

INTER-AMERICAN TROPICAL TUNA COMMISSION

87TH MEETING

**Lima (Peru)
14-18 July 2014**

PROPOSAL IATTC-87 L-1A

SUBMITTED BY PANAMA AND THE UNITED STATES

**AMENDMENT TO RESOLUTION C-05-07 ON ESTABLISHING A LIST
OF VESSELS PRESUMED TO HAVE CARRIED OUT 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). 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 IATTC conservation and management measures.

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 management and conservation measures.

Determined to address the challenge of an increase in IUU fishing activities by way of ~~counter~~-measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of flag States 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; and

Noting that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreement;

Recognizing the importance of due process and of the participation of the interested parties;

Resolves as follows:

IDENTIFICATION OF IUU ACTIVITIES:

1. At each Annual Meeting, the Commission shall identify those vessels that have participated in fishing activities for species covered by the IATTC Convention in the Convention Area in a manner that undermines the effectiveness of the Convention and the IATTC Conservation measures in force, due to serious non-compliance, and shall establish and amend in subsequent years if necessary a list of such vessels (The IUU Vessel List), in accordance with the criteria and procedures established in this resolution.
2. This identification shall be clearly and suitably documented, based on, *inter alia*, reports from CPCs

related to compliance with IATTC resolutions in force, trade information obtained from relevant commercial data, such as data from the United Nations Food and Agriculture Organization (FAO), statistical documents and other verifiable national or international statistics, as well as any other documented information obtained from port States and/or collected in fishing grounds. The information from CPCs shall be provided in the format approved by the Parties.

~~1.3.~~ For the purposes of this resolution, vessels fishing for species covered by the IATTC Convention within the IATTC Convention Area are presumed to have carried out IUU fishing activities ~~in the EPO, *inter alia*, when an IATTC Member or Party, cooperating non-Member Party, fishing entity or regional economic integration organization~~ (collectively "CPCs") presents suitably document information~~evidence~~ that such vessels:

- a. Harvest species covered by the ~~IATTC Convention in the EPO~~ and are not on the IATTC Regional Vessel Register, or
- b. Harvest species covered by the Convention in waters under the national jurisdiction of the coastal State in the Convention Area without authorization and/or in contravention of its laws and regulation, without prejudice to the sovereign rights of coastal States to take measures against such vessels;
- ~~b.c.~~ Make false reports or fail to Do not record or report their catches made in the Convention Area~~EPO, or make false reports, or~~
- d. Engage in fishing activities in a closed area or during a closure period, or
- ~~e.~~ Take or land undersized fish in contravention of IATTC conservation measures, or
- ~~d.~~ Fish during closures in contravention of IATTC conservation measures, or
- e. Use prohibited fishing gear or fishing methods, or in contravention of IATTC conservation measures, or
- f. Transship with, participate in joint fishing operations with, support, or resupply vessels included in the IUU Vessel List, or
- ~~f.g.~~ Conduct transshipment operations with vessels not included on the IATTC Regional~~IUU Vessel Register~~List, established by this resolution, or the relevant vessel registers of other RFMOs, or
- ~~g.h.~~ Are without nationality, or and harvest species covered by the IATTC Convention in the EPO, or
- ~~h.i.~~ Engage in fishing activities contrary to the provisions of the Convention or any other IATTC conservation and management measures, or
- j. Engage in fishing for IATTC species and the flag State has exhausted or has no quota or catch limit, if applicable, or
- ~~i.k.~~ Are under the control of the owner or operator of any vessel on the~~IATTC~~ IUU Vessel List.

~~2.4.~~ At the latest 70 days before the Annual Meeting, Each CPC shall transmit to the Director ~~their, before 1 February of every year,~~ a list of ~~any~~ vessels presumed to ~~be carrying~~have carried out IUU fishing activities in the Convention Area over~~EPO during the past two~~current and previous years, accompanied by suitably documented~~the~~ evidence concerning~~supporting~~ the presumption of the IUU fishing activity.

