

INTER-AMERICAN TROPICAL TUNA COMMISSION

82ND MEETING

LA JOLLA, CALIFORNIA (USA)
4-8 JULY 2011

PROPOSAL IATTC-82-M-1

SUBMITTED BY THE UNITED STATES

This proposal was originally presented at the 80th meeting of the Commission in June 2009. It seeks to include all the important points raised by the various members during previous discussions. The original proposal on which this document is based is available as Appendix 3.b of the [minutes of the 80th Meeting](#) of the IATTC.

**RESOLUTION TO ESTABLISH A LIST OF VESSELS THAT HAVE
ENGAGED IN ILLEGAL, UNREPORTED AND UNREGULATED FISHING
ACTIVITIES IN THE EASTERN PACIFIC OCEAN**

The Inter-American Tropical Tuna Commission (IATTC):

Recalling that the FAO Council adopted on 23 June 2001 an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), which stipulates that the identification of the vessels carrying out illegal, unreported and unregulated (IUU) fishing activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way;

Concerned that IUU fishing activities in the Convention Area diminish the effectiveness of the conservation and management measures adopted by the IATTC;

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

Determined to address the challenge of an increase in IUU fishing activities by way of measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of members and cooperating non-members (collectively "CPCs") and non-CPCs under the relevant IATTC instruments;

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

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

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

Acknowledging the importance of due process and the participation of the parties involved;

Resolves as follows:

Identification of IUU Activities

1. At each Annual Meeting, the Commission shall identify those vessels that have engaged in fishing activities for species covered by the Convention within the Convention Area in a manner which has diminished the effectiveness of the Convention and the IATTC measures in force, and shall establish, and amend in subsequent years as necessary, a list of such vessels (the IUU Vessel List), in

accordance with the procedures and criteria set out in this Resolution.

2. This identification shall be suitably documented, based on, *inter alia*, reports from CPCs relating to IATTC resolutions in force, trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) data, statistical documents and other national or international verifiable statistics, as well as any other information obtained from Port States and/or gathered from the fishing grounds. Information from CPCs should be provided in the format approved by the Commission.
3. For the purposes of this resolution, vessels fishing¹ for species covered by the IATTC Convention within the Convention Area are presumed to have carried out IUU fishing activities, as described in the IPOA-IUU, when a CPC presents suitably documented information that such vessels:
 - a. Are not on the IATTC Regional Vessel Register, or
 - b. Harvest species covered by the Convention in waters under the jurisdiction of another State, without permission of that State, or in contravention of its laws and regulations²
 - c. Make false reports or fail to record or report their catches made in the Convention Area, or
 - d. Engage in fishing activities in a closed area or during a closure period, or
 - e. Use prohibited fishing gear or fishing methods, or
 - f. Transship with, participate in joint fishing operations with, support, or resupply vessels included in the IUU Vessel List, or
 - g. Conduct transshipment operations with vessels not included on the IATTC Regional Vessel Register or the relevant vessel registers of the WCPFC or the IOTC, or
 - h. Are without nationality, or
 - i. Engage in fishing activities that diminish the effectiveness of the provisions of the Convention or any other IATTC conservation and management measures, or
 - j. Are under the control of the owner or operator of any vessel on the IUU Vessel List.
4. A CPC that discovers any vessel presumably engaged in IUU fishing activities in the Convention Area shall make efforts to advise and provide suitably documented information to the pertinent flag State, if known. The flag State shall promptly acknowledge receipt of the notification and initiate investigations of the alleged activities. After the investigation is completed, the flag State shall transmit a report of the investigation of the alleged case to the reporting CPC, with a copy to the Director.
5. At least 120 days before the Annual Meeting, each CPC shall transmit to the Director a list of vessels presumed to have carried out IUU fishing activities in the Convention Area during the current or previous two years, accompanied by suitably documented information relating to the provisions of paragraphs 2 or 3 above concerning the presumption of IUU fishing activity, and shall also make efforts to simultaneously send the same information to the flag State of the vessel, if known.

