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PROPOSAL FOR AMENDING CMM 2019-07 (WCPFC IUU VESSEL LIST)

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Proposal submitted by the European Union



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SUBMITTED BY THE EUROPEAN UNION

**Draft Explanatory Note addressing CMM 2013-06 criteria
PENDING FEEDBACK FROM FFA MEMBERS**

a. Who is required to implement the proposal?

With regard to the cross-listing procedure from IUU list of other organisations, the WCPFC Secretariat is required to implement this provision by updating the WCPFC IUU list to take into account changes in the IUU lists of other RFMOs.

~~With regard to the involvement of Nationals in IUU fishing activities, all CCMs are required to implement the provision concerning their nationals, involved in IUU activities, under their jurisdiction.~~

b. Which CCMs would this proposal impact and in what way(s) and what proportion?

The proposed amendments will reinforce the fight against IUU fishing which will be beneficial for all CCMs and in particular SIDS.

With regard to the cross listing of RFMOs IUU vessel lists, the principle is already in force in a large number of tuna and non-tuna RFMOs and is generally considered as a valuable tool for globalising the fight against IUU activities, by preventing fishing vessels listed on the IUU list of an RFMO to simply relocate their activities and continue operating without any constraint and/or sanction in areas under the purview of other RFMOs.

This means that a vessel having engaged in IUU activities in the Atlantic and unable to operate in the ICCAT Convention area because it has been listed on its IUU vessel list, will not be able to operate in WCPFC by exploiting the gap in the existing framework.

The main benefits from the introduction of a cross listing procedure can be summarized as follows:

* One stop shop: One of the concrete benefits to the WCPFC members and in particular SIDS, that the cross listing procedure would bring, is to provide within a single binding document, reviewed and adopted by WCPFC, all the information required by an administration to identify whether a fishing vessel has been involved in IUU activities in other RFMOs.

* Reducing administrative burden of fisheries administrations: By simply consulting only the WCPFC IUU vessel list, CCMs would have access to information about all vessels having engaged in IUU activities and identified by an RFMO across the globe. This will create a single tool for the members of WCPFC to identify if a vessel operating within the Convention area is currently listed in any RFMO IUU list. This reduces significantly the time required for screening each and every IUU list of each RFMO, with a view to verifying, for instance before granting port access, whether a fishing vessel making a call to a port in the Pacific has been listed for activities undermining the sustainability of fisheries resources in other Oceans. This process can therefore, contribute in effectively reducing the workload especially for small administrations.

* Increasing the effectiveness of small administrations: the cross listing can also contribute in improving the effectiveness of small administrations by providing a tool that can assist in the risk assessment procedures put in place in the national monitoring, control and surveillance systems. It can allow improving early warning systems and facilitating the elaboration of inspection plans.

In addition, this can assist small administrations in ensuring compliance with the obligation under CMM 2018-06 (para 1f) to: “ensure that no authorization to fish in the Convention Area is issued to a vessel that has a history of illegal, unreported or unregulated (IUU) fishing, unless the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no legal, beneficial or financial interest in, or control of the vessels, or the member concerned is satisfied that, having taken into account all relevant facts, the vessel is no longer engaged in or associated with IUU fishing.”

The implementation of other provisions such as those included in paragraph 9b of CMM 2017-02, paragraph 30b of CMM 2018-06, paragraph 4 of CMM 2019-08, that require CCMs to review the IUU list of other RFMOs would also be facilitated by this single access to all vessels listed in RFMOs.

* Avoid making WCPFC appealing to IUU vessels: As home to the largest tuna resources worldwide, WCPFC represents a potentially appealing fishing ground for fishing vessels that cannot operate in other RFMOs following their inclusion on the IUU list of these bodies, especially after the adoption of the cross listing procedure by all other tuna RFMOs and many non tuna RFMOs. All other tuna-RFMOs have provisions to make possible the cross listing of IUU vessel lists; if WCPFC adopts a similar measure, a vessel listed in one t-RFMO will be listed in all t-RFMOs, seriously impeding its possibility to relocate its illegal activities elsewhere.

~~With regard to the involvement of Nationals in IUU fishing activities, the proposed provisions will imply more control on natural and legal persons engaged in fishing operations in WCPFC. It will impact most of the flag States and the controls on the activities of their vessels linked to nationals under their jurisdiction in their territories.~~

c. Are there linkages with other proposals or instruments in other regional fisheries management organizations or international organizations that reduce the burden of implementation?

The proposed provisions are already in place in other Tuna (and non Tuna) RFMOs and they would contribute in strengthening the role and contribution of WCPFC in fighting and eradicating IUU at a global scale.