~~The IATTC IUU Vessel List shall be based on information collected by CPCs and from any other relevant sources.~~ Information on IUU vessel activity submitted by CPCs pursuant to this paragraph~~from CPCs~~ should be provided in the format attached as Annex A of this Resolution~~approved by the Parties.~~

5. Before or at the same time as transmitting a list of presumed IUU vessels to the Director, the CPC shall also notify the relevant flag State of its vessel's inclusion on the list of presumed IUU vessels, provide a copy of the suitably documented information, and 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 CPC shall retransmit the notification through an alternative means of communication. Upon receipt of information pursuant to paragraph 4, the Director shall also inform the flag State of its vessel's inclusion on the list of presumed IUU vessels, provide a copy of the suitably documented information, and inform the flag State about the procedures of this Resolution, including the opportunity of the flag State and interested parties to provide information in response to the listing proposal.

DRAFT IUU VESSEL LIST:

6. On the basis of the information received pursuant to paragraph 4, and any other suitably documented information at his disposal², the Director shall draw up a draft IATTC IUU Vessel List, together with the current IUU list, and shall transmit it, together with all the supporting evidence provided, to all CPCs, as well as to non-Members^{parties} with vessels on the List, 55 days before the Annual Meeting. The Director shall ask ~~1 March~~ of each CPC and non-CPC with vessels on the Draft IUU Vessel List to notify the owners of the vessels of their inclusion in the list and of the consequences of the vessels being included in the IATTC IUU 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:
- i. Name of vessel and previous names, if any;
 - ii. Flag of vessel and previous flag, if any;
 - iii. Name and address of owner of vessel and previous owners, including beneficial owners, if any, and owner's place of registration;
 - iv. Operator of vessel and previous operators, if any;
 - v. Call sign of vessel and previous call sign;
 - vi. IMO number, if any;
 - vii. Unique Vessel Identifier (UVI), or, if not applicable, any other vessel identifier;
 - viii. Photographs of the vessel;
 - ix. Length overall;
 - x. Date vessel was first included on the IUU List (if applicable);
 - xi. Position of alleged IUU fishing activities;
 - xii. Summary of alleged IUU activities;
 - xiii. Summary of any actions known to have been taken in respect of the alleged IUU fishing activities and its outcome.
- ~~3.8. year.~~ CPCs and non-Members^{parties} shall, ~~before 15 April~~, transmit, at the latest 30 days before the Annual Meeting, their comments to the Director, as appropriate, including evidence showing that the vessels neither have fished in contravention of IATTC conservation and management measures nor had the possibility of fishing for species covered by the IATTC Convention in the EPO.
- 4.9. Upon receipt of the draft IATTC IUU Vessel List, CPCs shall closely monitor the vessels included in the draft List in order to determine their activities and possible changes of name, flag and/or registered owner.

PROVISIONAL IUU VESSEL LIST

- ~~5.10.~~ On the basis of the information received pursuant to paragraph ~~8~~³, the Director shall draw up a provisional IATTC IUU Vessel List, and transmit it, ~~15 days~~^{two weeks} in advance of the Annual Meeting of the Commission, to the CPCs and the non-Members^{parties} concerned, together with all the evidence provided.

~~6~~11. CPCs may at any time submit to the Director any additional information which might be relevant for the establishment of the IATTC IUU Vessel List. The Director shall circulate the information, together with all the evidence provided, to the CPCs and to the non-Membersparties concerned, at the latest least two weeks before the Annual Meeting of the Commission.

~~7~~12. The Committee for the Review of the Implementation of Measures Adopted~~IATTC AIDCP Joint Working Group on Fishing~~ by the Commission~~Non-Parties (Joint Working Group)~~ shall each year examine the provisional IATTC IUU Vessel List, as well as the information that supports the inclusion, referred to in paragraphs 3 and 5. ~~The results of this examination may, if necessary, be referred to the Permanent Working Group on Compliance.~~

~~The Joint Working Group~~ shall remove a vessel from the provisional IATTC IUU Vessel List if the vessel's flag State demonstrates that:

- a. The vessel did not engage in any of the IUU fishing activities described in paragraph ~~3~~4, 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.

