDS;

*hereby adopts* the Resolution set out below.

### **Definitions**

1. Catch certificate. An electronic document generated through the interface of IOTC's electronic catch documentation scheme (e-CDS) documenting the harvest, transshipment, transfer, landing and first sale of tuna and HMS.
2. Trade certificate. An electronic document generated through the interface of IOTC's e-CDS documenting the importation, processing and export or re-export of consignments of tuna and HMS products in harvested or processed form.

3. Certificate number. A system-generated random ten-digit sequence that uniquely identifies any catch certificate and trade certificate in the e-CDS.
4. Competent authority. The State authority responsible for the verification, validation and/or counter-validation of catch certificates and/or trade certificates. A competent authority may be constituted in a coastal, flag, port, processing or end-market State.
5. Coastal State. The State in whose Exclusive Economic Zone (EEZ) tuna and HMS may be harvested, which is entitled to verify the validity of catch certificates issued and validated for fishing operations in its waters.
6. Flag State. The State that controls fishing vessels flying its flag and operating in the Convention Area whose competent authority has primary responsibility for validating catch certificates.
7. Port State. The State that controls a particular port area or free trade zone for the purposes of landing and transshipment whose competent authority has primary responsibility for verifying and counter-validating landing details in catch certificates, including verified weights of landed products.
8. Processing or market State. The State that controls a particular territory or free trade zone for the purposes of importing, warehousing, processing, exporting and re-exporting products whose competent authority has primary responsibility for verifying and validating trade certificates.
9. End-market State. The State importing fisheries products within whose territory imported products are consumed in their totality regardless of further processing in that territory; products imported into end-market States cannot re-enter international trade as exports or re-exports.
10. Landing. The first movement of catch in its harvested or processed form from a vessel to a dock or to another vessel in a port or free trade zone where the catch is certified as landed by an authority of the Port State. Landings can be done by fishing vessels, reefers and motherships.
11. Mass-balance anomaly. A condition arising when more product than the quantity recorded in a certificate enters the supply chain. The e-CDS detects such anomalies at the individual certificate level.
12. First point of sale. The farm, company or trader identified in the catch certificate acquiring a batch of live-transferred or landed fish; the verified weight of landed product is established at the first point of sale.
13. Importation. Catch entering any part of a State's territory, except where the catch is landed or transhipped according to definitions of 'landing' or 'transshipment' in this CMM.
14. Exportation. Any movement of catch in its harvested or processed form from territory under the control of the State or free trade zone of landing, or, where that State or free trade zone forms part of a customs union, any other member State of that customs union.
15. Re-exportation. Movement of catch in its harvested or processed form from the free trade zone or the State territory or the territory of a State member of the customs union of import unless the entity concerned is the first place of import, in which case the movement is an 'exportation' as defined in this CMM.
16. Transshipment. Movement of catch in its harvested or processed form from a vessel to another vessel, the latter including reefers and motherships, and, where such transfer takes place in the territory of a Port State, for the purpose of removing it from that

State. Temporarily placing catch on land or an artificial structure to facilitate such transfer shall not prevent the transfer from being a transshipment where the catch is not landed according to the definition of ‘landing’ in this CMM.

17. Transfer: Movement of live fish from the nets of a fishing vessel either directly or via tow cages into the growing cages of a fattening facility or fish farm.
18. Unloading. Removing fish from a fishing vessel either as a landing, an at-sea transfer of live fish into tow cages, or an at-sea or in-port transshipment, or any other movement of fish from a fishing vessel into the supply chain; discards are not covered.