With regard to the adoption of a cross listing procedure, WCPFC, due to its large share in the global fisheries activities, will increase significantly its contribution to combatting IUU activities at a global scale, by multiplying the effectiveness and deterrence of the IUU listings in other RFMOs. Several other RFMOs already integrate vessels listed by WCPFC into their own list, using the work carried out by the WCPFC CCMs to identify IUU vessels to strengthen their fight against IUU fishing. This reciprocity would further reduce incentives for not complying with RFMO rules across all the Oceans, which would effectively contribute in the conservation of our valuable marine

biological resources at a global level.

A cross listing procedure would facilitate WCPFC CCMs to implement several provisions enshrined in international fisheries instruments regarding the registration of new fishing vessels, such as the FAO International Plan of Action to prevent, deter and eliminate Illegal, Unreported and Unregulated fishing (IUU National Plans of Action) and the FAO Voluntary Guidelines for Flag State performance. Having one single binding document will assist Flag States and their relevant agencies involved in the registration of new fishing vessels to avoid the registration of vessels currently listed in any RFMOs' IUU vessels list.

~~With regards to the involvement of Nationals in IUU fishing activities, as all CCMS will be required to reinforce control over their nationals having engaged in IUU fishing activities, others CCMs would also benefit from this reinforced protection.~~

~~Therefore, it would be more difficult for nationals of a given country having engaged in IUU fishing activities to escape and operate under the jurisdiction of a third country.~~

d. Does the proposal affect development opportunities for SIDS?

The proposal does not affect development opportunities for SIDS.

e. Does the proposal affect SIDS domestic access to resources and development aspirations?

The proposal does not affect SIDS domestic access to resources and development aspirations.

Any action that supports the combat against IUU activities in the WCPO contributes directly in enhancing prospects for SIDS domestic access to resources and indirectly in supporting their development aspirations.

f. What resources, including financial and human capacity, are needed by SIDS to implement the proposal?

No additional resources, including financial and human capacity, are needed by SIDS to implement the proposal. All CCMs are already expected to implemented the IUU CMM of WCPFC and the proposed amendments do not involve mobilising any supplementary means for their implementation.

g. What mitigation measures are included in the proposal?

Not relevant, there are no mitigation measures included in the proposal.

h. What assistance mechanisms and associated timeframe, including training and financial support, are included in the proposal to avoid a disproportionate burden on SIDS?

No assistance mechanisms are required.

Explanatory Memorandum

The revision of the CMM 2019-07 proposed by the EU seeks to improve the current provisions to fight illegal, unreported and unregulated (IUU) fishing by introducing two new elements.

The first element proposed is the introduction of a cross-listing procedure (new paragraphs 30 to 39).

In 2019, based on a recommendation from TCC15, the EU tabled a proposal to WCPFC16 to introduce a cross listing procedure in WCPFC that did not gather enough support for adoption. Building on the comments received, the EU submitted a delegation paper to WCPFC 17 to collect the views, comments and inputs of the Members on a cross listing procedure, and further discussed intersessionally on this matter ahead of WCPFC18.

The procedure proposed aims at providing a clear process, including a necessary distinction between the WCPFC IUU Vessels List and the IUU Vessels list of other organisations and at reducing the workload for CCMs and the Secretariat as much as possible.

The EU received comments from several CCMs (USA, Chinese Taipei, FFA) and the WCPFC Secretariat. This version attempts to accommodate most of the comments received.

The second element that was initially proposed was the introduction of new provisions on action to be taken against nationals (natural or legal persons) involved in IUU fishing, completing article 23.5 of the WCPFC Convention.

Measures to combat IUU fishing should build on the primary responsibility of flag States and use all available jurisdictions 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 as it is established in the 2001 International Plan of Action to prevent, deter and eliminate IUU fishing (IPOA; in particular, paragraphs 18 and 19).

It is recognised that actions taken in accordance with existing domestic law against individuals who engage in, or support, IUU fishing is an effective way to confront IUU activities, without prejudice to the primary responsibility of the Flag State.

International corporate structures, insurance providers and other financial arrangements are often employed by IUU operators to limit their liability and to provide legal and financial coverage to IUU operations, often presented as legitimate activities. This proposal initially also introduced a mechanism to improve cooperation amongst CCMs in this field as well as the reporting of the relevant activities to the WCPFC.

However, in light of the comments received by CCMs intersessionally, the EU decided to withdraw this amendment and focus on the cross-listing procedures. The EU intends to work intersessionally with interested CCMs to progress on this specific matter.