~~8~~13. Following the examination referred to in paragraph ~~12~~6, the Committee for the Review of the Implementation of Measures Adopted by the Commission~~Joint Working Group~~ shall recommend that the Commission approve the provisional IATTC IUU Vessel List, withas amended by the amendments agreed there~~Joint Working Group~~.

FINAL IUU VESSEL LIST

~~14.~~ At its Annual Meeting, the Commission shall review the Once the provisional IUU Vessel List, taking into account the supporting evidence and new evidence supplied through the Director.

~~9~~15. Once the IATTC IUU Vessel List is adopted by the Commission, the Commission shall ask non-Membersparties with vessels on the IATTC IUU Vessel List to 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.

~~10~~16. CPCs shall take all necessary measures, under their applicable legislation and pursuant to paragraphs 56 and 66 of the IPOA-IUU, to:

- a. ensure that vessels flying their flag do not transship with vessels on the IATTC IUU Vessel List;
- b. ensure that vessels on the IATTC IUU Vessel List that enter ports voluntarily are not authorized to land or transship therein;
- c. prohibit the entry into their ports of vessels included on the IUU list, except in case of force majeure or where the vessel is allowed entry into port for the exclusive purpose of inspection and effective enforcement action;
- ~~d~~.d. prohibit the chartering of a vessel on the IATTC IUU Vessel List;
- ~~d~~.e. refuse to grant their flag to vessels on the IATTC IUU Vessel List, unless the vessel has changed owner, and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel or, having taken into account all relevant facts, the flag CPC determines that granting the vessel its flag will not result in IUU fishing;
- ~~e~~.f. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the IATTC Convention from vessels on the IATTC IUU Vessel List;
- ~~f~~.g. 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 IATTC IUU Vessel List;

~~g-h.~~ 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.

~~11-17.~~ The Director shall take any measure necessary to ensure publicity of the IATTC IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the IATTC website. Furthermore, the Director shall transmit the IATTC IUU Vessel List to other regional fisheries organizations for the purposes of enhancing co-operation between the IATTC and these organizations aimed at preventing, deterring and eliminating IUU fishing.

MODIFICATION OF THE IUU VESSEL LIST

18. CPCs and non-CPCs of a vessel on the IUU Vessel List may request the removal of the vessel from the list at any time, including on the period between sessions, by submitting to the Director suitably documented information that proves that:

a. _____

i. it has adopted measures intended to guarantee that the vessel complies with all IATTC measures, and;

ii. it can effectively assume its responsibilities with regard to monitoring and control of the fishing activities of the vessel in the Convention Area; and

iii. it has undertaken effective actions in response to the IUU fishing activities which include judicial actions and imposition of suitably severe sanctions; or

b. the vessel has been sunk or scrapped; or

c. the vessel has changed ownership and the new owner can prove that the previous owner no longer has any legal, financial, or real interest in the vessel, nor does he exert control over it and that the new owner has not been involved in IUU activities in the previous five years.

19. The Director shall transmit the request for removal together with all the supporting information submitted by the requestor to the CPCs within 15 calendar days of the receipt of the request. CPCs shall promptly acknowledge receipt of the request for removal and may, at that time, request additional information from the requestor.

20. The decisions by the Commission regarding a request for removal of a vessel in the period between sessions shall follow the procedures established for decisions by correspondence, with each CPC's duly supported response within 30 days following the communication of the request to the CPCs by the Director. The absence of a response within that period shall be equivalent to acceptance of the request.

21. If the CPCs approve the removal of the vessel from the IUU Vessel List within the period stipulated in paragraph 20, the Director shall proceed to remove the vessel in question from the IATTC IUU Vessel List.

22. All the information received in the process of including vessels in, or excluding them from, the IATTC IUU List shall be subject to the IATTC rules of confidentiality.

~~12-23.~~ This resolution shall apply to any fishing vessel greater than ~~2324~~ meters overall length.

~~13-24.~~ Without prejudice to the rights of CPCs and coastal states to take proper action, consistent with international law, the CPCs shall not take any unilateral trade measures or other sanctions against vessels on the draft or provisional IATTC IUU Vessel Lists, ~~pursuant to paragraphs 3 or 4,~~ or that have been removed from the IATTC IUU Vessel List, ~~pursuant to paragraph 6,~~ on the grounds that such vessels are involved in IUU fishing activities.