### **CDS objective and coverage**

19. The objective of the CDS is to combat IUU fishing by denying fisheries products derived from IUU fishing access to markets. Only products certified in the CDS as being of legal provenance may be landed and enter international trade and markets.
20. CDS data may be useful in combination with other information for research and MCS efforts. Such uses are to be determined by the Commission and are subject to the data confidentiality rules provided in Paragraph 40.
21. The CDS embodies a near-real time catch accounting mechanism that can be adapted for use as a TAC and quota-monitoring tool in output-managed fisheries.
22. The species to be covered by the CDS at launch are the commercial species of:  
i) Bigeye tuna; ii) Yellowfin tuna; iii) Albacore tuna; iv) Skipjack tuna; v) Blue marlin; vi) Black marlin; vii) Striped marlin; and viii) Swordfish. The fishing gear used to harvest these species is covered by the CDS.
23. Other HMS managed by the IOTC but not covered initially may be covered at a later date as decided by the Commission. Such species may include sharks.
24. The fishery products covered by the CDS include all forms of fresh or frozen meat and preserved forms of fish products for trade and consumption. Secondary products – heads, tails, guts, gill plates, fish meal, bones, oils, offal, eyes, roe and hearts are exempt from the CDS.
25. The CDS applies to:
  - i) All landings of CPC vessels listed on the IOTC Record into foreign ports, and to all domestic landings of CPC vessels listed on the IOTC Record if landed products are to enter international trade;
  - ii) Small-scale artisanal fishery products are exempt from the CDS if such products are landed domestically, are sold into domestic markets and do not enter international trade. All other domestic and foreign harvesting and unloading operations are covered by the CDS regardless of the final market of the harvested products.

### **Traceability and mass balance**

26. The CDS implements verifiable traceability equitably and transparently with across all States and individual economic operators participating in the harvesting and international trade of the tuna species covered.
27. With two minor exceptions (see Paragraph 41 and Paragraph 67) the CDS traces fish products from the fishing vessel through unloading and through international trade to the point of final import into the end-market State.

28. The CDS provides international traceability by logging and tracing trade among countries and territories until the product reaches the end-market State.
29. The CDS does not provide national traceability. Product movements and commercial transactions inside countries and territories are not covered directly.
30. The CDS traces batches of harvested products recorded in separate rows in the catch certificate catch table (see Annex I, section 3) throughout the supply chain by line number.
31. The e-CDS automatically monitors line-by-line mass-balance between all pairs of source certificates and the associated resulting trade certificates, and triggers alarms when mass-balance anomalies arise.

### **Electronic means and data confidentiality**

32. The e-CDS is a web-based central electronic platform and database; it is accessed by users remotely through individual log-on procedures.
33. The e-CDS allows any number of tuna RFMOs to participate and can be customized to allow for the integration of RFMO-specific rules and functions.
34. Private-sector and public-sector users have access to the e-CDS as provided in Paragraph 32.
35. The e-CDS has four user groups and customized interfaces for each:
  - i) The private-sector interface, enabling the logging and submission of certificates for validation and other functions to which they have access.
  - ii) The public-sector interface, enabling competent authorities to validate or counter-validate certificates, access information and use other functions of the e-CDS to which they have access.
  - iii) The RFMO interface, enabling oversight and access to the information needed for monitoring and reporting.
  - iv) The administrator interface, enabling technical personnel to administer the system.
36. Certificate data are entered into the e-CDS by private-sector users, who are wholly responsible for the accuracy of the data. No data forming part of certificates are entered or submitted by competent authorities.
37. Sessions by all users logging onto the system and their actions during each session are logged.
38. The e-CDS provides functions such as data logging, data saving, querying of datasets and automated alarms. Specific functions allow users to:
  - i) create fleet and processing facility profiles;
  - ii) initiate sessions to issue certificates;
  - iii) log certificate data;
  - iv) link certificates;
  - v) submit certificates for validation;
  - vi) upload supporting documents;
  - vii) open and validate certificates;
  - viii) trace certificates;
  - ix) verify mass balance along the supply chain;

- x) review and edit certificates; and
- xi) block certificates, etc.

The User Manual referred in articles 55 to 57 details the user groups' access to CDS functions and the applicable rules.

39. The e-CDS enables the integration of national and Commission VMS data for automated verification of fishing vessels' reported areas of operation.
40. The e-CDS data are subject to the following minimum data confidentiality rules:
  - i) Access by private-sector users is limited to data relating to their company, fleet and factory operations and to immediate upstream certificate information allowing them to create links with certificates from which products are sourced. Upstream certificate information is stripped of details not relevant to the creation of links.
  - ii) Access by competent authorities is limited to national datasets and immediate upstream certificate information.
  - iii) The Commission, its subsidiary bodies and Secretariat have access to data for the purposes of reporting, research and enforcement (see Paragraphs 99 and 100). Any use of data other than those specified in this CMM requires a specific decision by the Commission.