**CONSERVATION AND MANAGEMENT MEASURE TO ESTABLISH A LIST OF VESSELS
PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED
FISHING ACTIVITIES IN THE WCPO**

Conservation and Management Measure 2021-xx¹

The Western and Central Pacific Fisheries Commission (WCPFC):

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

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

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 WCPFC 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 CCMs and non CCMs under the relevant WCPFC 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 other international obligations, including the rights and obligations established under the World Trade Organization (WTO) Agreement; and

Recalling Articles 23 and 25 of the WCPF Convention regarding the obligations of members of the Commission and provisions for compliance and enforcement;

Adopts the following conservation and management measures in accordance with Article 10 of the Convention:

Identification of IUU activities

1. At each annual meeting, the Commission will identify those vessels which have engaged in fishing activities for species covered by the Convention within the Convention Area in a manner which has undermined the effectiveness of the WCPF Convention and the WCPFC measures in force, and shall establish, and, as necessary, amend in subsequent years, a list of such vessels (the IUU Vessel List), in accordance with the procedures and criteria set out in this conservation measure.
2. This identification shall be suitably documented, *inter alia*, on reports from Members, Cooperating Non-Members and Participating Territories (collectively CCMs) relating to WCPFC Conservation

¹ This CMM revises and replaces CMM 2019-06.

measures in force, trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) data, statistical documents and other national or international verifiable statistics, as well as any other information obtained from port States and/or gathered from the fishing grounds that is suitably documented. Information from CCMs should be provided in the format approved by the Commission.

3. For the purposes of this conservation measure, vessels fishing for species covered by the WCPFC Convention are presumed to have carried out IUU fishing activities, as described in the IPOA on IUU fishing, in the Convention Area when a CCM presents suitably documented information that such vessels, *inter alia*:
 - a. Harvest species covered by the WCPFC Convention in the Convention Area and are neither on the WCPFC record of authorized vessels nor a fishing vessel fishing exclusively in waters under the jurisdiction of its flag State, or
 - b. Conduct fishing activities in waters under the jurisdiction of a coastal State, without permission of that State, or in contravention of its law and regulations, or
 - c. Do not record or report their catches made in the Convention Area consistent with WCPFC measures, or make false reports, or
 - d. Take and land undersized fish in a way that undermines WCPFC conservation measures, or
 - e. Fish in a closed area or during a closed season in a way that undermines WCPFC conservation measures, or
 - f. Use prohibited fishing gear in a way that undermines WCPFC conservation measures, or
 - g. Tranship with, participate in joint fishing operations with, support or re-supply vessels included in the IUU Vessel List, or
 - h. Are without nationality and harvest species covered by the WCPFC Convention in the Convention Area, or
 - i. Engage in any other fishing activities that undermine the provisions of the WCPFC Convention or any other WCPFC conservation measures, or
 - j. Are under the control of the owner of any vessel on the WCPFC IUU Vessel List. (Procedures for applying this paragraph are attached as Annex A)

Information on alleged IUU fishing activities

4. At least 70 days before the annual meeting of the Technical and Compliance Committee (TCC), CCMs shall transmit to the Executive Director their list of vessels presumed to be carrying out IUU activities in the Convention Area during the current or the previous year, accompanied by suitably documented information, as provided in paragraph 2, concerning the presumption of this IUU activity.
5. Before or at the same time as transmitting a list of presumed IUU vessels to the Executive Director, the CCM shall notify, either directly or through the Executive Director, the relevant flag State of a vessel's inclusion on this list and provide a copy of the pertinent suitably documented information. The flag State shall promptly acknowledge receipt of the notification. If no acknowledgement is received within

10 days of the date of transmittal, the CCM shall retransmit the notification through an alternative means of communication.

Draft IUU Vessel List

6. The Executive Director shall draw up a draft IUU Vessel List incorporating the lists of vessels and suitably documented information received pursuant to paragraph 4, and any other suitably documented information at his disposal, and shall transmit it, together with all the supporting information provided, to all CCMs, as well as to non-CCMs with vessels on the list, at least 55 days before the TCC's annual meeting.
7. The Executive Director shall request each CCM and non-CCM with vessels on the draft IUU Vessel List to notify the owner of the vessels of their inclusion in that list, and of the consequences of their inclusion being confirmed in the IUU Vessel List.
8. Upon receipt of the draft IUU Vessel List, CCMs shall closely monitor the vessels included in that list in order to follow their activities and possible changes of name, flag or registered owner.
9. As appropriate, CCMs and non-CCMs with vessels on the list should transmit, at least 10 days before the TCC's annual meeting, their comments to the Executive Director, including suitably documented information, showing that the vessels have fished in a manner consistent with WCPFC conservation 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 WCPFC Convention.
10. The Executive Director shall re-circulate the draft IUU Vessel List, 7 days in advance of the TCC's annual meeting, to the CCMs and the non-CCMs concerned, together with all the suitably documented information provided pursuant to paragraphs 4 and 9 above.
11. CCMs and non-CCMs may at any time submit to the Executive Director any additional suitably documented information regarding any vessels on the draft IUU Vessel List. The Executive Director shall circulate this additional information to all CCMs and to the non-CCMs concerned immediately upon receipt of such information.