25. This resolution replaces Resolution C-05-07.

ANNEX A - IATTC REPORTING FORM FOR IUU ACTIVITY

Pursuant to paragraphs 5 of IATTC Resolution [C-xx-xx] to Establish a List of Vessels Presumed to have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the Eastern Pacific Ocean, attached are details of alleged IUU activity.

A. Details of Vessel

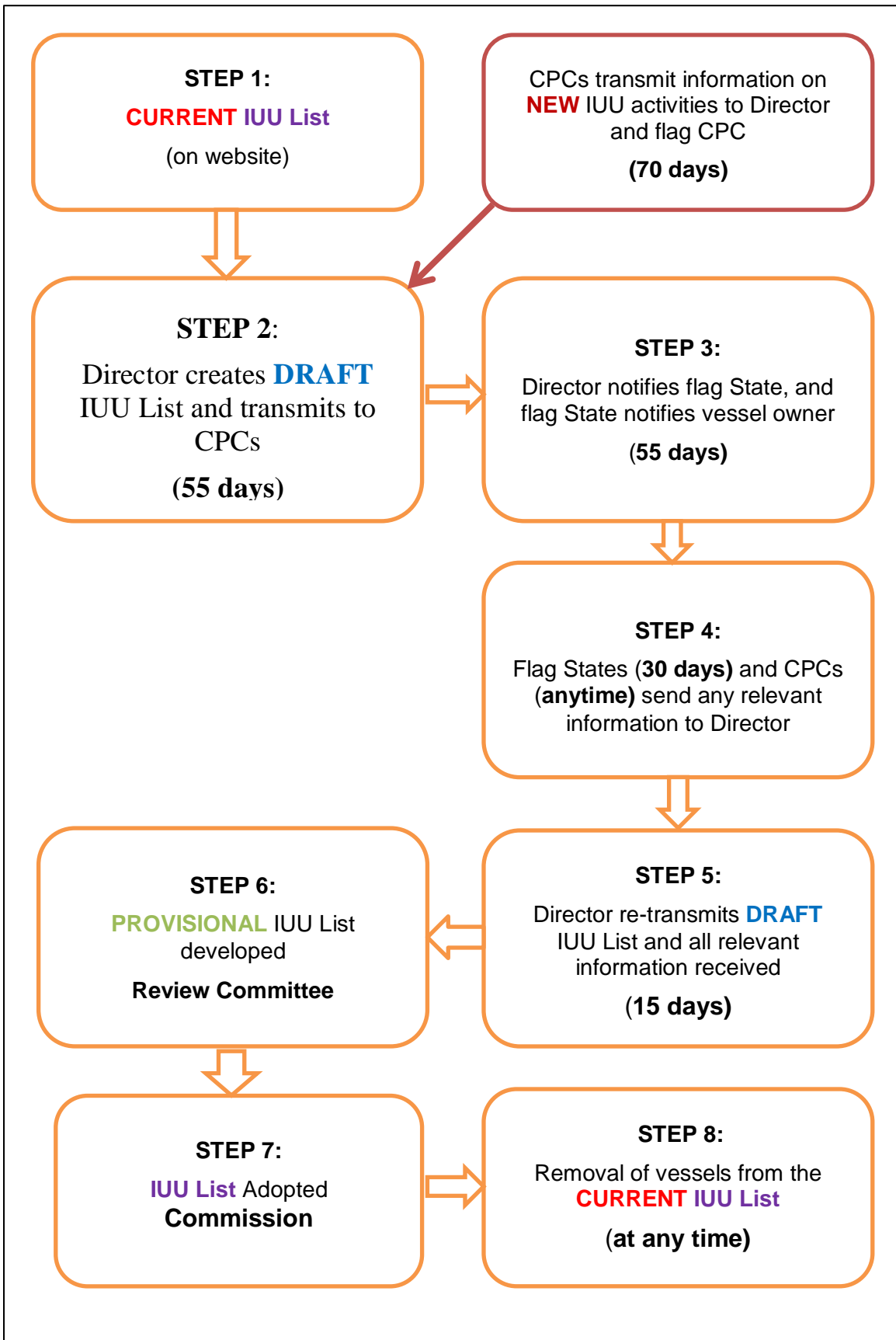
(Please detail the incidents(s) in the format below)