#### **Document system and rules**

41. The document system of the CDS is based on the catch certificate (unloading) and trade certificate (import/export).
42. Certificate models are unique and supplied by the e-CDS as shown in the annexes to this CMM.
43. A simplified catch certificate may be used in artisanal and small-scale commercial fisheries where separation of catches cannot be maintained because of the accepted modes of harvesting, unloading and pooling of catches at sea or on land.
44. Under the simplified catch certificate, traceability back to individual fishing vessels is forfeited.
45. The catch certificate is completed and submitted electronically for validation by the vessel operator at each planned unloading. The catch certificate covers the part of any catch to be unloaded. The validated catch certificate must be in place before unloading takes place.
46. The catch certificate cannot be submitted or validated after unloading, except in cases of *force majeure*.
47. Trade certificates may link back to catch certificates and simplified catch certificates and are not affected by the type of catch certificate to which they are linked.
48. The catch certificate is always issued on the basis of estimated weights; the simplified catch certificate is always issued on the basis of verified weights.
49. A model catch certificate and a simplified catch certificate are appended in Annex I and Annex II of this CMM.
50. The trade certificate is completed and submitted electronically for validation by the exporter each time a consignment is readied for export. For a first export the source certificate of the trade certificate is a catch certificate or a simplified catch certificate; for any re-export, the source certificate is the earlier trade certificate under which the source products were imported.



51. The importer of a consignment shall record the acceptance of a consignment in the e-CDS. Failure to do so entails that the trade certificate is not available for re-export and that the consignment has reached its end-market destination.
52. The trade certificate model to be used for export or a re-export is the same.
53. The CDS and its rules do not in any way replace existing documents, forms, applications or authorizations provided for in other CMMs unless specifically provided for in this or any other CMM.

### **User manual**

54. The Executive Secretary will establish and maintain an e-CDS User Manual.
55. The User Manual provides detailed procedures for managing and completing catch and trade certificates. The User Manual may be revised or expanded upon the initiative of CPCs, the Commission, a subsidiary body to the Commission or the Secretariat, when the need arises. An *a priori* or an *a posteriori* decision of the Commission is required to formally adopt any revision or expansion implemented by the Secretariat.
56. The procedures in the User Manual cannot run counter to the rules established in this CMM.
57. The User Manual has two versions, one for private-sector operators and one for public-sector authorities. Core sections of the manual are shared between both.
58. The User Manual provides guidance under the following headings:
  - i) seeking helpdesk assistance
  - ii) using the e-CDS user interface;
  - iii) the e-CDS functions available to the user groups, the applicable rules and guidance for use;
  - iv) procedures for completing certificates and the submission and uploading of supporting documents;
  - v) procedures for issuing catch certificates for transshipments, unloadings to several recipients, transfers and re-export of bulk tuna;
  - vi) procedures for the amendment, cancellation or blocking of issued certificates;
  - vii) procedures for estimating live fish weights transferred into farms; and
  - viii) rules for preparing CDS reconciliation reports and specification of the levels of data aggregation and confidentiality required.

### **Roles of CPCs**

59. CPCs shall provide to the Executive Secretary the name and address of their competent authorities and the nature of their responsibility – coastal, port, flag or market. This information shall first be made available two months before the e-CDS enters into force, and may be updated thereafter on an as-needs basis.
60. Coastal State or flag State CPCs shall notify the Executive Secretary of the small-scale artisanal and small-scale commercial fisheries eligible to use simplified catch certificates. This information shall first be made available two months before the e-CDS enters into force, and may be updated thereafter on an as-needs basis.