Provisional and current IUU Vessel List

12. The WCPFC's IUU Vessel List adopted during the previous year, as well as any new suitably documented information regarding this list, including intersessional amendments, shall be transmitted to CCMs and the non-CCMs concerned in conjunction with the draft IUU Vessel List and materials outlined in paragraph 6.
13. CCMs and non-CCMs with vessels on the current WCPFC IUU Vessel List should transmit at least 30 days before the annual meeting of the TCC, but may submit at any time, to the Executive Director suitably documented information regarding any of the vessels on the current WCPFC IUU Vessel List, including, where appropriate, suitably documented information as provided for in paragraph 25. The Executive Director shall re-circulate the current WCPFC IUU Vessel List two weeks in advance of the annual meeting of the TCC to the CCMs and non-CCMs concerned, together with all the information provided pursuant to paragraph 12 and this paragraph.
14. At its annual meeting, the TCC shall :
 - (i) following consideration of the draft IUU Vessel List and the suitably documented information circulated under paragraphs 6, 10 and 11, adopt a Provisional IUU Vessel List ; and

- (ii) following consideration of the current WCPFC IUU Vessel List and the suitably documented information circulated under paragraphs 12 and 13, recommend to the Commission which, if any, vessels should be removed from the current WCPFC IUU Vessel List.
15. The TCC shall not include a vessel on the Provisional IUU Vessel List if the vessel's flag State demonstrates that :
- a. The vessel fished in a manner consistent with WCPFC Conservation 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 WCPFC Convention, or
 - b. Effective action has been taken in response to the IUU fishing activities in question, such as, inter alia, prosecution or the imposition of sanctions of adequate severity; or
 - c. That the case regarding the vessel or vessels that conducted IUU fishing activities has been settled to the satisfaction of the CCM that originally submitted the vessel for listing and the flag State involved.
16. The TCC shall not include a vessel on the Provisional IUU Vessel List if the notifying CCM did not follow the provisions of paragraph 5.
17. The TCC shall recommend removal of a vessel from the current WCPFC IUU Vessel List only if the vessel's flag State submits to the Executive Director the information provided in paragraph 25 of this measure.
18. Following the examination referred to in paragraph 14, the TCC shall submit the Provisional IUU Vessel List to the Commission for its consideration, and as appropriate, recommend any proposed changes to the current WCPFC IUU Vessel List.
19. The draft IUU Vessel List, Provisional IUU Vessel List, and the WCPFC IUU Vessel List shall contain the following details for each vessel:
- (i) name and previous names, if any;
 - (ii) flag and previous flags, if any;
 - (iii) owner and previous owners, including beneficial owners, if any;
 - (iv) operator and previous operators, if any;
 - (v) master of the vessel at the time of the IUU fishing activities, and the nationality(ies) of that master;
 - (vi) call sign and previous call signs, if any;
 - (vii) Lloyds/IMO number;
 - (viii) photographs, where available;
 - (ix) date first included on the IUU Vessel List ; and
 - (x) summary of activities which justify inclusion of the vessel on the list, together with references to all relevant documents informing of and evidencing those activities.

WCPFC IUU Vessel List

20. 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 the Provisional IUU Vessel List, and any recommendations to amend the current WCPFC IUU Vessel List made pursuant to paragraph 18 above, and adopt a new WCPFC IUU Vessel List. To the maximum extent possible CCMs and non CCMs shall provide any new suitably documented information at least two weeks before the annual meeting of the Commission.
21. Upon adopting the new WCPFC IUU Vessel List, the Commission shall request CCMs and non-CCMs with vessels on the WCPFC IUU Vessel List to:
 - a. notify the owner of the vessels of its inclusion on the WCPFC IUU Vessel List and the consequences that result from being included in the list, and
 - b. take all the necessary measures to eliminate these IUU fishing activities, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Commission of the measures taken in this respect.
22. CCMs shall take all necessary non-discriminatory measures under their applicable legislation, international law and each CCMs' international obligations, and pursuant to paragraphs 56 and 66 of the IPOA-IUU to:
 - a. ensure that fishing vessels, support vessels, mother ships or cargo vessels flying their flag do not participate in any transshipment or joint fishing operations with, support or re-supply vessels on the WCPFC IUU Vessel List ;
 - b. ensure that vessels on the WCPFC IUU Vessel List that enter ports voluntarily are not authorized to land, tranship, refuel or re-supply therein but are inspected upon entry;
 - c. prohibit the chartering of a vessel on the WCPFC IUU Vessel List ;
 - d. refuse to grant their flag to vessels on the WCPFC IUU Vessel List in accordance with paragraph 1f, Section A, in Conservation and Management Measure 2018-06 or its replacement measure;
 - e. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the WCPFC Convention from vessels on the WCPFC IUU Vessel List ;
 - f. encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, species covered by the WCPFC Convention caught by vessels on the WCPFC IUU Vessel List ;
 - g. collect, and exchange with other CCMs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the WCPFC Convention from vessels on the WCPFC IUU Vessel List.
23. The Executive Director shall take any measure necessary to ensure publicity of the WCPFC IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the WCPFC website. Furthermore, the Executive Director shall transmit the WCPFC IUU Vessel List to the FAO and to other regional fisheries organizations for the purposes of enhancing cooperation between the WCPFC and these organizations aimed at preventing, deterring and eliminating IUU fishing.