<u>Item</u>		<u>Available Information</u>
<u>a</u>	<u>Name of vessel and previous names (if any)</u>	
<u>b</u>	<u>Flag and previous flags (if any)</u>	
<u>c</u>	<u>Owner and previous owners, including beneficial owner (if any)</u>	
<u>d</u>	<u>Owner's place of registration</u>	
<u>e</u>	<u>Operator and previous operators</u>	
<u>f</u>	<u>Call sign and previous call signs (if any)</u>	
<u>g</u>	<u>IMO number (if any)</u>	
<u>h</u>	<u>Unique Vessel Identifier (UVI), or, if not applicable, any other vessel identifier</u>	
<u>i</u>	<u>Length overall</u>	
<u>j</u>	<u>Photographs</u>	
<u>k</u>	<u>Date first included on the IATTC IUU list (if applicable)</u>	
<u>l</u>	<u>Date of alleged IUU fishing activities</u>	
<u>m</u>	<u>Position of alleged IUU fishing activities</u>	
<u>n</u>	<u>Summary of alleged IUU activities (see also section B)</u>	
<u>o</u>	<u>Summary of any actions known to have been taken in response to the activities</u>	
<u>p</u>	<u>Outcome of any actions taken</u>	

B. Details of Alleged IUU Activity

(Indicate with an "X" the applicable elements of the activity and provide relevant details including date, location, source of information. Extra information can be provided in an attachment if necessary.)

<u>C-xx-xx</u> para. 3	<u>Vessel fished for species covered by the IATTC Convention within the Convention Area and:</u>	<u>Indicate</u>
a	<u>Are not on the IATTC Regional Vessel Register</u>	
b	<u>Harvested 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 regulations</u>	
c	<u>Made false reports or fail to record or report their catches made in the Convention Area</u>	
d	<u>Engaged in fishing activities in a closed area or during a closure period</u>	
e	<u>Used prohibited fishing gear or fishing methods</u>	
f	<u>Transshipped with, participate in joint fishing operations with, support, or resupply vessels included in the IUU Vessel List</u>	
g	<u>Conducted transshipment operations with vessels not included on the IATTC Regional Vessel Register or the relevant vessel registers of other RFMOs</u>	
h	<u>Are without nationality</u>	
i	<u>Engaged in fishing activities contrary to the provisions of the Convention or any other IATTC conservation and management measures</u>	
j	<u>Engage in fishing for IATTC species and the flag State has exhausted or has no quota or catch limit</u>	
k	<u>Are under the control of the owner or operator of any vessel on the IUU Vessel List</u>	



Step	Before Annual Meeting	Action to be taken	Paragraph
1	70 days	CPCs transmit to the Director information on NEW IUU activities; CPCs and DIRECTOR notify the relevant flag States	4,5
2	55 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
3	55 days	(a) DIRECTOR notifies relevant flag States (b) FLAG STATES notify vessel owners	7
4	30 days	(a) FLAG STATES transmit to the Director information in defense of their vessels' activities	8
	Any time	(b) CPCs transmit to the Director any additional information related to the vessels on the DRAFT List	11
5	15	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	10
6	Review Committee	(a) Reviews the DRAFT List and all the information received (b) Creates the PROVISIONAL List	12
		1. Recommends which vessels on the CURRENT List should be removed 2. Recommends which NEW vessels should be retained	13 13
7	Commission	(a) Reviews the PROVISIONAL List and all the information received	14
		(b) Amends the PROVISIONAL List, as appropriate	14
		(c) Adopts a new IUU List	15
8	Any time	Director receives request for vessel removal and all supporting information	18
		15 days from receipt of request: DIRECTOR transmits request and all supporting information to CPCs	19
		30 days from receipt of request: CPCs respond with their position on removal; if CPCs approve, Director removes vessel from IUU list	20, 21