

**44th ANNUAL MEETING OF NAFO - SEPTEMBER 2022****Inclusion of Vessels from IUU Lists of Other RFMOs into the NAFO IUU List:
NAFO CEM Articles 49, 52 and 53****Background**

At the STACTIC Intersessional Meeting in May 2020, Norway presented a discussion paper, STACTIC WP 20-07, regarding the inclusion of vessels from the IUU lists of other Regional Fisheries Management Organisations (RFMOs) to the NAFO IUU list. This document highlighted that NEAFC had already adopted such amendments to the NEAFC Scheme of Control and Enforcement.

The RFMOs listed in Article 44(7) of the NEAFC Scheme are: the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Inter-American Tropical Tuna Commission (IATTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Indian Ocean Tuna Commission (IOTC), the General Fisheries Commission for the Mediterranean (GFCM), the Northwest Atlantic Fisheries Organization (NAFO), the North Pacific Fisheries Commission (NPFC), the South East Atlantic Fisheries Organisation (SEAFO), Southern Indian Ocean Fisheries Agreement (SIOFA), the South Pacific Regional Fisheries Management Organisation (SPRFMO) and the Western and Central Pacific Fisheries Commission (WCPFC).

At the 2020 STACTIC Intersessional Meeting, Norway expressed the opinion that NAFO should include similar amendments to the NAFO Conservation and Enforcement Measures (CEM), and the European Union supported this view. Other Contracting Parties noted that they were fully supportive of mechanisms to prevent and deter IUU fishing activities in NAFO. However, some Contracting Parties noted they needed more time, additional input and more details, such as which RFMOs would have sufficient nexus to NAFO.

In this regard, we would like to highlight that both NEAFC and NAFO have been very active in fighting IUU fishing and are including vessels from each other's IUU lists on their respective IUU lists, which have proven to be efficient tools against IUU fishing.

As IUU activities are taking place worldwide, it should be ensured that vessels which have been IUU listed by other RFMOs are also subject to the measures provided by Article 54 of the NAFO CEM in the NAFO context. Cross-referencing RFMOs IUU lists increases the effectiveness of this tool to fight IUU, and hence, IUU lists should be exchanged between relevant RFMOs to enhance their effect.

Furthermore, it should be highlighted that Article 9(4) of the FAO Agreement on Port State Measures requires its Parties to deny vessels port entry when a Party has sufficient proof that the vessel has 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 relevant regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law”.

At the 2020 STACTIC Annual Meeting, Norway and the European Union tabled a proposal to introduce the cross-referencing mechanism in the NAFO CEM. STACTIC members noted the benefit of reviewing other provisions on IUU listing in Chapter VIII of the NAFO CEM. Norway, the European Union and the United States of America agreed to work on the preparation of this revised proposal.

Proposal

To strengthen the fight against IUU activities globally, it is proposed to include similar amendments to the NAFO CEM as those that have been implemented in the NEAFC Scheme. The references to relevant provisions on IUU listing in Chapter VIII have been revised for a coherent reading.

CHAPTER VIII - NON-CONTRACTING PARTY SCHEME

[...]

Article 49 – Presumption of IUU fishing

1. An NCP vessel is presumed to have undermined the effectiveness of the CEM, and to have engaged in IUU fishing, if it has been:

(a) sighted or identified by other means as engaged in fishing activities in the Regulatory Area;

(b) involved in transshipment with another NCP vessel sighted or identified as engaged in fishing activities inside or outside the Regulatory Area; and/or

2. A vessel is presumed to have engaged in IUU fishing if it has been included in the IUU list of the following RFMOs: the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Inter-American Tropical Tuna Commission (IATTC), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Indian Ocean Tuna Commission (IOTC), the General Fisheries Commission for the Mediterranean (GFCM), the North East Atlantic Fisheries Commission (NEAFC), the North Pacific Fisheries Commission (NPFC), 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).

[...]

Article 52 - Provisional IUU Vessel List

1. In addition to information submitted from Contracting Parties in accordance with **Articles 49-50** and 51, each Contracting Party may, without delay, transmit to the Executive Secretary any information that may assist in identification of any NCP vessel that might be carrying out IUU fishing in the Regulatory Area.

~~2. If a Contracting Party objects to a NEAFC IUU-listed vessel being incorporated into or deleted from the NAFO IUU Vessel List in accordance with Article 53, such vessel shall be placed on the Provisional IUU Vessel List.~~

Duties of the Executive Secretary

~~23.~~ The Executive Secretary:

(a) establishes and maintains a list of NCP vessels presumed to have engaged in IUU fishing, as defined in Article 49. This shall be in the Regulatory Area referred to as the Provisional IUU Vessel List;

(b) upon receipt, records in the Provisional IUU Vessel List:

(i) the information received pursuant to paragraph 1;

(ii) for all vessels, including, if available, the name of the vessel, its flag State, call sign, and registration number, and IMO number, photographs, and any other identifying features, in the Provisional IUU Vessel List; including the identification of the original listing RFMO and any other information provided to support the listing;

(c) posts the Provisional IUU Vessel List and all updates to the secure part of the NAFO website; and

(d) for vessels included in the Provisional IUU Vessel List pursuant to Article 49.1(a) and (b):