24. Without prejudice to the rights of CCMs and coastal states to take proper action, consistent with international law, including applicable WTO obligations, the CCMs 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 14, or that have been removed from the WCPFC IUU Vessel List, pursuant to paragraphs 17 and 20, on the grounds that such vessels are involved in IUU fishing activities.

Modification of the WCPFC IUU Vessel List

25. CCMs and non-CCMs with a vessel on the WCPFC IUU Vessel List may request the removal of the vessel from the list at any time during the intersessional period by submitting to the Executive Director suitably documented information demonstrating that :
- a. it has adopted measures that will seek to ensure that the vessel complies with all WCPFC measures; and
 - b. 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
 - c. it has taken effective action in response to the IUU fishing activities that resulted in the vessel's inclusion in the WCPFC IUU Vessel List, including prosecution or the imposition of sanctions of adequate severity; or
 - d. the vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not participated in IUU fishing activities, or
 - e. the case regarding the vessel or vessels that conducted IUU fishing activities has been settled to the satisfaction of the CCM that originally submitted the vessel for listing and the flag State involved.
26. The Executive Director will transmit the removal request, with all the supporting information, to the CCMs within 15 days following the receipt of the removal request. CCMs shall promptly acknowledge receipt of the removal request. If no acknowledgement is received within 10 days of the date of transmittal, the Executive Director shall retransmit the removal request and shall use additional means available to ensure the request has been received.
27. Each Commission Member shall examine the removal request and notify the Executive Director in writing of its decision, and the rationale therefore, regarding the removal of the vessel within 40 days following the notification by the Executive Director. Decisions on the request to remove the vessel shall be made in accordance with Rule 30 of the Rules of Procedure.
28. If Commission Members agree to the removal of the vessel from the WCPFC IUU Vessel List within the period stipulated in para 27, the Executive Director will inform CCMs, non-CCMs, FAO and other regional fisheries management organizations, and will remove the vessel from the WCPFC IUU Vessel List, as published on the WCPFC website.
29. If Commission Members disagree with the request for the removal of the vessel from the IUU Vessel List, the vessel will be maintained on the WCPFC IUU Vessel List and the Executive Director will inform the CCMs and/or non-CCMs that made the removal request.

Cross-listing of vessels included on the IUU Vessels List of other organisations

30. The Executive Director shall maintain appropriate contacts, *inter alia*, with the Secretariats of the following organisations in order to obtain their latest IUU Vessels Lists ~~and any other relevant information regarding the list~~ including information allowing the identification of the RFMO which originally listed the vessels in a timely manner upon adoption or amendment:

~~Para 30 Option 1: the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Inter American Tropical Tuna Commission (IATTC), the Indian Ocean Tuna Commission (IOTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the North Pacific Fisheries Commission (NPF), the South Pacific Regional Fisheries Management Organisation (SPRFMO), the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (CCBSP), the Southern Indian Ocean Fisheries Agreement (SIOFA), the North East Atlantic Fisheries Commission (NEAFC), the Northwest Atlantic Fisheries Organization (NAFO), the North Atlantic Salmon Conservation Organisation (NASCO), the General Fisheries Commission for the Mediterranean (GFCM), the South East Atlantic Fisheries Organisation (SEAFO).~~

~~Para 30 Option 2: the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Inter American Tropical Tuna Commission (IATTC), the Indian Ocean Tuna Commission (IOTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the North Pacific Fisheries Commission (NPF), the South Pacific Regional Fisheries Management Organisation (SPRFMO), the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (CCBSP).~~

31. The WCPFC Executive Director shall transmit the WCPFC IUU Vessel List to the organisation set out in paragraph 30 and to any relevant organisation that has expressed an interest to receive such list.
32. In derogation with paragraph 2, vessels listed on the IUU Vessels Lists of the organisations set out in paragraph 30 may be added to or deleted from annex A of WCPFC IUU Vessel List, provided that the procedures specified in paragraphs 33 to 39 are followed.
33. Vessels listed pursuant a cross-listing with another organisations shall always be added in annex A of the WCPFC IUU Vessel List to avoid any confusion with vessels listed by the Commission. ~~The WCPFC Executive Director will use the information listed in paragraph 34 to prepare the annex A. To the extent possible, this information shall be provided by the RFMO that has originally listed the vessel on its IUU Vessel List.~~
34. Annex A of the WCPFC IUU Vessel List shall contain the following details for each vessel listed, if available:
- (i) name and previous names, if any;
 - (ii) flag and previous flags, if any;
 - (iii) owner and previous owners, including beneficial owners, if any;
 - (iv) operator and previous operators, if any;
 - (v) master of the vessel at the time of the IUU fishing activities, and the nationality(ies) of that master;
 - (vi) call sign and previous call signs, if any;

Commented [A1]: This amendment is to clarify that the Secretariat and CCM do not need to review the information that led to the original listing of the vessel, but only need to receive the latest IUU list and the name of the RFMO that originally listed each vessel.