Draft IUU Vessel List

6. On the basis of the information received pursuant to paragraph 5 above, or other information as described in this paragraph, the Director shall draw up a Draft IUU Vessel List with the list of potential IUU vessels received per paragraph 5. The Director shall also automatically include on this

¹ Fishing, as included here, shall also pertain to activities of carrier and bunker vessels operating in the IATTC Convention Area.

²This provision is not intended to prejudice the rights or obligations of any CPC with regard to matters or claims under international law of maritime jurisdiction or boundaries, or disputes related thereto.

Draft IUU Vessel List any vessel, which during the current or previous 2 years fished in the Convention Area in a manner that meets the criteria established in paragraph 3 of this resolution. At least 90 days before the Annual Meeting of the Commission, the Director shall transmit the consolidated Draft IUU Vessel List, together with all the available supporting information, to all CPCs, as well as to non-CPCs with vessels on the Draft IUU Vessel List.

7. The Draft IUU Vessel List, as well as the Provisional IUU Vessel List and the IUU Vessel List described below, shall contain the following details for each vessel, where available:
 - a. Name and previous names;
 - b. Flag and previous flags;
 - c. Owner and previous owners;
 - d. Operator and previous operators;
 - e. Call sign and previous call signs;
 - f. Length overall;
 - g. LHS Fairplay number³;
 - h. Photographs;
 - i. Date first included on the List; and
 - j. Summary of activities that justify inclusion of the vessel on the List, together with reference to all relevant documents informing of and evidencing those activities.
8. The Director shall make documented efforts to notify the relevant flag States, at least 75 days before the annual meeting, of their vessel's inclusion on the Draft IUU Vessel List and/or presumed IUU activities and provide a copy of the pertinent suitably documented information. The Director shall request the flag State to promptly acknowledge receipt of the notification. If no acknowledgement is received from the relevant flag State within 10 days of the date of transmittal, the Director shall retransmit the notification through an alternate means or channels of communication and in a manner that can be documented.
9. The Director shall request each CPC and non-CPC with vessels on the Draft IUU Vessel List to notify the owner of the vessels of their inclusion on the Draft List, and of the consequences should they be included in the IATTC IUU Vessel List to be adopted by the Commission at its Annual Meeting.
10. Upon receipt of the Draft IUU Vessel List, CPCs shall closely monitor the vessels included in that List in order to follow their activities and possible changes of name, flag, operator and/or registered owner.
11. As appropriate, CPCs and non-CPCs with vessels on the Draft IUU Vessel List may transmit comments to the Director at any time, but no later than 30 days before the Annual Meeting, including suitably documented information pursuant to paragraph 15.
12. CPCs may at any time submit to the Director any additional information that may be relevant to the vessels on the Draft IUU Vessel List. The Director may also add any relevant information in this regard for the reference of the CPCs.
13. The Director shall re-circulate, at least two weeks in advance of the Annual Meeting of the Commission, to the CPCs and the non-CPCs concerned, the Draft IUU Vessel List, together with all of the suitably documented information received pursuant to paragraphs 5, 11, and 12.

³ Formerly Lloyd's Register-Fairplay.