(i) advises the flag State of the NCP vessel listing, including:

(i1) the reasons and supporting evidence;

(i2) a copy of the CEM and a link to its place on the NAFO website;

(eii) requests that the flag State of the NCP vessel:

(i1) take all measures to ensure that the vessel immediately ceases all fishing activities that undermine the effectiveness of the CEM;

(i2) report within 30 days from the date of the request on the measures it has taken with respect to the vessel concerned; and

(iii3) state any objections it may have to including the vessel in the IUU Vessel List;

(fiii) transmits to the flag State of the NCP vessel any additional information received pursuant to Articles 49-51 and 52.1 in respect of vessels entitled to fly its flag that have already been included in the Provisional IUU Vessel List;

(giv) distributes any information received from the flag State to all Contracting Parties; and

(hv) advises the flag State of the NCP vessel of the dates STACTIC and the Commission will consider listing the vessel in the IUU Vessel List, and invites the flag State to attend the meeting as an observer where it will be given the opportunity to respond to the report submitted in accordance with paragraph 3(e)(ii);

~~(i) transfers the vessel from the Provisional IUU Vessel List to the IUU Vessel List in accordance with Article 53 if the flag State does not object; and (j) places all vessels included in the NEAFCIUU List on the IUU Vessel List, unless a Contracting Party objects to such inclusion, in which case it places the vessel on the Provisional IUU Vessel List. Article 53 shall not apply to vessels placed on the Provisional IUU Vessel List in accordance with this paragraph.~~

Article 53 - IUU Vessel List

Listing a Vessel on the IUU Vessel List

1. STACTIC recommends to the Commission whether each vessel listed in the Provisional IUU Vessel List should be:

- (a) deleted from the Provisional IUU Vessel List;
- (b) retained in the Provisional IUU Vessel List, pending receipt of further information from the flag State, or relevant RFMO, or other sources; or
- (c) transferred to the IUU Vessel List, which in the case of vessels included in the Provisional list pursuant to Article 49.1(a) and (b), shall only be possible upon expiration of the period referred to in Article 52. ~~2(d)(ii)(2)-(3)(e)(ii).~~

2. STACTIC may recommend that the Commission update the identifying features of vessels included in either the Provisional IUU Vessel List or the IUU Vessel List.

Deleting a Vessel from the IUU Vessel List

~~2.3.~~ STACTIC may advise that the Commission delete a vessel from either the Provisional IUU Vessel List or the IUU Vessel List **if such vessel has been de-listed by the RFMO that originally listed it,** **or** where it is satisfied that the flag State of a vessel concerned has provided sufficient evidence to establish that:

- (a) it has taken effective action to address the IUU fishing of such vessel, including prosecution and imposition of sanctions of adequate severity;
- (b) it has taken measures to prevent such vessel from engaging in further IUU fishing under its flag;
- (c) such vessel has changed ownership, and
 - (i) the previous owner no longer has any legal, financial or real interest in such vessel, or exercises no control over it; or
 - (ii) the new owner has no legal, financial or real interest in, nor exercises control over, another vessel listed in the IUU Vessel List or any similar IUU list maintained by any of the RFMOs listed in Article 49.2, and has not otherwise been engaged in IUU activities;
- (d) such vessel did not take part in IUU fishing; or
- (e) such vessel has sunk, been scrapped, or been permanently reassigned for purposes other than fishing activities.

43. The Commission may make any changes to listings in the IUU Vessel List. The Commission determines the final composition of the IUU Vessel List.

Duties of the Executive Secretary

5-4. The Executive Secretary:

(a) posts the IUU Vessel List to the NAFO website, including the name and flag State and, if available, the call sign, hull number, IMO number, previous name(s) and flag(s), ~~or photographs, and~~ any other identifying features for each vessel, including the RFMO that originally listed the vessel;

(b) for vessels included in the Provisional IUU Vessel List pursuant to Article 49.1(a) and (b), notifies the flag State of the Commission's decision to list name of each vessel entitled to fly its flag listed in on the NAFO's IUU Vessel List;

(c) transmits the IUU Vessel List and any relevant information, including the reasons for listing or de-listing each vessel, to ~~the other~~ RFMOs listed in Article 49.2; and, including, in particular, the NEAFC, the South East Atlantic Fisheries Organisation (SEAFO), and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR);

~~(d) transmits the amendments to the NEAFC IUU list, upon receipt, to all Contracting Parties and amends the IUU Vessel List consistent with amendments to the NEAFC IUU List, within 30 days of such transmittal; unless within the 30 days the Executive Secretary receives from a Contracting Party a written submission establishing that:~~

~~(i) — any of the requirements in paragraph 2(a)-(d) of this Article have been met with regard to a vessel placed on the NEAFC IUU List; or~~

~~(ii) — none of the requirements in paragraph 2(a)-(d) of this Article have been met with regard to a vessel taken off the NEAFC IUU List; and~~

(d) immediately removes any vessel included in the IUU Vessel List if such vessel has been de-listed by the RFMO that originally listed it and places it on the Provisional IUU Vessel List, noting the delisting; and

(e) advises STACTIC of any action taken pursuant to this Article.