Commented [A2]: All RFMOs are included in the list. This was the initial proposal of the EU, the most exhaustive one, to cover all oceans. In light of comments received, it appears that limiting cross listing to only tuna RFMOs and RFMOs with competences in the Pacific would reduce the workload and administrative burden for SIDS and the Secretariat.

Commented [A3]: As a compromise, a step-wise approach could be adopted, starting to cross-list with tuna-RFMOs and RFMOs having competence at least partially in the Pacific Ocean. This would allow to test the implementation of the cross listing procedure before considering expanding the list to other RFMOs beyond the Pacific.

Commented [A4]: In order to avoid mistakes on the vessel information (radio sign, previous owners, etc) that could result from cross-listing are replicated in the WCPFC IUU Vessel List, the Secretariat shall use the information provided by the RFMO that originally listed the vessel.

- (vii) Lloyds/IMO number;
- (viii) photographs, where available;
- (ix) organisation which originally included the vessel in its IUU Vessel List;
- (x) summary of activities which justified the inclusion of the vessel on the organisation's IUU Vessel List; and
- (xi) date first included on the IUU Vessel List.

Different options for the cross-listing procedure:

Option 1:

~~35. Vessels that have been included in the IUU Vessel List of the organisations provided in paragraph 30 shall be automatically included in annex A of the WCPFC IUU Vessel List. Upon receipt of the information outlined in paragraph 30, the Executive Director shall prepare a revised annex A of the WCPFC IUU Vessel List and shall circulate it to all CCMs.~~

Option 2:

~~36. Upon receipt of the information outlined in paragraph 30, the Executive Director shall prepare a revised annex A of the WCPFC IUU Vessel List and shall circulate it to all CCMs.~~

~~35. Vessels that have been included in the IUU Vessel List of the organisations provided in paragraph 30 shall be automatically included in annex A of the WCPFC IUU Vessel List, unless any CCM objects to the inclusion in writing within 30 days of the date of transmission by the Executive Director. The objecting CCM shall explain the reason for the objection.~~

~~36. In the event of an objection to the inclusion pursuant to paragraph 36, the case shall be brought to the following session of the TCC for its examination. The TCC shall provide a recommendation to the Commission on the inclusion of the relevant vessel/s in annex A of the WCPFC IUU Vessel List.~~

Option 3:

35. Using information received pursuant paragraph 30, the Executive Director shall prepare a draft annex A of the WCPFC IUU Vessel List and shall include it in the Draft IUU Vessel List in line with paragraph 6.

36. Vessels that have been included in the IUU Vessel List of the organisations provided in paragraph 30 shall be included in annex A of the WCPFC IUU Vessel List, unless any CCM objects to the inclusion in writing 10 days before the TCC's annual meeting. The objecting CCM shall explain the reason for the objection.

37. In the event of an objection to the inclusion pursuant to paragraph 36, the case shall be brought to the following session of the TCC for its examination. The TCC shall provide a recommendation to the Commission on the inclusion of the relevant vessel/s in annex A of the WCPFC IUU Vessel List.

37 bis. The WCPFC Secretariat shall not be responsible for any mistake and errors in annex A of the WCPFC IUU Vessel List.

Commented [A5]: In case the organisation which originally included the vessel in its IUU Vessel List is not known, a quote will be added in the table "unknown" as for other missing information.

Commented [A6]: The procedure will be repeated several time during the year, upon reception of the IUU vessel list of all organisation listed in paragraph 30. The listing procedure is automatic, without validation process. The annex A of the IUU vessel list is automatically adopted without need of a further decision of the Commission.

Commented [A7]: The procedure will be repeated several time during the year, upon reception of the IUU vessel list of all organisation listed in paragraph 30. The listing procedure is automatic unless an objection is raised by a member. In the case of an objection, the TCC will be competent to discuss, review the annex A and make recommendation to the Commission.

Commented [A8]: The procedure will be carried out only once in the year at the same time as the WCPFC IUU list. The listing procedure is automatic unless an objection is raised by a member. In the case of an objection, the TCC will be competent to discuss, review the annex A and make recommendation to the Commission. In light of comments received, it appears that repeating the procedure only once a year would reduce the workload and administrative burden for SIDS and the Secretariat.

Commented [A9]: This amendment addresses a comment received during the consultation process.

Delisting procedure:

38. Vessels included in the annex A of the WCPFC IUU Vessel List which are subsequently removed from the IUU vessel list of an original listing organisation set out in paragraph 30, shall be removed from the annex A of the WCPFC IUU Vessel List. Upon the deletion of a vessel from the annex A of the IUU Vessel List in accordance with this paragraph, the Executive Director shall circulate the amended IUU List to all CCMs. The effective date of removal of such vessels from the WCPFC IUU Vessel List, will be the same date the vessel was removed from the original listing organisation's IUU Vessel List.