Provisional IUU Vessel List

14. At its annual meeting, the IATTC Committee for the Implementation of Measures Adopted by the Commission (Implementation Committee) shall examine the Draft IUU Vessel List, which includes any new vessels identified pursuant to paragraph 6, as well as the information referred to in paragraph 12, in order to develop a Provisional IUU Vessel List. The Implementation Committee shall also make recommendations to the Commission regarding any vessels that should be removed from the current IUU Vessel List after review of any information provided to the Director pursuant to paragraph 23 of this resolution.
15. The Implementation Committee shall not include in the Provisional IUU Vessel List any vessel that is not on the current IUU Vessel List if the vessel's flag State has demonstrated that:
 - a. The vessel fished in a manner consistent with IATTC conservation and management measures or the laws and regulations of a State when fishing in waters under the jurisdiction of that State, or have fished exclusively for species not covered by the IATTC Convention, or
 - b. Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity, or
 - c. The case regarding the vessel or vessels involved in IUU fishing activities has been settled to the satisfaction of both the CPC that originally submitted the vessel for listing and the flag State involved, or
 - d. The vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not recently participated in IUU fishing activities.
16. The Implementation Committee shall not include a vessel on the Provisional IUU List if the notification provisions of paragraph 4 and 5 were not followed.
17. Following the examination referred to in paragraph 14, the Implementation Committee shall submit the Provisional IATTC IUU Vessel List to the Commission for its consideration.

New IUU Vessel List

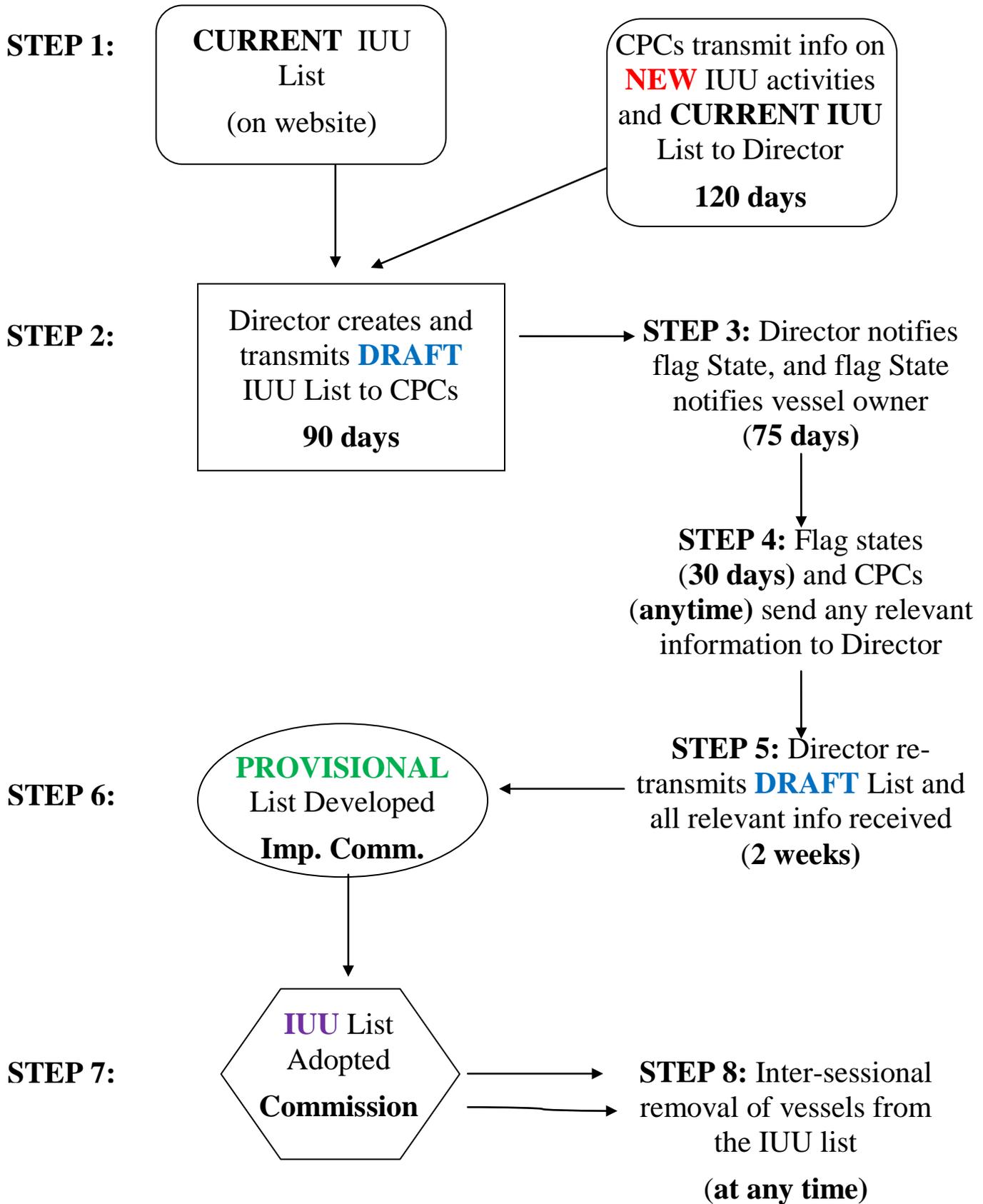
18. At its Annual Meeting, the Commission shall review the Provisional IUU Vessel List, taking into account any new suitably documented information related to vessels on that List and any recommendations to amend the current IUU Vessel List and adopt a new IUU Vessel List. The Commission shall remove a vessel from the current IATTC IUU Vessel list only if the vessel's flag State submits to the Director the suitably documented information described in paragraph 23 of this resolution. Any objection to the removal of a vessel from the IUU Vessel List should be based on the listing criteria in paragraph 3 and the information provided pursuant to paragraph 23.
19. Upon adopting the new IUU Vessel List, the Commission shall request CPCs and non-CPCs with vessels on the IUU Vessel List to:
 - a. Notify the owner of the inclusion of their vessel(s) on the IUU Vessel List and the consequences that result from being included in the List, and
 - b. Take all necessary measures to eliminate those IUU fishing activities, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Commission of the measures taken in this respect.
20. CPCs shall take all necessary non-discriminatory measures under their applicable legislation, consistent with international law and each CPC's international obligations and paragraphs 36, 56, and 66 of the IPOA-IUU, to:
 - a. Ensure that fishing vessels, support vessels, mother ships and cargo vessels flying their flag do