61. Competent authorities should develop risk-based verification routines to enable them to establish the legal standing of transactions in certificates submitted to them for validation.
62. Competent authorities shall validate certificates in cases where verification provides assurance as to the legality of transactions to be certified.
63. Flag State competent authorities shall verify catch certificates submitted by their fishing vessel operators to establish the legality of fishing operations.
64. Market State competent authorities shall verify trade certificates submitted by their food business operators to establish the correctness of information in certificates relating to source materials, processing, processing yields and invoicing.
65. Market State competent authorities shall inspect the facilities and audit the records of national food business operators in cases where mass-balance anomalies are detected.
66. Coastal State competent authorities should verify catch certificates for fishing operations in their waters. Coastal State competent authorities shall block flag State validation of such certificates if there is evidence of IUU fishing in their waters. Coastal State approval is based on the principle of non-objection: only if a coastal State competent authority objects to the validation of a certificate will its validation be blocked. In the event of a blocked catch certificate, the flag and the coastal States shall cooperate directly to investigate and resolve the matter.
67. Port State competent authorities shall verify validated catch certificates before transshipments, transfers or landings can be authorized in its ports.
68. Port State competent authorities shall counter-validate the verified weight of landed products shown in catch certificates when they are received and graded at a facility.
69. Port and market State competent authorities shall ensure that no primary products (see Paragraph 24) are imported into their territories without a validated certificate.
70. Market State competent authorities shall ensure that no primary products (see Paragraph 24) are exported from their territories without a certificate validated by them.
71. CPCs should inform the Executive Secretary and the Commission about CDS implementation issues and where appropriate submit proposals for improving its operation.

### **Rights and duties of NCPs**

72. NCP private-sector operators may not access the e-CDS and may not issue certificates.
73. NCPs are encouraged to apply CDS rules with regard to product landings and imports to provide assurances that no products enter their territory without validated certificates provided by flag States or market States.
74. NCPs involved in the trade of products covered by the CDS shall gain CPC status in order to fully participate in international trade of the products in any function other than the final importing end-market State.

### **Tuna aquaculture**

75. In tuna-fattening aquaculture, accounting for fish for reconciliation purposes is undertaken on the basis of numbers of fish, not weight. The number of fish received by farms compared with the number harvested from them is used by the e-CDS to

establish mass-balance compliance. Verified weights received by farms and verified weights removed from farms are also recorded.

76. In tuna-fattening aquaculture, transfers from several fishing vessels may be pooled in single grow-out cages for the purposes of the CDS, without prejudice to rules of origin and tariff considerations, which may require cages to be separated according to source fishing vessel flag and destination markets.
77. A trade certificate is issued when tuna is harvested from a farm whether its destination is domestic or international.
78. With regard to cages in which fish from more than one transfer are pooled, trade certificates are issued sequentially on the basis of the catch certificates for fish delivered to the farm and the dates of caging. The first catch certificate received for a cage is the first catch certificate to be used to link trade certificates until it is exhausted, after which the next catch certificate is used, and so on.
79. In aquaculture operations where species covered by the CDS are obtained from eggs, CPCs shall require the issue of IOTC trade certificates for all harvests and select "CLOSED CYCLE" in the first column of section 1 of the trade certificate.

### **Non-Compliance and Sanctions**

80. Non-compliance with national fisheries laws and conservation and management measures established under the IOTC Convention, constitutes IUU fishing. Certificates covering product shown to be derived from IUU fishing shall not be validated or counter-validated by competent authorities pending sanction under national law(s).
81. Coastal States shall block validated and counter-validated catch certificates relating to proven IUU fishing operations in their waters.
82. Such blocking of catch certificates by coastal States shall occur before the port State counter-validates the certificates: this is to limit financial prejudice to legal operators in the supply chain following the landing, buying and grading of products.
83. No product harvested in contravention of national and international fishery rules should be destroyed unless it poses a health hazard.
84. Harvested IUU products may ultimately be certified and channelled to markets once sanctions have been imposed on perpetrators and have been serviced: this shall confer the status of legal provenance on the products.
85. As a minimum, any financial benefits accruing to perpetrators of fraud from IUU fishing shall be wholly forfeited under the sanctions imposed.
86. CPCs should, where necessary, revise national fishery laws to ensure that genuinely deterrent sanctions are available to them (see Paragraph 84).
87. Any financial benefit derived from IUU fishing additional to legal fishing operations should guide sanctioning authorities; this shall be done transparently.
88. States involved in cases of fisheries fraud as parties exercising jurisdiction as flag, port, market or coastal States should cooperate in terms of investigating, sharing evidence and imposing sanctions to the extent permitted under national laws.
89. States involved in cases of fishing fraud but not in agreement with the sanctions imposed by the flag State may refuse to counter-validate certificates and: i) a port State may prohibit a landing; or ii) a coastal State may refuse to lift an objection to a