Involvement of Nationals in IUU fishing activities

- ~~39. Without prejudice to the primary responsibility of the flag state, CCMs shall take all appropriate measures, subject to and in accordance with their domestic laws and regulations, with regard to their nationals, and any other natural or legal person subject to their jurisdiction, identified as engaged in, responsible for, benefiting from, or supporting the activities of any vessel engaged in IUU fishing activities in the Convention Area. Nothing in this paragraph shall preclude the rights of CCMs to apply additional or more stringent measures.~~
- ~~40. For the purpose of paragraph 39, nationals and any other natural or legal person subject to the jurisdiction of the CMMs include operators, effective beneficiaries, owners, logistics and service providers, including property insurance providers and other financial service providers.~~
- ~~41. CCMs shall cooperate, including by seeking reciprocal and cooperative arrangements for exchange of information, for the purpose of implementing this CMM. To this end, relevant agencies of CCMs should designate a contact point through which information on reported activities described in paragraph 39, including information regarding vessel identification, ownership including beneficial ownership, crew and catch, as well as information regarding relevant domestic legislation and the results of actions taken with regard to the implementation of this CMM can be exchanged.~~
- ~~42. To assist with the implementation of paragraphs 39 and 41, CCMs shall include in their Annual Report part 2 the actions and measures taken in accordance with these provisions. These reports shall be posted by the Secretariat in the secured part of the WCPFC website.~~

Review

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

**PROCEDURES FOR APPLYING
PARAGRAPH 3(J) OF WCPFC CMM 2010-06**

These procedures are to be followed by the Commission in applying paragraph 3(j) of this CMM. The procedures must work in concert and not conflict with the procedures outlined in this CMM, and the rules and responsibilities of TCC and the Commission.

Ownership and control

1. For the purposes of these procedures, the legal or natural person(s) or entity/entities that own and control a vessel (the "owner(s) of record") are those indicated on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels. If a vessel is not on either of those lists, then the owner of record is the owner or owners as indicated on the vessel's national registration document.
2. For the purposes of these procedures, a vessel shall be considered to have the same owner(s) of record where one or more of the legal or natural person(s) or entity/entities indicated on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels is the same. If a vessel is not on either of those lists, then the owner(s) of record is/are the same where one or more of the legal or natural person/s or entity/entities indicated on the vessel's national registration document is/are the same.
3. For the purpose of considering whether to add or remove a vessel or vessels from the Provisional WCPFC IUU Vessel List or the WCPFC IUU Vessel List pursuant to paragraph 3j and paragraph 25(d) of this CMM, the owner(s) of record will not be considered to have changed unless the new owner(s) of record provides suitably documented information demonstrating to the satisfaction of the Commission that the ownership of the vessel has changed, that the previous owner(s) of record no longer has any legal, financial or real interests in it, and that the new owner(s) of record has not participated in any IUU fishing activities.

Identification and nomination of vessels

4. For the purposes of these procedures, a vessel may be nominated by a CCM under paragraph 3(j) of this CMM if it meets the condition in paragraph (a) below, and the conditions in either paragraphs (b) or (c) below:
 - a. The fishing vessel to be nominated:
 - a. is currently operating in the Convention Area; or
 - b. has operated in the Convention Area at any time since the date of the infringement(s) that led to the listing of the underlying vessel(s) on the WCPFC IUU Vessel List (as defined below in paragraph (b)); and
 - c. is, or was at any time since the date of infringement(s) that led to the listing of the underlying vessel(s) (as defined below in paragraph (b)) on the WCPFC IUU Vessel List, on the WCPFC Record of Fishing Vessels or the WCPFC Interim Register of non-Member Carrier and Bunker Vessels.

- b. The owner of record is the owner of record of three or more vessels currently on the WCPFC IUU Vessel List (hereafter “the underlying vessel(s)”).
 - c. The owner of record has one or more vessels that have been included on the WCPFC IUU Vessel List for the last two years or more (hereafter “the underlying vessels”).
5. For the purposes of these procedures, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) that meet condition 4(a) shall be considered together and either all or none will be placed on the WCPFC IUU Vessel List. Similarly, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) that meet condition 4(a) will be considered as one and either all or none will be removed from the WCPFC IUU Vessel List.

Information to be provided

- 6. CCMs shall submit suitably documented information demonstrating that the fishing vessels they wish to nominate under paragraph 3(j) of this CMM meet the criteria set out in paragraph 4 of these procedures. CCMs shall submit this information to the Executive Director 70 days before the annual meeting of the TCC along with the list of fishing vessels being nominated (hereinafter “3j” vessels).
- 7. Before or at the same time as transmitting a list of 3j vessels to the Executive Director, the CCM shall notify, either directly or through the Executive Director, the relevant flag State of the vessels’ inclusion on this 3j list, and provide a copy of the pertinent suitably documented information. The flag State shall promptly acknowledge receipt of the notification. If no acknowledgment is received within 10 days of the date of transmittal, the CCM shall retransmit the notification through an alternative means of communication.