- not participate in any transshipment or joint fishing operations with, support, or resupply, vessels on the IUU Vessel List;
- b. Ensure that vessels on the IUU Vessel List that enter ports voluntarily are not authorized to land, transship, refuel or resupply therein, except in situations of *force majeure* or for rendering assistance to vessels, or persons on those vessels, in danger or distress, but are inspected upon entry;
 - c. Prohibit the chartering of a vessel on the IUU Vessel List;
 - d. Refuse to grant their flag to vessels on the IUU Vessel List;
 - e. Prohibit commercial transactions, imports, landings and/or transshipment of species covered by the IATTC Convention from vessels on the IUU Vessel List;
 - f. Encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, species covered by the IATTC Convention caught by vessels on the IUU Vessel List;
 - g. Collect, and exchange with other CPCs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the IATTC Convention from vessels on the IATTC IUU Vessel List.
21. The Director shall take any measure necessary to ensure publicity of the IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including publishing it on the IATTC website. Furthermore, the Director shall transmit the IUU Vessel List to the FAO and other regional fisheries management organizations for the purposes of enhancing co-operation between the IATTC and these organizations aimed at preventing, deterring and eliminating IUU fishing.
22. Without prejudice to the rights of CPCs and coastal States to take proper action, consistent with international law, including WTO obligations, the CPCs shall not take any unilateral trade measures or other sanctions against vessels on the Draft or Provisional IUU Vessel Lists, pursuant to paragraphs 6 or 17, or that have been removed from the IUU Vessel List, pursuant to paragraphs 18 and 26, on the grounds that such vessels are involved in IUU fishing activities.