catch certificate. In all such cases the products concerned are barred from landing and international trade.

90. Catch certificates blocked by a coastal State or lacking port State counter-validation cannot be used as a source certificate to give rise to a trade certificate.
91. If a flag State imposes non-validation of a catch certificate as a sanction for established fraud, it shall validate the certificate and then block it to ensure that the certificate data are recorded in the e-CDS.
92. Validation of trade certificates should be refused by market States if mass-balance anomalies are detected, pending investigation. If fraud is established sanctions in line with the standards in Paragraph 85 should be applied, including the option of indefinite non-validation of submitted trade certificates.
93. States may refuse the importation of products covered by trade certificates flagged in the e-CDS as “over-used”<sup>\*</sup> pending clarification from the exporting State as to the outcome of investigations and any sanctions imposed. States may decide whether to accept or reject importation of the consignment on the basis of such information.  
<sup>\*</sup> This means that the exporting State is exporting more product under a particular certificate than has been landed or imported into its territory.
94. In order to limit financial prejudice to legal operators in the supply chain, the blocking of upstream certificates cannot affect validated downstream certificates; it may only prevent future transactions from taking place with regard to the blocked certificate.

### **Role of the Executive Secretary**

95. The Executive Secretary shall report annually to the Compliance Committee and the Commission with regard to the work in this respect.
96. A record of designated CPC competent authorities in charge of CDS matters will be established and maintained by the Executive Secretary.
97. The Executive Secretary shall promptly circulate all information about scheduled system downtimes, system malfunctions and solutions to CPC competent authorities and private sector users.
98. The Executive Secretary monitors the technical implementation of the e-CDS, assures the maintenance of the system, provides relevant training materials and courses for stakeholders, logs technical issues and solutions and proposes improvements to the Compliance Committee and the Commission annually.
99. The Executive Secretary liaises with CPCs with regard to mass-balance anomalies and records official CPC communications about resolution of the issues and, where applicable, sanctions imposed.
100. The Executive Secretary has full access to e-CDS data for oversight purposes, but may not share disaggregated data with any party other than the party that validated the data.
101. The Executive Secretary issues annual e-CDS reconciliation reports, as Stated in the User Manual. As a minimum, reconciliation reports shall cover the following:
  - a. Total Catch Report. An annual mid-year report on data from the year preceding publication covering total tuna catch by flag, month, species and gear type, based on catch certificate data, which shall be compared with catch reported by CPCs and with TAC and quota allocations where applicable.

- b. **Mass-Balance Anomaly Report.** A report published two months before compliance committee meetings covering: i) mass-balance anomalies logged in the e-CDS by flag, farm, port or market State; ii) all relevant supply-chain transactions; iii) investigations and solutions to anomalies applied by CPCs; iv) the status of all listed certificates at the time of publication to be indicated – unblocked, blocked pending resolution or terminally blocked; and v) a compliance estimate in terms of product affected by mass-balance anomalies compared with the volume circulating in trade.
- c. **Supply Chain Report.** An annual mid-year report on data from the year preceding publication covering: i) product flows; ii) the main ports of landing; iii) the main processing States, re-processing States and end-market States; iv) the main imported product types; and v) an analysis of trends.
- d. **Apparent Domestic Consumption Report.** An annual mid-year report on data from the year preceding publication covering: i) apparent domestic consumption, by species, of all port and market States participating in the tuna supply chain, derived by subtracting the estimated green weight of products exported from the estimated green weight of products landed and imported; ii) analysis of long-term domestic consumption trends, by country, compared with domestic consumption figures from other sources; and iii) highlights of significant trend deviations.