Draft IUU Vessel List

- 8. The Executive Director shall include on the Draft IUU Vessel List, which is drawn up and circulated in accordance with the provisions of this CMM, those 3j vessels that have been nominated by CCMs in accordance with these procedures.
- 9. The Executive Director shall notify the relevant flag states of the inclusion of their 3j vessels on the draft IUU Vessel List and of the consequences of these vessels being confirmed on the IUU Vessel List.
- 10. As appropriate, relevant flag states with 3j vessels on the Draft IUU Vessel List may transmit to the Executive Director, at least 10 days before the TCC’s annual meeting, suitably documented information showing the 3j vessels do not meet the criteria outlined in paragraph 4 of these procedures. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.
- 11. Small island developing CCMs may provide additional information to the Executive Director prior to TCC, or any time before the Annual Commission meeting to advise that the proposed IUU listing of such 3j vessels would constrain the operation of domestic processing, transshipment facilities, or associated vessels of small island developing CCMs, or would undermine existing investment in FFA member countries. The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.

Provisional and current WCPFC IUU Vessel List

- 12. At its annual meeting, with respect to 3j vessels that are on the Draft IUU Vessel List, the TCC shall :

- a. consider suitably documented information, if any, provided by a CCM or a non-CCM, as well as any relevant information regarding the status of an investigation, judicial or administrative proceeding related to the underlying vessel(s) and the cooperation and responsiveness of the owner of record in such proceedings;
 - b. consider information related to 3j vessels that maybe submitted by small island developing CCMs pursuant to paragraph 11: and
 - c. following consideration of this information, decide whether to include the nominated 3j vessels on the Provisional IUU Vessel List developed in accordance with the provisions of this CMM.
13. As appropriate, relevant flag states with 3j vessels on the current WCPFC IUU Vessel List may transmit, at least 20 days before the TCC's annual meeting, but may submit at any time, to the Executive Director suitably documented information showing the 3j vessels do not meet the criteria outlined in paragraph 4of these procedures, or any other relevant information, including suitably documented information as provided for in paragraph1.The Executive Director shall circulate this information to all CCMs immediately upon receipt of such information.
14. The TCC shall not include 3j vessels on the Provisional IUU Vessel List if suitably documented information is provided by any CCM that the vessels no longer have a common owner of record with the underlying vessel(s)that triggered the nomination underparagraph4.
15. At its annual meeting, with respect to 3j vessels that are on the current WCPFC IUU Vessel List the TCC shall :
- a. consider suitably documented information, if any, provided by a CCM or non-CCM, as well as any relevant information regarding the status of an investigation, judicial or administrative proceeding related to the underlying vessel(s)and the cooperation and responsiveness of the owner of record in such proceedings; and
 - b. following consideration of the suitably documented information, recommend to the Commission whether or not the 3j vessels should be removed from the WCPFC IUU Vessel List.
16. The TCC shall recommend removal of 3j vessels from the current WCPFC IUU Vessel List if suitably documented information:
- a. is provided that the vessels no longer have a common owner of record with the underlying vessel(s) that triggered the nomination under paragraph4;or
 - b. is provided that demonstrates that significant progress has been made to resolve the matter related to the underlying vessel(s)that triggered the nomination of the 3j vessels, and the CCM that originally submitted the 3j vessels for listing is satisfied.

WCPFC IUU Vessel List

17. Once 3j vessels are included on the Provisional IUU Vessel List, they shall be treated as part of that List and, where appropriate, the WCPFC IUU Vessel List, in accordance with paragraphs 20-24 of this CMM.

Modification of the WCPFC IUU Vessel List

18. Relevant flag states may request to remove 3j vessels from the WCPFC IUU Vessel List at any time during the intercessional period by submitting to the Executive Director suitably documented information that :
 - a. the vessels no longer have a common owner of record with the underlying vessel(s) that triggered the nomination under paragraph 4; or
 - b. significant progress has been made to resolve the matter related to the underlying vessel(s) that triggered the nomination of the 3j vessels, and the CCM that originally submitted the 3j vessels for listing is satisfied.
19. Small island developing CCMs may also request removal of 3j vessels from the WCPFC IUU Vessel List at any time during the intercessional period by submitting to the Executive Director information that the listing of such 3j vessels has resulted in a disproportionate burden on the operation of domestic processing, transshipment facilities, or associated vessels of small island developing CCMs, or has undermined existing investment in FFA member countries.
20. Removal requests for 3j vessels shall be treated in accordance with paragraphs 26-29 of this CMM.
21. If the underlying vessel is removed from the WCPFC IUU List, all additional vessels fully or partly owned by the same owner of record as the underlying vessel(s) and listed pursuant to the 3j procedures contained herein will be automatically removed at the same time.