Modification of the IUU Vessel List

23. CPCs and non-CPCs with a vessel on the IUU Vessel List may request the removal of the vessel from the list at any time, including during the inter-sessional period, by submitting to the Director suitably documented information demonstrating that:
- a.
 - i) It has adopted measures that will seek to ensure that the vessel complies with all IATTC measures;
 - ii) It will be able to assume effectively flag State duties with regards to the monitoring and control of the vessel's fishing activities in the Convention Area; and
 - iii) It has taken effective action in response to the IUU fishing activities that resulted in the vessel's inclusion in the IUU Vessel List, including prosecution or the 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 legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not recently participated in IUU fishing activities, or
 - c. The case regarding the vessel or vessels that conducted IUU fishing activities has been settled to the satisfaction of the CPC that originally submitted the vessel for listing and the flag State involved, or

- d. the vessel no longer exists.
24. The Director will transmit the removal request, with all the supporting information, to the CPCs within 15 days following the receipt of the removal request. CPCs shall promptly acknowledge receipt of the removal request and may, at that time, request additional information from the requesting flag State. If no acknowledgement is received by the Director within 10 days of the date of transmittal, the Director shall retransmit the removal request and, to the extent practicable, shall use additional means available to ensure that the request has been received.
25. Commission decisions on a request to remove a vessel during an inter-sessional period shall follow procedures established for decisions by correspondence together with the procedures outlined in paragraphs 26 and 27. Each CPC shall examine the removal request and notify the Director in writing of its response, and the rationale therefore, regarding the removal of the vessel within 30 days following the notification by the Director. Lack of response from a CPC by the 30-day deadline shall be considered acceptance of the request to remove the vessel.
26. If CPCs agree to the removal of the vessel from the IUU Vessel List within the period stipulated in paragraph 25, the Director will inform CPCs, non-CPCs, FAO and other regional fisheries management organizations, and will remove the vessel from the IUU Vessel List, as published on the IATTC website.
27. If a CPC disagrees with the request for the removal of the vessel from the IUU Vessel List, the vessel will be maintained on the IUU Vessel List and the Director will inform the CPCs and/or non-CPCs that made the removal request.
28. All information provided to the Implementation Committee shall be subject to the confidentiality rules of the IATTC.
29. With respect to longline vessels, this resolution shall apply to vessels measuring 22 meters or more in length overall.
30. This resolution shall be subject to review, and as appropriate, revised.
31. This resolution replaces Resolution C-05-07.



	Before Annual Meeting	Action to be taken	Paragraph
STEP 1	120 days	CPCs transmit to the DIRECTOR information on NEW IUU activities, and notify the relevant flag States	5
STEP 2	90 days	DIRECTOR creates the DRAFT IUU List, based on the CURRENT IUU List and NEW vessels, and transmits it to all CPCs and to those non-CPCs with vessels on the List	6, 7
STEP 3	75 days	(a) DIRECTOR notifies relevant flag States	8
		(b) FLAG STATES notify vessel owners	9
STEP 4	30 days	(a) FLAG STATES transmit to the DIRECTOR information in defense their vessels' activities	11
	At any time	(b) CPCs transmit to the DIRECTOR any additional information related to the vessels on the DRAFT List	12
STEP 5	2 weeks	The DIRECTOR re-circulates the DRAFT List, with all the information received, to all CPCs and to those non-CPCs with vessels on the DRAFT List	13
STEP 6	Implementation Committee	(a) Reviews the DRAFT List and all the information received	14
		(b) Creates the PROVISIONAL List	
		1. Recommends which vessels on the CURRENT List should be removed	14
		2. Recommends which NEW vessels should be retained	14-17
STEP 7	Commission	(a) Reviews the PROVISIONAL List and all the information received	18
		(b) Amends the PROVISIONAL List, as appropriate	18, 23
		(c) Adopts a new IUU List	18
STEP 8	Between meetings	DIRECTOR receives request for vessel removal and all supporting information	23
		15 days from receipt of request: DIRECTOR transmits request and all supporting information to CPCs	24
		30 days from receipt of request: CPCs respond with rationale for position	25