### **Role of the Commission**

- 102. The Commission shall request the cooperation of NCPs that are engaged in the fishing, processing or importation of species and products covered by the CDS, and encourage such States to join the Commission as CPCs.
- 103. The Commission shall annually review information on CDS implementation and compliance presented by the Secretariat.
- 104. The Commission will discuss proposals and take decisions with regard to improving implementation of the e-CDS, expanding its coverage or improving its effectiveness.
- 105. The Commission should invite other tuna Commissions to join the e-CDS if this is deemed to be advantageous.

### **Annexes I, II and III**

[See the models in Annexes 1–3 of this paper.]

## Annex I The Full Tuna Catch Certificate Model

<b>HARMONISED FULL TUNA CATCH CERTIFICATE</b>						
<b>Catch certificate ID no.</b>		[XX] - FCC - _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _				
<b>RFMO</b>	<i>CCSBT</i>	<i>IATTC</i>	<i>ICCAT</i>	<i>IOTC</i>	<i>WCPFC</i>	
<b>Section 1. Fishing vessel identity</b>						
<i>Name of Master</i>	<i>Master's licence no.</i>	<i>Vessel flag</i>	<i>Vessel IRCS*</i>	<i>Vessel IMO no.</i>	<i>RFMO vessel ID no.</i>	
<i>Vessel registration no.</i>	<i>Vessel name</i>	<i>Fishing licence no.</i>	<i>Fishing licence validity</i>	<i>Licensed fishing areas</i>		
<i>JFO</i>	<i>Share of catch (%) - lead f.v.</i>	<i>Other f.v. in JFO</i>	<i>Share of catch (%)</i>			
		1.				
		2.				
<b>Section 2. Fishing dates &amp; zones</b>						
<i>Fishing zone(s)</i>			<i>Period (from-to)</i>			
<b>Section 3. Catch table</b>						
<b><i>Fish to be unloaded from f.v.</i></b>				<b><i>Live transfer to farm</i></b>		<b><i>1<sup>st</sup> pt. of sale (section 7)</i></b>
<i>Line #</i>	<i>Species</i>	<i>Product type</i>	<i>Product weight (est.) in kg</i>	<i>Ver. number of fish (live)</i>	<i>Ver. weight (live) in kg</i>	<i>Product weight (ver.) in kg</i>
1						
2						
3						
<b>Section 4. Flag State validation</b>			<b>Farm State c.-validation</b>			
<i>Flag State CA</i>		<i>Validation date</i>		<i>see Section 8.</i>		
<b>Section 5. Transshipment</b>						
<i>Name of Master</i>	<i>Master's licence no.</i>	<i>Reefer flag</i>	<i>Reefer IMO no.</i>	<i>Reefer RFMO ID no.</i>		
<i>Reefer registration no.</i>	<i>Reefer name</i>	<i>Licence no.</i>	<i>Licence validity</i>	<i>Licensed operating areas</i>		
<i>Reefer IRCS</i>	<i>Transshipment (sea /port)</i>	<i>Transshipment coordinates &amp; name of port</i>	<i>Transshipment period (from-to)</i>	<i>Name of observer</i>		

<b>Section 6. Reefer Flag State and Port State counter-validations</b>					
<i>Reefer Flag State CA</i>	<i>Validation date</i>	<i>Port State CA</i>	<i>Validation date</i>		
<b>Section 7. First point of sale (or farm)</b>					
<i>Port of landing or farm (coordinates &amp; name)</i>		<i>Landing date (or date of caging)</i>			
<i>Name of agent</i>	<i>Company name</i>	<i>Company address</i>			
<b>Section 8. Port / Farm State counter-validation</b>					
<i>Port / Farm State CA</i>		<i>Validation date</i>			
<b>Section 9. Second trade (ungraded bulk tuna)</b>					
<i>Line #</i>	<i>Species</i>	<i>Product type</i>	<i>Product weight (estimate) in kg</i>	<i>Product weight (verified) in kg</i>	
1					
2					
3					
<b>Transport details (international trade only)</b>			<b>2<sup>nd</sup> buyer details</b>		
<i>Export destination (country)</i>	<i>Bill of lading / airway bill no.</i>	<i>Consignment weight</i>	<i>Name of manager</i>	<i>Company name</i>	<i>Company address</i>
<i>Date of exportation</i>	<i>Port of exportation</i>	<i>Port of destination</i>			
<b>Section 10. Export State validation</b>			<b>Import State counter-validation</b>		
<i>Export (Port) State CA</i>		<i>Validation date</i>	<i>Import State CA</i>		<i>Validation date</i>

\* International Radio Call-sign System.

## Annex II The Simplified Tuna Catch Certificate Model

<b>HARMONISED SIMPLIFIED TUNA CATCH CERTIFICATE</b>					
<b>Catch certificate ID no.</b>		[XX] – SCC – _____			
<b>RFMO</b>	CCSBT	IATTC	ICCAT	IOTC	WCPFC
<b>Section 1. Buyer details</b>					
<i>Name of manager</i>		<i>Company name</i>		<i>Company address</i>	
<b>Mode of fish collection</b>					
<i>at-sea using collector vessel</i>			<i>on land using refrigerated truck (or equivalent)</i>		
( )			( )		
<b>Collector vessel details (if applicable)</b>					
<i>Name of Master</i>	<i>Vessel flag</i>	<i>RFMO vessel ID no.</i>	<i>Vessel IRCS</i>	<i>Vessel registration no.</i>	<i>Vessel name</i>
<i>Fishing licence no.</i>	<i>Fishing licence validity</i>	<i>Licensed operating areas</i>	<i>Maritime area of fish collection</i>	<i>Landing location of collected fish</i>	<i>Landing date of collected fish</i>
<b>Section 2. Fishing zones, dates &amp; landing locations</b>					
<i>Fishing zone(s) covered by all fishers / contrib. fishing vessels</i>		<i>Period covering all fishing trips (from-to)</i>		<i>Landing location(s) (for land-based collection only)</i>	
<b>Section 3. Combined catch table</b>					
<i>Line #</i>	<i>Species</i>	<i>Product type</i>		<i>Product weight (verified) in kg</i>	
1					
2					
3					
<b>Section 4. Fishing vessel &amp; catch table</b>					
<i>Vessel name</i>	<i>Vessel registration no.</i>	<i>Fishing licence no.</i>	<i>Species</i>	<i>Product type</i>	<i>Product weight in kg</i>
<b>Section 5. Coastal State validation</b>					
<i>Coastal State CA</i>				<i>Validation date</i>	



## Annex III The Tuna Trade Certificate Model

HARMONISED TUNA TRADE CERTIFICATE								
Trade certificate ID no.		[XX] – TC –						
RFMO		CCSBT	IATTC	ICCAT	IOTC	WCPFC		
<b>Section 1. Product table</b>								
<i>Preceding CDS source cert. ID no. (CC or TC)</i>	<i>Line no. (source)</i>	<i>Number of fish processed (farmed tuna)</i>	<i>Species</i>	<i>Original product type</i>	<i>Original product weight used in processing (in kg)</i>	<i>Resulting product type</i>	<i>Net drained fish weight after processing (in kg)</i>	<i>Net product weight after processing, including fish (kg)</i>
<b>Section 2. Processor / exporter details</b>								
<i>Name of manager</i>			<i>Name of company</i>			<i>Address of company</i>		
<b>Section 3. Buyer / importer details</b>								
<i>Name of manager</i>			<i>Name of company</i>			<i>Address of company</i>		
<b>Section 4. Transport details</b>								
<i>Country of export destination</i>	<i>Consignment weight (gross)</i>	<i>Bill of lading / airway bill no.</i>	<i>Date of exportation</i>	<i>Port of exportation (from)</i>		<i>Port of destination (to)</i>		
<b>Section 5. Processing State validation</b>					<b>Import State counter-validation</b>			
<i>Processing State CA</i>		<i>Validation date</i>			<i>Import State CA</i>		<i>Validation date</i>	